

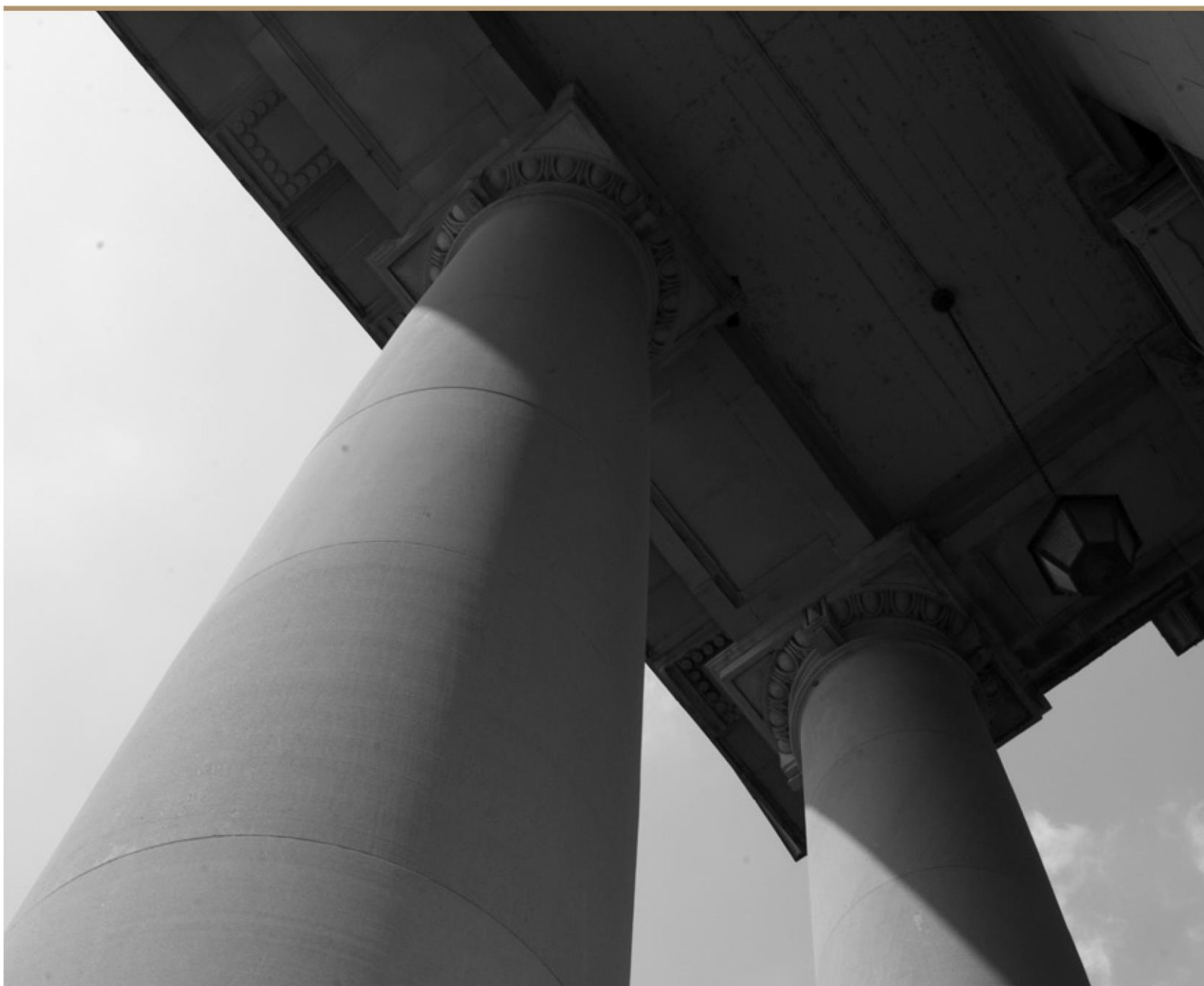


# COVID-19 REMOTE HEARING RESOURCE FOR DOMESTIC VIOLENCE MATTERS

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# INTRODUCTION

The State of North Carolina continues to grapple with the impact the COVID-19 outbreak has had on our judicial system. Safe and effective resolutions for domestic violence matters remain high on the judicial priority list, as the data begins to show that COVID-19 has created an increase in request for services for families in crisis. Service agencies still periodically need to restrict in-person contact and courthouses are still altering their hours of operation due to outbreaks of the virus. These circumstances can leave victims of violence with the difficulty of accessing our judicial system to obtain protective orders. Further, stay-at-home orders and restrictions on movement can leave victims no choice but to remain in the home with the perpetrator. With time, however, comes experience and our judicial partners have done an exceptional job in finding and communicating solutions to the problems introduced by COVID-19.

Chief Justice Paul Newby has acted quickly to implement additional strategies and policies to further reduce COVID-19's impact on our judicial system. On January 14, 2021, Chief Justice Newby introduced emergency directives intended to replace the expired order dated December 14, 2020. This guide is an update to the guide issued May 6, 2020, and is intended to assist our courthouse communities in navigating the new order.

This document includes suggested procedural guidelines for domestic violence cases, provisions to enhance safety measures within the courthouse, and technological guidance so as to maximize on the available working hours. It is intended to assist our hardworking courthouse community partners by providing malleable measures to conduct hearings for domestic violence protective order applications, both for the ex parte and for the returns. In this way, judicial partners are provided with suggestions and alternatives so they can continue to conduct business and stay safe.

## **About the North Carolina Judicial Branch**

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

## **About the North Carolina Administrative Office of the Courts**

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.



# Implementation Strategies for the Updated Emergency Order and Recommended Court Procedure

## Section 1: Emergency Directive 1

While Chief Justice Newby's order allows for Emergency Directive 1 to expire, there is still recognition that COVID-19 remains a significant issue. Accordingly, the decisions regarding commencement of in-person proceedings, including ex parte and DVPO hearings, will be made on the local level. Chief Justice Newby states that courthouse closures remain a tool available for usage as determined by local judicial officials and encourages the decision making process to include consideration of recommendations from county health officials, as well as COVID-19 protocols adopted by the state, and county and municipalities in which they operate.

### A. Courtroom Health and Safety

The possibility of intimidation, disruption, or violence always exists when parties in a domestic violence case are together in the same courthouse or courtroom. Violence and tension increase in the time span surrounding court dates. With the additional stress introduced by a viral pandemic, a hearing on a domestic violence protective order can be especially dangerous.

- **Review Current Seating Arrangements** to ensure that parties continue to maintain separation, but also practice social distancing in conformity with the CDC [guidelines](#).
- **Continue Staggered Departures** not only to increase the plaintiff's safety once s/he leaves the courthouse, but also to practice health measures by controlling the ingress and egress from the courtroom. Judges can require the defendant to remain in the courtroom at an appropriate social distance from others for a sufficient period of time to ensure the plaintiff has had an opportunity to leave the courthouse property.
- **Maintaining Separate Waiting Areas and/or Separate Entrance and Exit Paths** can be accomplished by leveraging outdoor areas that may be cordoned off for this purpose. Cooperative communication with law enforcement to maintain observation and control over this area is recommended. In this way, not only can parties feel secure, but health



measures can be enforced as well. Many courthouse communities have already created outdoor waiting areas for plaintiffs and defendants to restrict the number of litigants who have access to the courthouse and/or courtroom and to ensure proper health and safety measures are observed. Court officers then notify the parties when their matter is called.

- **Parties Waiting to Enter Domestic Violence Court Should Not Be Left Together Unsupervised in Hallways, Conference Rooms, or other Common Areas.** If courts are restricting entry into the courtrooms but do not have dedicated waiting areas such as the ones described, courthouse staff should work with law enforcement to ensure that there is oversight and situational awareness of parties convening in shared or common areas, for the safety and well-being of all parties and witnesses.
- **Clear Communication with Court Officers** should occur to ensure that all partners are on the same page procedurally. The court should work with court officers and their supervising agency regarding security in both the courthouse and the courtroom and any outdoor area used to accommodate those awaiting their proceeding.

## B. Courthouse Health and Safety

As Chief Justice Newby's Order states, the Judicial Branch must fulfill its mandate to have open courthouses, but this should be exercised with an abundance of caution regarding the health and safety of judicial officials, employees, and the public. Accordingly, Chief Justice Newby renewed Emergency Directive 2 in his January 14, 2021 order.

- **Emergency Directive 2** states that clerks of superior court shall post a [notice](#) at the entrance to every court facility in their county directing that anyone who has likely been exposed to the COVID-19 virus should not enter the courthouse. Rather, a person who has likely been exposed to COVID-19 and who has business before the courts shall contact the clerk of superior court's office by telephone or other remote means, inform court personnel of the nature of his or her business before the court, and receive further instruction.
- **Signage** has been developed and distributed to all clerks of superior court that specifically addresses accessing court facilities for domestic violence protective order applications and hearings. These [signs](#) should be prominently affixed at the entrance to every court facility in the county.
- **Clerks and Courthouse Staff** should be cautious before restricting a plaintiff's access to the courthouse on the basis of a report by a third party that a plaintiff has been exposed to or is sick with COVID-19 symptoms. The reporter may be a defendant or someone acting on behalf of a defendant trying to limit victim access to the courts.



## Section 2: Emergency Directive 3

Remote audio and video transmissions for the conducting of court business is not new. The 14 counties that utilize the eCourts Civil Domestic Violence System (ECCDV) already use audio and video conferencing technology. The authority to use such technology for ex parte relief is clearly outlined by G.S. 50B-2(e). A recently issued memo from the office of the NCAOC General Counsel, [Existing Authority for Remote Proceedings \(002\).pdf](#), provides the statutes which already permit proceedings by remote audio and video transmission. Proceedings in which the use of remote audio and video transmissions are already permitted by law are governed by the statute and not by Emergency Directive 3 in accordance with the language of Emergency Directive 3, which states, “[t]his emergency directive does not apply to proceedings in which the use of remote audio and video transmissions is already permitted by law. Those proceedings should continue as provided by law.” Emergency Directive 3 is set to expire February 12, 2021. For a comprehensive review of available remote technology and other procedural considerations, please consult the COVID 19 Remote Hearing Resource for Domestic Violence Matters guide dated May 6, 2020.

## Section 3: Emergency Directive 5

Emergency Directive 5 provides for the verification of pleadings to be filed in the General Court of Justice that previously required an oath or affirmation to be sufficient if they contain a substantially similar affirmation or representation as follows:

“I (we) affirm, under the penalties for perjury, that the foregoing representation(s) is (are) true.

(Signed) \_\_\_\_\_”

