IOWA DISTRICT COURT FOR THE THIRD JUDICIAL DISTRICT

IN RE TEMPORARY CLOSURE OF COURTS OF THE THIRD JUDICIAL DISTRICT	**ADMINISTRATIVE ORDER 2009-1**

FILED
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CLERK OF DISTRICT COURT

On February 2, 2009, the Iowa Supreme Court entered a Supervisory Order dealing with fiscal year 2009 budget cuts. This Supervisory Order closes all court offices and requires all non-judicial court employees to take a day of unpaid leave on February 16, 2009 and additional days as may become necessary.

Because of the volume of papers ordinarily filed in the Clerk's offices of Third Judicial District on a regular business day, the Court cannot operate on days the Clerk's offices are closed due to the unavailability of clerk's staff. Judges cannot conduct business as usual without support staff.

Paragraph 9 of the Supreme Court's February 2, 2009 Supervisory Order provides:

> (9) If a deadline imposed by statute or court rule for issuing an order, conducting a hearing, or sending a notice falls on a day the Clerk of District Court is closed by this order, the time period for such action shall be extended until 4:30 PM of the next day the Clerk of Court is open.

In order to implement the Iowa Supreme Court's Supervisory Order, the Third Judicial District takes the following administrative action concerning the operation of the district court on February 16, 2009 and such other days in Fiscal Year 2009 as may be necessary to balance the Judicial Branch budget:

NOW THEREFORE IT IS HEREBY ORDERED:

1. Judges Available For Emergencies Only.

The Courts of the Third Judicial District shall be closed on February 16, 2009 and any other designated non-judicial court employees shall be taking unpaid leave days. By statute and pursuant to the Supervisory Order, judges cannot legally utilize unpaid leave days. Therefore, on the days of unpaid leave for non-judicial court employees, the Judges of the Third Judicial

District shall work in the chambers of their county domicile courthouse during regular business hours unless they take paid vacation with the approval of the Chief Judge. Due to the absence of support staff and the resulting clerks' office closures, judges are available to the public for emergency matters only on unpaid leave days. All court matters scheduled for February 16, 2009 shall be continued to the next regularly available hearing date. However, any criminal trial in which speedy trial has not been waived and the speedy trial deadline is imminent that is currently scheduled for February 16, 2009 shall begin on Tuesday, February 17, 2009.

If a part-time Magistrate is regularly scheduled to work on a temporary leave day, the Magistrate shall reschedule his or her time to be available for work on days when the Clerk's Office is open. In Woodbury County only, the Magistrates shall coordinate this through the District Court Administrator.

2. Initial Appearances.

Judges and Magistrates will not be available for initial appearances on unpaid leave days due to the unavailability of court staff.

Iowa Court Rule 2.2(1) provides in pertinent part:

> (1) Initial Appearance of Defendant. An officer making an arrest with or without a warrant shall take the arrested person without unnecessary delay before a committing magistrate as provided by Rule 2.27.

Iowa Court Rule 2.1(d) defines "unnecessary delay" as follows:

> d. Unnecessary delay is any unexcused delay longer than twenty-four (24) hours, and consists of a shorter period whenever a magistrate is accessible and available.

Pursuant to paragraph 9 of the Supervisory Order, the deadline for initial appearance of defendants charged with felony or indictable misdemeanor offenses is extended to 4:30 P.M. on the next day the clerk of court is open. Any resulting delay longer than twenty-four (24) hours after arrest is thus necessary and excused because of the unavailability of court staff on unpaid leave days. All initial appearances shall be continued on unpaid leave days in accordance with the Supervisory Order. Magistrates and District Associate Judges should continue to conduct initial appearances on weekends and holidays in accordance with ordinary protocols.

3. Detention And Shelter Care Hearings.

Iowa Code Section 232.22(4) sets forth the time for holding a juvenile in a detention facility as follows:

> 4. A child shall not be held in a facility under subsection 3, paragraph "a" or "b" for a period in excess of twenty-four (24) hours without an oral or written court order authorizing the detention. When the detention is authorized by an oral court order, the Court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

Iowa Code Section 232.21(4) sets forth the time for holding a child in shelter care as follows:

> 4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

Iowa Code Section 232.44(1) concerning the time for holding shelter care and detention hearings provides in pertinent part:

> 1. A hearing shall be held within forty-eight hours, excluding Saturdays, Sundays and legal holidays, of the time of the child's admission to a shelter care facility, and within twenty-four hours, excluding Saturdays, Sundays and legal holidays, of a child's admission to a detention facility....

Pursuant paragraph 9 of the Supervisory Order, when the deadline for a juvenile detention or shelter care hearing and order falls on a day of closure due to the unpaid leave days, the deadline for a detention or shelter care hearing and order is extended to 4:30 P.M. the next day the office of the clerk of court is open. Detention and shelter care hearings shall not be conducted on the unpaid leave days due to the unavailability of court support staff and juvenile court officers. If a future unpaid leave day falls on a Friday, Friday shelter care hearing may be expedited to Thursday on a case-by-case basis.

The offices of Juvenile Court Services shall be closed on unpaid leave days. Pursuant to the Supervisory Order requiring all non-judicial court employees to take unpaid leave on these days, juvenile court officers and staff of juvenile court services shall not be on call using pagers or cell phones on the unpaid leave days between 12:01 A.M. and 11:59 P.M. There shall be no expectation that juvenile court officers will be available to receive calls at home or elsewhere

while on unpaid leave.

4. Mental Health and Substance Abuse Commitments.

Iowa Code Sections 229.11 and 125.81 provide that mental health and substance abuse commitment hearings "shall be held no more than five days after the date of the order, except that if the Third day is a Saturday, Sunday, or a holiday, the hearing may be held on the next succeeding business day."

Pursuant to paragraph 9 of the Supervisory Order, the deadline for conducting these commitment hearings is extended until 4:30 PM on the next day the office of the clerk of court is open. Therefore, commitment hearings scheduled on unpaid leave days of support staff shall be continued to the next business day. However, if a future unpaid leave day falls on a Friday, Friday commitment hearings may be expedited to Thursday on a case-by-case basis.

5. Domestic Abuse Emergencies.

Iowa Code Section 236.6 provides, in part, that:

> 1. When the court is unavailable from the close of business at the end of the day or week to the resumption of business as the beginning of the day or week, a petition may be filed before a district court judge, or district associate judge designated by the chief judge of the judicial district...who may grant emergency relief.... if [the] judge deems it necessary to protect the plaintiff from domestic abuse.....
>
> 2. An emergency order issued under subsection 1 shall expire seventy-two hours after issuance. When the order expires, the plaintiff may seek a temporary order from the court pursuant to section 236.4.

Pursuant to the Supervisory Order Paragraphs 1, the office of the clerk of court is closed on the unpaid leave days and in accordance with this Administrative Order Numbered Paragraph 1, the court is unavailable for regular court business. Therefore, domestic abuse emergencies shall be conducted in accordance with Iowa Code Section 236.6. In the Third Judicial District, all district and district associate court judges are designated to grant relief in domestic abuse emergency cases on unpaid leave days in the manner normally followed during non-business hours.

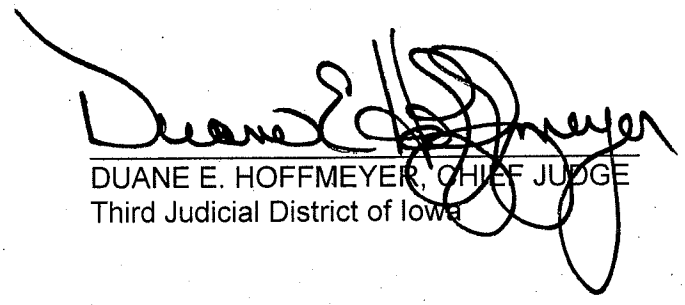
6. Other Emergencies and On-Call Procedures.

The designated on-call judge shall respond to after hours emergency on-call duty until 8 a.m. and after 4:30 p.m. on unpaid leave days. Any district court or district associate court judge

first contacted on unpaid leave days between 8 a.m. to 4:30 p.m. may handle all other emergency court matters.

The after hours coverage is changed in Administrative Order 2009-5 entered this date. This replaces any and all earlier orders.

Dated this 6th day of February, 2009.



DUANE E. HOFFMEYER, CHIEF JUDGE
Third Judicial District of Iowa

Copies via e-mail to:

Marsha Ternus, Chief Justice
Daryl Hecht, Liaison Justice
David Boyd, State Court Administrator
Ken Bosier, IT Director
Leesa McNeil, District Court Administrator
All Third Judicial District Judges
All Third Judicial District Magistrates
All Third Judicial Clerks of the District Court and staff
Gary Niles, Chief Juvenile Court Officer
All Third Judicial District Asst. DCA's, Case Coordinators, Court Attendants and Judicial Assistants
All Third Judicial District Court Reporters
All Third Judicial District Juvenile Court Services Staff
Mark Smith, Acting State Public Defender
Greg Jones, Woodbury County Public Defender
Juvenile Law Center

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