

In the Iowa Supreme Court

**In the Matter of Ongoing
Provisions for Coronavirus/
COVID-19 Impact on Court
Services**

December 6, 2021 Order

Beginning in early March 2020, the judicial branch was preparing to minimize the impact of COVID-19 on the services it provides to Iowans. In the span of just a few weeks, the planning effort transitioned into the need for immediate actions.

As the pandemic worsened and more information about the virus became available, the Iowa Supreme Court issued orders to protect the public and court employees while keeping the courts as open and operational as possible. Over thirty supervisory orders have been issued since March 12, 2020.

When the judicial branch began to plan for a post COVID-19 world, the supreme court established the Lessons Learned Task Force to review the formal orders and informal policies or practices adopted by the branch in response to the COVID-19 pandemic. The Task Force submitted its recommendations to the supreme court. The supreme court solicited public comment on those recommendations.

After careful review of the Task Force's recommendations, public comments in response to those recommendations, and the current status of the pandemic, the Iowa Supreme Court orders as follows pursuant to its available legal authority, including article III, section 1 and article V, sections 1 and 4 of the Iowa Constitution.

This order replaces all other COVID-19-related supervisory orders currently in effect.

To the extent there is any conflict between this order and any of those orders, the provisions of this order prevail.

USE OF REMOTE TECHNOLOGY

1. Civil court business other than trials using videoconference or telephone. Civil court proceedings are presumed to be held in person. Courts may direct, and parties and attorneys may request, that civil court proceedings other than trials be held by videoconference or telephone with availability of appropriate technology. District courts may accept any civil proceeding testimony by videoconference or telephone with the parties' consent or when otherwise authorized by law.

2. Discretion to conduct trials or testimony by videoconference or telephone in civil cases with the parties' consent. Trials are presumed to be held in person. In civil cases, with the parties' consent and in the court's discretion, the court may permit jury and nonjury trials or otherwise take testimony by videoconference or telephone.

PERSONAL PROTECTIVE EQUIPMENT

3. Face masks. All people entering court-controlled spaces must wear a face mask. This requirement applies regardless of a person's vaccination status. Judges, in their discretion, may permit the removal of face masks by participants or take other measures to mitigate the spread of COVID-19 in court proceedings. This requirement applies statewide and does not depend on a particular county's or area's positivity rate or transmission status.

PROVISIONS SPECIFIC TO CRIMINAL CASES

4. Initial appearances. Magistrates and other judicial officers may conduct initial appearances by interactive audiovisual systems. As before, the defendant may waive initial appearance by executing a written waiver that contains the information that the defendant is entitled to receive at the initial appearance. See Iowa R. Crim. P. 2.2(1)–(4)(a).

6. Arraignment. Written waivers of arraignment need not be under oath.

7. Written arraignment by defense counsel. With the consent of the district court, defense counsel may execute a written arraignment pursuant to Iowa Rule of Criminal Procedure 2.8(1) on the defendant's behalf provided that defense counsel has previously reviewed all terms of the arraignment form with

the defendant and obtained the defendant's authority to execute the form on the defendant's behalf.

8. Waiver of personal appearance. For a proceeding other than trial or sentencing in which the defendant's personal appearance is required under normal circumstances, the defendant may execute a written waiver of appearance with the consent of the court. For purposes of clarification, this paragraph refers to the situation where the defendant waives any type of appearance, both in person and remote.

9. Depositions. With the consent of the prosecuting attorney, the defendant may waive presence at a deposition. The defendant's attorney shall make a record of the waiver at the deposition.

10. Pretrial release. Judicial officers are encouraged to consider pretrial release options available under Iowa Code chapter 811.

11. Bond reviews. Magistrates and other judicial officers may conduct bond reviews by interactive audiovisual system or telephone. Defendants may request personal appearance at the hearing.

13. Written guilty pleas. District courts may accept written guilty pleas in nonforcible class "D" felony cases in the same manner as in serious and aggravated misdemeanor cases. *See* Iowa R. Crim. P. 2.8(2)(b) (last paragraph).

14. Presentence investigation reports. To facilitate sentencing without the personal presence of the defendant in the courtroom, notwithstanding Iowa Code section 901.4, presentence investigation reports may be shared with defendants in advance of sentencing subject to reasonable safeguards.

15. Sentencing procedures by remote appearance. Courts may allow any participant in a case (the prosecutor, defense counsel, defendant, victims, and witnesses) to appear by interactive audiovisual system with that participant's consent. To appear by interactive audiovisual system, the defendant shall either (a) execute a written waiver or (b) make a waiver on the record. Other parties need not execute a waiver.

16. Sentencing in misdemeanors and nonforcible class "D" felonies by written agreement with court approval. In misdemeanor or nonforcible

class “D” felony cases, upon the court’s acceptance of a plea agreement that includes an agreement about the sentence, the court in its discretion may pronounce judgment and sentence by written order without the parties appearing in person if the following conditions are met: (a) the defendant and defense counsel each waive in writing the defendant's presence and right of allocution, (b) the prosecutor submits a written statement waiving presence and verifying that there are no victims who want to be heard in person, and (c) the agreement about the sentence is signed by the defendant and both the agreement and the court’s approval are made part of the court file. A defendant waiving presence and right of allocution may nonetheless provide the court with written allocution.

JUVENILE LAW

17. Delinquency matters. Juvenile delinquency proceedings shall be subject to any of the foregoing criminal proceeding directives that by their nature would apply to juvenile delinquency cases.

18. Judicial discretion regarding remote technology in certain juvenile proceedings. Juvenile courts may order that any proceeding under Iowa Code chapters 232, 232D, and 600A may be conducted with the parties or participants appearing remotely by videoconference or telephone. This includes child-in-need-of-assistance adjudications, dispositional hearings, and terminations of parental rights. Any order directing a proceeding by videoconference or telephone may be entered over the objection of a party, but only after that party has an opportunity to be heard. If the juvenile court proposes a proceeding by videoconference or telephone, the presumption shall be in favor of going forth in that manner. Attorneys and self-represented parties shall articulate in their objections the reasons constituting good cause for an in-person proceeding. Notwithstanding the foregoing, juvenile delinquency adjudication proceedings may be held by videoconference or telephone only by consent of the parties.

APPELLATE PROCEEDINGS

19. Appellate oral arguments. At the appellate court's discretion, oral arguments may be conducted using videoconference or telephone. Additionally, at the court's discretion, cases previously scheduled for oral argument may be submitted nonorally. See Iowa R. App. P. 6.908(2).

FAMILY LAW

20. Judicial discretion regarding videoconferencing in family law proceedings. All family law proceedings are presumed to be held in person. Upon request by a party or with the consent of all parties, and for good cause shown, the court in its discretion may allow a family law proceeding by videoconference. Any party objecting to a family law proceeding conducted by videoconference shall have an opportunity to be heard.

21. Online courses. District courts may approve attendance at an online course for purposes of compliance with Iowa Code section 598.15 (required course for cases involving child custody or visitation).


MISCELLANEOUS

22. Contrary court rules. The court temporarily suspends the operation of any Iowa Court Rule to the extent that the rule is contrary to any provision of this order.

23. Further updates. The court will monitor circumstances and update this order as necessary.

Dated this 6th day of December, 2021.

The Iowa Supreme Court

By: 
Susan Larson Christensen, Chief Justice