

IN THE IOWA DISTRICT COURT FOR THE FIRST JUDICIAL DISTRICT

ADMINISTRATIVE ORDER RE: FIRST
JUDICIAL DISTRICT FUNCTIONING
FOR COVID-19 IMPACT ON COURT
SERVICES

ADMINISTRATIVE ORDER

April 3, 2020

1. This Order incorporates, as if fully set forth herein, the April 2, 2020, Order of the Iowa Supreme Court. As said Order has been filed as a compilation of all previously issued COVID-19 orders by the Supreme Court, so too, this Administrative Order will act as a compilation of all previously issued COVID-19 orders by this Court.

2. This Order, by implication, incorporates, as if fully set forth herein, the Supervisory Order of the Iowa Supreme Court entered on December 1, 2009, and the subsequent Order filed on February 4, 2010, concerning general priority.

3. To effectuate the above-referenced Orders of the Supreme Court and to direct the operation of the First Judicial District under said Orders while keeping in mind the capabilities and resources of the First Judicial District, the undersigned now provides the following compiled directives for the benefit of court staff, attorneys, litigants, and other court consumers in the 11 counties that make up the First Judicial District:

(a) All felony pleas will be accepted via written guilty plea in the same manner as in serious and aggravated misdemeanor cases in accord with Iowa Rule of Criminal Procedure 2.8(2)(b). District Court Judges retain discretion to require an in-person guilty plea proceeding in Class A felonies or other felony if determined to be an absolute necessity by the Judicial Officer, however, this should be the rare exception. The Court has issued a required guilty plea form to be used in all First Judicial District proceedings that has been distributed to counsel and is also available on the First Judicial District page of the Iowa Judicial Branch website.

(b) All counties have or will reset all out of custody plea and/or sentencing hearings to after June 1, 2020. This does not prevent the filing of a written guilty plea or a request for entry of sentencing in writing for a felony case that is consistent with Paragraph 18 of the Supreme Court Order of April 2, 2020.

(c) All in-custody felony sentencings for Class A, Class B or forcible felonies will be conducted "in person" either by video conference or by telephone conference unless a defendant specifically requests an in-court sentencing in which case it is the discretion of the presiding judge to conduct the sentencing or to reset it to a later date. All other in-custody felony sentencings will be done in writing if requested in a manner that is consistent with Paragraph 18 of the Supreme Court Order of April 2, 2020. If a request for written sentencing is not made, all other in-custody felony sentencings will be conducted "in person" either by video conference or by telephone conference unless a defendant specifically requests an in-court sentencing in which case it is the discretion of the presiding judge to conduct the sentencing or to reset it to a later date

(d) Essential or emergency juvenile court proceedings will continue in person if directed by the judicial officer, however, the juvenile judges in the First Judicial District will work together to implement the use of telephone or video hearings when possible for such proceedings. All non-emergency juvenile court proceedings will take place via telephone conference or video-conference or be reset to a date after June 15, 2020.

(e) Court Administration in Black Hawk County in consultation with Administrative Judge Brad Harris will reset all criminal non-jury trials in that county presently set before June 1, 2020. Court Administration in Dubuque County in consultation with Administrative Judge Michael Shubatt will reset all criminal non-jury trials in that county presently set before June 1, 2020. The resetting of criminal jury trials in Black Hawk and Dubuque will be addressed

in a later paragraph. The administrative/primary judge in each of the First Judicial District's remaining counties will reset all criminal non-jury trials to a date on or after June 1, 2020 and all criminal jury trials to a date on or after July 13, 2020. All reset trials will be reset to the earliest practical date keeping in mind Paragraph 8 of the Supreme Court Order of April 2, 2020, the priorities of scheduling, available trial dates, number of trials, age of cases, demands for speedy trial, the impact of the Supreme Court Supervisory Orders and any other good cause.

(f) Court days in Allamakee, Buchanan, Chickasaw, Clayton, Delaware, Fayette, Grundy, Howard and Winneshiek, will continue on a substantially reduced docket unless prevented by a courthouse closure. A judicial officer will be present in those counties on court days unless prevented by courthouse closure in which event a judicial officer will be available by telephone or e-mail. When in doubt about whether your court hearing is still proceeding and/or whether you should appear in person, please call the Clerk's Office before you come.

(g) All proceedings in simple misdemeanors, traffic violation and city ordinance violations will be reset after June 1, 2020, unless such matter is a jury trial in which case the matter will be reset to after July 13, 2020.

(h) All proceedings in small claims will be reset to after June 15, 2020, or set for hearing after June 15, 2020, except: FEDs where there is an issue of clear and present danger created by the tenancy and; motions to quash garnishment. Hearings on those limited issues will be via telephone conference call or video conference unless otherwise indicated.

(i) In Black Hawk and Dubuque Counties, all criminal final pretrial conferences will remain as set but will take place via telephone or email ONLY. This is to assist the Court in the rescheduling of jury trials based upon the circumstances of each case to help prevent scheduling and logistical backlogs when criminal jury trials recommence on July 13, 2020. Counsel are

encouraged to stagger their phone calls during these block set times as not everyone can call in at once. It is better to send an e-mail to the presiding judge copying opposing counsel or to contact the County Attorney in order to present a coordinated recommendation to the Court. Please clearly identify the case number, defendant, opposing counsel, the date the TI was filed and whether or not your client has waived speedy trial. For clients who have waived speedy trial, please indicate a range of acceptable trial dates with the knowledge that cases with speedy trial waiver, particularly for out of custody defendant, will not get priority setting beginning July 13, 2020. Also keep in mind the provisions of Paragraph 8 concerning 120 (extended from 90) day speedy trial rights and one year trial rights.

(j) District court judges will reset any civil non-jury matter that cannot be held via telephone or video conference to a date on or after June 15, 2020. District court judges will enter orders indicating hearings that will proceed as scheduled via telephone or video conference and shall provide further direction as to who is to originate the conference.

(k) Temporary matters hearings in all CDDM and DRCV cases shall take place via telephone or videoconference or be submitted by affidavit only. The Court will enter an order indicating how the hearing will take place and, if by affidavit only, each party will be permitted 20 days to file his or her own affidavit and 5 additional affidavits.

(l) For any emergency hearing that does take place in person, counsel and parties shall bring only necessary witnesses to the courthouse.

(m) In order to preserve the weeks and months immediately following the lifting of the Supervisory Orders for the rescheduling of trials and hearings impacted by that Order, any CIVIL case set for a first time trial date shall be set after January 1, 2021, and any case set for a first time hearing shall be set after November 1, 2020. Certain exceptions will apply to be determined by the undersigned and administrative judges in conjunction with the Office

of Court Administration. To the extent possible, the Court will prioritize the rescheduling of matters presently scheduled to take place, but which are to be reset as a result of Supreme Court Supervisory Orders, into dates prior to November 1, 2020.

(n) Unless otherwise provided in an order, for any hearing scheduled by the court for telephone conference call for which the court does not provide a conference call procedure, counsel representing the moving party (or the moving party) should be prepared to facilitate the origination of that call and to provide the assigned judge or presiding judge with call-in or sign-in information.

(o) All counties in the First Judicial District have elected to close their courthouse doors to access to the general public to some extent. All counties have provided a mechanism for access to the Clerk's Office or Courtroom for emergency proceedings. Counsel and parties should be prepared to follow any instructions provided at the courthouse doors for entrance. Counsel and parties should NOT appear for hearing unless they have been specifically directed by court order or court administration to appear in person as nearly all hearings will take place electronically or telephonically. A person may be granted entrance to a Clerk's Office only upon the discretion of the Clerk of Court or her designee. In those counties where the courthouse remains open or is re-opened for limited public access, public terminals for EDMS use will remain open and available for access and use by the public, however, clerk staff will no longer assist the public at the terminals, but may provide assistance over the counter.

(p) All communication by attorneys, litigants and other court consumers with court schedulers shall be done via telephone or email correspondence. The Offices of Court Administration in Black Hawk and Dubuque Counties are closed to entry by anyone other than courthouse staff.

A person may be granted entrance to the Offices of Court Administration by the Court Administrator or her designee.

(q) Waiver of initial appearance forms for criminal proceedings will be available from the Clerk of Court and will also be made available to county sheriffs. Initial appearance proceedings, when necessary, will take place via telephone or video conference through August 3, 2020.

(r) Any mediation set to take place for a case in Dubuque or Black may be rescheduled or scheduled by phone or videoconference by the mediator and the Court will be lenient on timeframes and expectations concerning completion of mediation.

(s) Any party required to do Children in the Middle program may participate in the online class found at www.positiveparentingthroughdivorce.com or at www.parenting-solutions.org until further notice.

(t) This Court reaffirms information sent to the First Judicial District Bar members via e-mail concerning the Supreme Court Supervisory Order entered on March 12, 2020, specifically, that an attorney or party must promptly notify opposing counsel and the respective Clerk of Court's Office if they reasonably suspect that a participant in any scheduled in person hearing, trial, conference, deposition, or other proceeding may have an elevated risk of transmitting the Covid-19 virus and, further, to the extent possible, counsel must affirmatively inquire of their clients and witnesses whether they have an elevated risk of transmitting the Covid-19 virus and, most importantly, no person who has an elevated risk of transmitting the Covid-19 virus may personally attend any hearing, trial, conference, deposition, or other proceeding without prior authorization from the Court.

(u) This Court continues to be open to partner with the county sheriffs for the production of administrative orders to assist with controlling the jail population. Any prior order issued by this Court to assist any sheriff with jail

population, arrest or pretrial release procedures remains in full force and effect.

(v) Fayette County court operations previously held in Oelwein, Iowa, on Tuesdays will take place exclusively in the Fayette County Courthouse in West Union, Iowa, **on Wednesdays.**

(w) Counsel should not utilize the red/emergency processing designation for matters set more than 48 hours after the filing of the document. Court queues will be processed daily and with all speed available to clerks and judicial officers.

(x) When in doubt, please call the Clerk's Office or Office of Court Administration (Black Hawk and Dubuque) before appearing at any courthouse in person for your own safety and the safety of others.

(y) The Offices of Juvenile Court Services are open for telephone calls at 319-291-2506 and you will be further directed by the person who answers your call as all JCOs are teleworking at this time.

(z) Judicial officers and the undersigned retain discretion to reset or continue any proceeding or to set reasonable parameters and restrictions on any proceeding.

(aa) Through August 3, 2020, all bond reviews hearings shall take place via telephone or video conference.

(bb) Court schedulers will issue orders for trial scheduling conferences for the resetting of any civil jury trial presently scheduled to take place before August 3, 2020. All reset trials will be reset to the earliest practical date keeping in mind the priorities of scheduling, available trial dates, number of trials, age of cases, availability of counsel, the impact of the COVID-19 on other court processes and any other good cause.

(cc) In Black Hawk County and Dubuque County any requirement for parties to participate in temporary matters mediation is suspended through June 15, 2020.

(dd) Court schedulers and judicial officers will reschedule any hearing for failure to serve original notice to a date on or after June 15, 2020. Clerks of Court will not issue automatic dismissals in any case for lack of service until after June 15, 2020, if the deadline for the original notice falls between March 23, 2020, and June 15, 2020.

(ee) Clerks of Court will establish a drop box, as indicated in the March 14, 2020, Order from the Supreme Court.

BY THE COURT:

/s/ Kellyann M. Lekar
KELLYANN M. LEKAR, Chief Judge of the
First Judicial District of Iowa