

IN THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IOWA

IN THE MATTER OF)
THE SEVENTH JUDICIAL DISTRICT'S) ADMINISTRATIVE ORDER
COMBINED ORDER REGARDING) No. 2020-16
COVID-19 PROCEDURES)
)

Pursuant to the Covid-19 pandemic and various Supervisory Orders of the Iowa Supreme Court, this District incorporates all of the provisions of the Supreme Court's Orders. Further, this Court now issues this Order to define how various court matters are being handled in the 7th Judicial District. Attached is a document titled District Court Stakeholders, which sets forth these procedures. Please review this document carefully as many things have changed as this pandemic has continued to evolve. The purpose of this Order is to combine all previous orders and procedures we have established during this pandemic. This Order's purpose is to keep the public safe and keep our employees as safe as possible by eliminating interaction between the two groups.

The original of this order shall be filed in the Scott County Clerk's office. A copy shall be provided to the Clerks of Court for Clinton, Cedar, Jackson and Muscatine counties; to the District Court Administrator Kathy Gaylord; to Acting Assistant District Court Administrator Heidi McDonough; and to Judge Thomas Reidel.

IT IS SO ORDERED.

Dated: April 22, 2020.

/S/ _____
MARLITA A. GREVE
Chief Judge of the
Seventh Judicial District of Iowa

DISTRICT COURT GUIDELINES

Revised 04/08/2020; see end of document for details

Revised 04/10/2020; see end of document for details

Revised 04/10/2020; see end of document for details

Revised 04/15/2020; see end of document for details

Revised 04/20/2020; see end of document for details

The following guidelines have been determined from the various Iowa Supreme Court orders we received as well as direction we have been given in numerous telephone conference calls with the Judicial Council. Please see the Supreme Court's most recent Supervisory Order dated April 2, 2020, which incorporates all of the Court's previous orders.

We are working on forms for some of these issues and there will be bumps in the road on how and when to schedule things, but please have patience. Everyone is working as hard as they can under these trying times to get things running more smoothly while keeping all of us and our employees as safe as possible. **The items that are highlighted in yellow will require reporting by a court reporter.**

Several items have been changed and/or added and/or deleted as this is a very fluid situation and is ever-changing. For example, some matters may be by video-conferencing or Go To Meeting. **The items highlighted in grey have been completely changed.** For purposes of this document, those terms are interchangeable. I ask for your patience and cooperation during these difficult times.

Marlita A. Greve
Chief Judge

EMERGENCY/ESSENTIAL MATTERS:

The Clerk's offices remain open for the public to come in for emergency orders such as domestic abuse protective orders, involuntary commitments, and removal of

children from home, etc. Those are the only matters for which we want the public, including attorneys, to enter the courthouse.

CRIMINAL:

Felony and Misdemeanor sentencing hearings will be held telephonically, via video-conferencing¹ or in writing. For felonies, the county attorney, defendant's attorney and defendant must participate if the hearing is telephonically or done by video-conferencing. The defendant must sign a waiver of personal presence at or prior to the sentencing hearing or acknowledge on the record (telephone or video-conference) he/she waives his/her personal presence at the sentencing hearing if he has not filed a written waiver. **Revised 04/10/2020, see below.** Misdemeanor sentencings can be done like they have traditionally been done as long as they are in writing. No parties or attorneys should appear in person. **If a felony sentencing is done completely in writing, no reporting is needed. Clarified by Supreme Court Order dated 04/17/20 which states that through August 3, if a defendant does not waive personal appearance, the district court has authority to continue sentencing to a later date. See paragraph 3 of 04/17/20 Order.**

Felony and Misdemeanor pleas shall all be done in writing. Forms have been developed for written guilty pleas. **Partially revised by Supreme Court Order dated April 17, 2020; which states defense counsel can execute a written guilty plea on defendant's behalf if (a) defense counsel provides entire guilty plea to defendant by electronic communication; (b) defendant provides electronic communication to**

¹Throughout this Order, video-conferencing is referenced, which means use of Go To Meeting or video from a jail.

defense counsel confirming defendant has reviewed entire guilty plea form and authorizes defense counsel to execute the guilty plea on defendant's behalf; (c) defense counsel executes the guilty plea form on defendant's behalf in all places where defendant's agreement and acknowledgement are requested; and (d) defense counsel submits to the district court the completed guilty plea form, a copy of defendant's electronic communication and written certification defense counsel has explained the terms of the agreement to defendant. This procedure is only for misdemeanors and Class D felonies and is only through August 3, 2020. See paragraph 6 of 04/17/20 Order.

Bond reviews shall be done by telephone or video-conferencing.

Felony status conferences will not be held until further notice.

Felony pretrial conferences for felony jury trials will not be held until further notice.

Felony probation violations shall be done in writing or continued. A form has been developed for handling a probation violation in writing. If there is a question on the disposition, that shall be set for a sentencing hearing, and the sentencing shall be done either via telephone, video-conferencing or in writing.

Felony arraignments shall be done via EDMS. If an arraignment has not been filed when due, then it should be continued for one week and if not done at that time, a warrant can be issued. **Revised by Supreme Court Order dated April 17, 2020; states a written arraignment may be filed by defense counsel provided counsel has reviewed all the terms of the arraignment form with the defendant and has defendant's**

authority to execute the form on defendant's behalf. See paragraph 4 of 02/17/20 Order.

Motions to Withdraw, Criminal Motions for New Attorneys shall be done by telephone or video-conferencing. Defendant will need to file a waiver of personal presence or agree on the record the matter can be heard telephonically or via video-conferencing. Defendant must be personally present either on the telephone or via video-conferencing.

Substantive criminal motions (suppress, dismiss, in limine, etc.) will be continued to a date closer to the trial date, if practical. If they are heard during this COVID-19 pandemic, they shall be heard telephonically or via video-conferencing. Defendant must be personally present on the telephone or via video-conferencing.

Pretrial Motions, revised by Supreme Court Order dated April 17, 2020; for any case in which defendant has been arraigned before June 1 and in which trial is scheduled to occur on or after June 1, the deadline for filing motions shall be from 15 days from the date of arraignment or 30 days before trial, whichever is later. See paragraph 1 of 04/17/20 Order. This paragraph also clarifies if a defendant does NOT waive personal appearance, the district court has authority to continue any hearing on pretrial motions (including a hearing on motion to suppress) until a date June 1 or later.

Preliminary Hearings shall be conducted via telephone or video-conferencing.

Initial appearances or arraignments can be waived by defendant and the waiver does not need to be under oath. Revised by Supreme Court Order dated April 17, 2020, which states through August 3, with the consent of the district court, defense

counsel may execute a written waiver of appearance on defendant's behalf under paragraph 11 of the 04/02/20 Supreme Court Order provided defense counsel has previously reviewed defendant's right to be present with the defendant and has obtained the defendant's authority to execute the waiver on defendant's behalf. See paragraph 5 of 04/17/20 Order.

Presentence Investigation Reports may be shared with defendants in advance of sentencing, notwithstanding Iowa Code section 901.4.

Criminal Court Debt delinquency has been suspended by the Governor. In addition, the Judicial Branch has set up a state-wide telephone system for people to call to make payments electronically on their court debt obligations.

CIVIL:

Final Domestic Abuse Order hearings will be held telephonically or through the use of video-conferencing. These will be scheduled on Monday and Wednesday mornings in Scott County and throughout the week in the other counties.

CSRU Contempt hearings shall all be continued. There may be 8:30 a.m. or 9:00 a.m. CSRU matters, but if so, they will only be done if all parties, including the CSRU participate via telephone or-video conferencing.

Family Law trials will be continued to begin no sooner than June 15 unless they can be conducted telephonically or through the use of video-conferencing with the judge's approval.

Motions to Quash Garnishments will be held telephonically or through the use of video-conferencing.

8:30 Matters shall be done by telephone or video-conferencing.

Specialty courts will be done via telephone or by video-conferencing, if at all.

Motions (set for ADJ), and other criminal or civil motions shall be done via telephone or video-conferencing. **Some of these may need reporting if required by the Judge or requested by a party. A party can make a request for the matter to be reported in writing. The Judge should contact Court Administration if a motion needs reporting.**

Post Conviction Relief cases shall all be done with all parties participating via telephone or video-conferencing. The Applicant's attorney is responsible for contacting the Applicant and/or his/her place of incarceration to set up and place the telephone call. The attorneys shall also appear by telephone.

Estates, guardianships and conservatorships orders shall all be done via EDMS.

Foreclosures filed on residential, commercial or agricultural real property located in Iowa cannot be accepted and will be rejected by the Clerk's office. Prosecution of ongoing foreclosure proceedings is stayed.

Summary Judgment Motions on cases other than real property foreclosures can be filed, and the court will set these for hearing if necessary or decide the matter from the pleadings. However, any trial in this type of case cannot be held until at least June 15, 2020 if non-jury and August 3, 2020 if jury trial. If the matter is a foreclosure on residential, commercial or agricultural real property located in Iowa, the court cannot continue to prosecute any previously filed foreclosures as stated in the Foreclosures paragraph above. **Some of these may request reporting, which can be done remotely. The Judge should contact Court Administration if a motion needs reporting.**

Adoptions can be done by telephone or video-conference. If the parties want to wait and have the adoption in person, they can continue it out by approximately four (4) months.

Motions to Lift No Contact Orders by the Protected Party shall be done in writing. No hearing is necessary. A judge will review the motion and response, if any, from the County Attorney. The motion should be filed and tickled by the Clerk's office to allow the County Attorney ten (10) days to either resist or agree in writing. Once that time has passed, the motion should be put in the Judges Combined Queue for consideration by a judge.

Motion to Lift Domestic Protective Orders by the Protected Party shall be done in writing and put in the Judges Combined Queue for a judge to consider. There is no need to wait for any other party to respond.

Children in the Middle Online Courses required by Iowa Code §598.15 can be done using an approved online course. For cases which have not yet complied with §598.15, but should, they also can use an approved online course. The order with the online courses will be provided in all new cases and cases which have not yet completed CIM.

Civil Settlement Conferences will not be held; however, parties and counsel can still continue to work on resolving issues without court intervention.

Iowa Rule of Probate Procedure 7.6 is temporarily suspended concerning the delinquency of final reports and attorney discipline in delays to estate closures.

Traffic-related proceedings shall be rescheduled to a date no earlier than June 1 unless a jury trial is requested, then it shall be no earlier than July 13.

Forcible entry and detainer proceedings, other than clear and present danger or fraud, shall be continued to a date no earlier than June 15 or conducted by telephone at the discretion of the magistrate or other judicial officer. These require recording.

JUVENILE:

Juvenile non-delinquency matters shall be continued to a date no earlier than June 15 or conducted with the parties and/or participants appearing by telephone or video-conferencing at the discretion of the court.

Juvenile Delinquency matters shall be subject to the provision of the Supreme Court's order regarding criminal proceedings.

ASSOCIATE COURT and MAGISTRATE COURT:

Each Associate Court and Magistrate Court in our District have developed their own practices and procedures. I have been providing those to the Bar Presidents when they change and will continue to do so.

FORMS and TEMPLATES: **Revised 04/10/2020; see below.**
Revised 04/13/2020; see below.

We have made changes to the following templates to reflect COVID-19 issues:

7CA058 - Order Setting Arraignment/Preliminary Hearing

7CR011 - Initial Appearance Order - Indictable Offenses

7CR311 - Magistrate - Initial Appearance Order - Indictable Offenses

7JV101 - Delinquency Acceptance of Plea and Adjudication

The following templates are new and relate to COVID-19 issues:

7COV019 - Generic Order Continuing Hearing Due to Covid-19 (new template)

7CA801 - Children in the Middle Class Online (new template)

7CR200 - Order Setting Sentencing - Covid-19 (new template)

I hope these are all the changes we will have for a while; however, with the ever-changing nature of this virus and our required responses to it, I cannot make that promise. I will let you know as soon as possible of any new changes to anything.

April 7, 2020:

I have filed another Administrative Order with some additional changes. For example, we changed the Sentencing Hearing Election form and corrected one of the template order identification numbers. In addition, the following items were added:

CRIMINAL:

Violations of No Contact Orders shall be done by telephone or video-conferencing.

Violations of Domestic Abuse Protective Orders are being continued by Jim Ottesen.

Hearings to Determine Ability to Pay shall all be done by telephone or video-conferencing. If that is not possible, they must be continued.

CIVIL:

Pro Se / Default matters scheduled for 8:30 a.m. A court attendant will coordinate a telephone call with the pro se parties and judge. If it is a default dissolution, the parties must participate by telephone or video conferencing and fax or file copies of Identification for the court.

Scheduled 8:30 a.m. matters shall be done by telephone or Go To Meeting. The 8:30 a.m. hearings will be set up in Go To Meeting with the assigned judge as a co-

organizer. Each hearing will have a unique dial-in number and access code. Attorneys and self-represented parties shall call in to Court Administration and they will be transferred to a court attendant who will give them the telephone number and access code for their hearing. The judge will handle the hearing. **April 8, 2020: Denny McCallum will set up the 8:30 meetings. The judge will have the hearing on his or her My Meetings screen and can conduct it either by phone or through their computer's microphone or speakers. Once the hearing is complete, the judge can either delete it from Go To Meetings or Denny will do this later. See 04/06/20 email from Denny McCallum.**

No family law or civil law settlements conferences will be held.

Chapter 236 Domestic Abuse Hearings for the permanent protective order shall be done by telephone or video-conferencing. We have modified our procedures to make sure self-represented parties are aware of this requirement. **They may be recorded by the Judge on his or her Olympus recorder.**

MISCELLANEOUS:

State Court Administration filed a Media Public Access Directive on April 6, 2020. Any media wanting file information shall contact the Clerk's office by telephone to request that a list be mailed to them. The Media shall not come in to use the public terminals. There will be no charge to the media to obtain this report.

Public computer terminals shall be used by the public only on a limited basis. One person from the public at a time shall be allowed in the public terminal area and must provide information to the Clerk why they need to use the terminal. If the Clerk

determines they have access to a home computer, use of the public terminal shall be denied.

Notarization of signatures and the signatures on civil court documents have been relaxed as indicated in paragraphs 27 and 28 of the Iowa Supreme Court's April 2, 2020 Supervisory Order. All the court forms on the Judicial Branch website have now been updated to reflect the appropriate language that will greatly reduce the need for notarization. At this point, the only form that requires notarization is **Ch.3 – Form 3.23 - Release and Satisfaction of Judgment**. The other forms will be signed "under penalty of perjury."

In addition, the forms pertaining to involuntary mental health hospitalizations and involuntary substance abuse commitments are now fillable and savable by users. The forms website of the Judicial Branch now includes instructions for users at home to add digital signatures to PDFs using Acrobat Reader DC as well as instructions for people using the public access terminals. The terminals use Foxit, so if a public terminal user needs to sign a PDF, they shall be directed to these instructions on the website or a clerk may print them a copy.

7th District Templates and Forms have been created as follows, which the attorneys can use to have their clients sign and then file via EDMS::

Written Guilty Plea (felony)

Sex Offender Supplement to Written Plea (felony)

Probation Violation Stipulation (felony)

The forms above have all been previously distributed to the Bar Presidents for dissemination to the Bar members.

Revised 04/10/2020 as follows: The following forms should be used in felony sentencings as detailed in the April 9, 2020 Administrative Order. These forms should be prepared by the attorneys using them:

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

<p>STATE OF IOWA,</p> <p>Plaintiff,</p> <p>v.</p> <p>_____ ,</p> <p>Defendant.</p>	<p>Case No. _____</p> <p>CONSENT TO SENTENCING BY TELEPHONE OR VIDEO CONFERENCE</p>
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COMES NOW the Defendant, _____, in the above-captioned cause, and hereby submits this Consent to Sentencing by Telephone or Video-Conference, and states the following:

1. I understand that I have a right to be personally physically present at the sentencing hearing in my case.
2. I understand that due to the COVID-19 pandemic, I am being offered the opportunity to participate in this sentencing hearing by telephone or teleconference.
3. I understand that if I choose to participate telephonically or by teleconference, I will still be given a full opportunity to address the court (right of allocution), and my attorney will still be able to make a full sentencing recommendation.
4. I understand that if I choose to participate telephonically or by teleconference, the judge will be pronouncing judgment and sentence in my case over the phone, and will

not have the opportunity to personally observe me and enter judgment in my physical presence before the judge.

5. I understand that I must still appear either by phone or by videoconference. I also understand that I am not required to waive my personal presence at this sentencing hearing, and can request a continuance so that I may safely attend following the pandemic.
6. My attorney has answered any and all questions I have about this waiver.
7. With all that in mind, I wish to waive my personal presence at my upcoming sentencing hearing on _____ at _____ a.m./p.m.
8. I will be available to be reached by telephone during this hearing at the following phone number: _____.

WHEREFORE, I am asking the Court to accept my waiver of personal presence at the sentencing hearing on _____ at _____ a.m./p.m. I will be available by phone during these hearings at the number I provided in paragraph (8).

Date

Name (signature)

Attorney for Defendant

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

<p>STATE OF IOWA,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>_____ ,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. _____</p> <p>WAIVER OF PRESENCE AND CONSENT TO WRITTEN SENTENCING</p>
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COMES NOW the Defendant, _____, in the above-captioned cause, and hereby submits this Waiver of Presence and Consent to Written Sentencing, and states the following:

1. I understand that I have a right to be personally physically present at the sentencing hearing in my case or participate by telephone or teleconference. I have had a chance to review my Pre-Sentence Investigation Report and, if I found any additions or corrections were needed, my attorney will file a statement in that regard as an attachment to this document. No motions are presently pending and no reason exists for the court not to proceed to sentencing in my case.
2. I understand that due to the COVID-19 pandemic, I am being offered the opportunity to be sentenced in writing without a sentencing hearing in person, by telephone or by teleconference as provided for in Paragraph 18 of the Supreme Court's supervisory Order dated 4-2-20.
3. I understand that if I choose to be sentenced without a hearing, I will be giving up a full opportunity to address the court (right of allocution), and my attorney will be unable to make a full sentencing recommendation. I understand I and/or my attorney may file a

written statement for the court's consideration, and my attorney will file such a statement, if any, as an attachment to this document.

4. I understand that if I choose to be sentenced in writing without a sentencing hearing, the judge will be pronouncing judgment and sentence in my case without having the opportunity to personally observe me and enter judgment in my physical presence.
5. I also understand that I am not required to waive my personal presence at this sentencing hearing, and can request a continuance so that I may safely attend following the pandemic.
6. My attorney has answered any and all questions I have about this waiver of presence, waiver of my right to allocution, and the Agreement as to Sentence previously filed herein.
7. With all that in mind, I wish to waive my presence at a sentencing hearing and hereby request that the court enter a Sentencing Order embodying the Agreement as to Sentence entered into by myself, my attorney and the State previously filed herein.

Date

Name (signature)

Attorney for Defendant

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

<p>STATE OF IOWA,</p> <p>Plaintiff,</p> <p>v.</p> <p>_____ ,</p> <p>Defendant.</p>	<p>Case No. _____</p> <p>SENTENCING HEARING ELECTION</p>
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During this Pandemic crisis and until further order of this court ALL sentencings must be done by telephone, video-conferencing or Go To Meeting. Please see the Order issued by the Iowa Supreme Court on 03/17/2020 and this District's guidelines, which have been provided to all bar members and is updated as frequently as possible.

If you have a client who has a felony sentencing scheduled or wants one scheduled, please check the choice below indicating the Defendant and counsel will all appear either telephonically, by video-conferencing, or by Go To Meeting.

_____Defendant and counsel acknowledge and agree to have the sentencing done entirely in writing without Defendant's presence.

_____Defendant and counsel acknowledge and agree to have the sentencing in this matter set for hearing by telephone, OR

_____Defendant and counsel acknowledge and agree to have the sentencing in this matter set for hearing by video-conferencing, OR

_____Defendant and counsel acknowledge and agree to have the sentencing in this matter set for hearing by Go To Meeting, OR

_____ Defendant and counsel do not agree to have the sentencing in this matter set for hearing without Defendant's physical presence.

Based on the line checked above, Defendant's sentencing hearing shall be held _____ on the _____ day of _____, 2020 at _____ .m.

If this form is not signed and electronically filed with the Guilty Plea form, the sentencing hearing shall be continued by the court.

If Defendant checks the box above stating he/she does not agree to have the sentencing in this matter set for hearing without his/her physical presence, the sentencing hearing shall be continued by the court.

If Defendant and counsel agree to have this matter set for hearing entirely in writing, by telephone, video-conferencing, or Go To Meeting, counsel for the parties shall be responsible for arranging their client(s) and themselves to participate in the telephone conference call Court Administration sets up.

Misdemeanor sentencings shall also ALL be done either in writing, by telephonically, by video-conferencing, or by Go To Meeting, but do not require a special setting or a continuance until determined to need one by the Judge.

If a continuance is needed, the Court will schedule the matter for a sentencing hearing to be held in the future after the Pandemic crisis.

Date

Name (signature)

Attorney for Defendant

April 8, 2020:

Revised 04/10/2020; see forms above and explanation below. The waiver /consent form a defendant may file stating he/she wants to be sentenced without being physically present should be filed along with the guilty plea and the sentencing election form (see Ryan Beckenbaugh for his waiver form). This form should be filed at least three days before the sentencing hearing is scheduled or the sentencing hearing will be continued on the court's own motion.

April 10, 2020:

Due to some questions from various attorneys on how to handle felony sentencings, Administrative Order 2020-13 was drafted and filed on April 9, 2020. It has been distributed to the Bar Presidents, DOC, County Attorneys, Court Administration and District Court Judges. The April 9, 2020 Administrative Order also revises several forms as set forth herein. Court reporting of the various sentencing hearings will depend on whether it is done entirely in writing and if so, no reporting is required. If a hearing is held by telephone or video-conferencing, court reporting is required.

April 15, 2020:

In order to make sure ALL initial appearances are done remotely or in writing, the following form was drafted and provided to the five jails for distribution to an offender arrested, but who bonds out or is released on his/her recognizance before seeing a judge. The offender will be provided with a financial affidavit to fill out to request a court-appointed attorney.

See Revised Form below for 04/15/20 - initial appearances.

9. I know that I am not required to make a statement and that any statement I make may be used against me.
10. If I choose not to appear by this form, I am required to personally call the court on the date set in the documents I have received. The number I am to call is 563-326-8783.
11. I understand that I am currently released on my own recognizance or on bond and that failing to mail this waiver or call the Court at the required time may result in a warrant being issued for my arrest.
12. I knowingly, intelligently, and voluntarily waive my right to an initial appearance before the magistrate.

I STATE THIS IS MY CONTACT INFORMATION:

Mailing Address (include apt or lot #) :

Phone number: _____ **E-Mail address:** _____

Dated this ____ day of _____, 2020.

Defendant

04/17/20 Iowa Supreme Court Order also encourages lawyers to provide pro bono legal services for individuals affected by COVID-19.

Keep in mind you can check the Judicial Branch website at iowacourts.gov and access the COVID-19 section where you will find a lot of information on what the Judicial Branch is doing during this pandemic. In addition, there is a FAQ document that may answer a question you may have.

Remember, no jury or bench trials for any criminal or civil matter. The date to start criminal trials again is July 13, 2020 and to start civil jury trials is August 3, 2020.

Non-jury trials will begin first because of a concern potential jurors will not want to come to the courthouse. The Supreme Court's Supervisory

Order states any criminal non-jury trial shall begin no earlier than June 1, 2020 and any civil (including family law trials) non-jury trial shall begin no earlier than June 15.