IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order 2020-63-Temp

SIXTH EMERGENCY ADMINISTRATIVE ORDER
CORONAVIRUS DISEASE 2019 (COVID-19)

(a) Pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.

(b) The Centers for Disease Control and the Florida Department of Health have advised people to take precautions in light of the Coronavirus Disease 2019 (COVID-19) outbreak, and specifically noting that the best way to prevent illness is to avoid exposure to the virus.

(c) Because of the COVID-19 outbreak, Governor Ron DeSantis declared a State of Emergency on March 1, 2020, Broward County declared a Local State of Emergency on March 10, 2020, and the World Health Organization declared a global pandemic on March 11, 2020.

(d) Since March 17, 2020, the Florida Supreme Court has issued various emergency administrative orders addressing the judicial branch's response to the COVID-19 pandemic. These administrative orders may be found by visiting the following web page: https://www.floridasupremecourt.org/Emergency.

(e) As identified by Chief Justice Canady, the overarching intent of the Supreme Court emergency orders, and this Court's emergency orders, has been and continues to be to mitigate the impact of COVID-19 while keeping the courts operating to the fullest extent consistent with public safety.

(f) In accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, 43.26, Florida Statutes, Florida Rule of Judicial Administration 2.215, and to promote public safety amidst the current public health emergency, it is hereby **ORDERED:**

I. Continuity of Operations

(1) After consultation with and agreement of the Public Defender, State Attorney, Clerk of Court, and Broward County building operations, **except as otherwise provided herein,** the Seventeenth Judicial Circuit will continue operations via remote technological means until further order of the court. **Except as may be authorized by the Chief Judge, no face-to-face/in-person hearings will take place during this time.**

(2) **Except as otherwise provided herein, no member of the public shall be provided access to any courthouse facility.**

(3) The Clerk of Courts may resume normal operations, including opening windows for transactions, while observing social distancing and wearing masks or other facial coverings. Any person seeking access to the courthouse for purposes of conducting business with the Clerk of Courts may be permitted access for such purpose. Access for persons conducting business with the Clerk of Courts at the Main Courthouse is limited to floors 1 through 4 of the West Tower.

(4) Any individual entering a courthouse facility must be wearing a mask or other facial covering. Masks and facial coverings must be worn in all common areas, including secure hallways and elevators, of any courthouse. All individuals entering any courthouse will be subject to a non-invasive temperature scan and may be required to answer certain health-related questions.

II. Guiding Principles

(1) The presiding judge in all cases must consider the constitutional rights of all litigants, crime victims and criminal defendants, and the public's constitutional right to access to the courts.

(2) This Administrative Order is intended to maintain judicial workflow to the maximum extent feasible by permitting proceedings to be conducted using technological means (i.e. web-based videoconferencing tools).

(3) Judges and court personnel who can effectively conduct court and judicial branch business from a remote location shall continue to do so.

III. Essential Hearings and Proceedings. The following proceedings are hereby designated essential proceedings and shall continue:

(1) First appearance hearings
(2) Criminal arraignments, when necessary
(3) Hearings on motions to set or modify monetary bail for individuals who are in custody
(4) Juvenile detention hearings
(5) Juvenile dependency shelter hearings
(6) Petitions for judicial waiver of notice pursuant to section 394.01114, Florida Statutes
(7) Hearings on petitions for the appointment of emergency temporary guardian
(8) Risk protection orders and hearings
(9) Injunctions for protection against domestic violence, stalking, repeat violence, dating violence, and sexual violence, and hearings
(10) Injunctions for protection against exploitation of a vulnerable adult
(11) Baker Act and Marchman Act proceedings
(12) Extraordinary writs, related to the state of emergency or public health emergency or otherwise necessary to protect constitutional rights
(13) Issuance of warrants or authorization for wiretaps
(14) Proceedings related to the state of emergency or public health emergency, including but not limited to violation of quarantine or isolation orders, violation of orders to limit travel, violation of orders to close public or private buildings, enforcement of curfew orders, habeas corpus petitions, and mandatory vaccinations.
(15) Any other emergency or time sensitive matter as determined by the chief judge

IV. Essential Proceedings

(1) First Appearance and Other Related Criminal Matters

(a) A first appearance docket and other essential criminal matters shall be held Monday through Friday, on court holidays and on weekends as determined by the Chief Judge or designee. The first appearance docket will include juvenile detention hearings on weekends and court holidays.

(b) ***Location.*** All hearings will be held using web-based videoconferencing. In the event a family member of a defendant, witness, or victim and victim's family member(s) wish to attend any criminal hearing, such person(s) shall be permitted access to ***Courtroom WW4155*** of the Broward County Courthouse-West Tower, 201 S.E. 6th Street, Fort Lauderdale, Florida 33301 for such limited purpose.

(c) Until further order of the court, the Public Defender shall be appointed for all first appearance hearings without the necessity of an affidavit of indigence. The representation shall continue for all indigent defendants who have not retained private counsel until the COVID-19 restrictions are lifted by future administrative order, which point an affidavit of indigence shall be submitted. This provision shall apply *nunc pro tunc* to March 14, 2020 and continue until further order of the court.

(d) **Emergencies.** Any emergency filing shall be directed to the assigned division judge, if he or she is available. If the division judge is unavailable, the matter shall be brought to the attention of the Administrative Judge of the Circuit Criminal Division or Chairperson of the County Criminal Division, as appropriate, and if either are unavailable, to the Chief Judge.

(e) **Warrants**. All warrants and applications for wiretaps shall be submitted to the Criminal Duty Judge for review.

(f) The Chief Judge, in consultation with the State Attorney, Public Defender or private counsel representing a defendant currently in the custody of the Broward Sheriff's office, may discharge a defendant, terminate his or her sentence or defer completion of their sentence in order to prevent the spread of COVID-19.

(g) **Public Health Violations.** Any person who violates any rule adopted under section 381.00315, Florida Statutes, any isolation or quarantine, or any requirement adopted by the Department of Health in accordance with a declared public emergency, commits a misdemeanor of the second degree. Due to the danger to the public health for such violation, the bond amount shall be set at "no bond." *See Varholy v. Sweat*, 15 So. 267 (Fla. 1943) ("To grant release on bail to persons isolated and detained on a quarantine order because they have a contagious disease which makes them dangerous to others, or to the public in general, would render quarantine laws and regulations nugatory and of no avail."). This provision does not preclude the judge presiding at first appearance hearings from modifying the "no bond" status, if appropriate. Administrative Order 2019-98-Crim (Establishing a Bond Schedule) remains in place. However, this provision shall control to the extent it may be on conflict with any provision of Administrative Order 2019-98-Crim.

(2) Shelter Hearings/Dockets

(a) A shelter docket shall be held Monday through Sunday (including court holidays). The Chief Judge, Administrative Judge of the Unified Family Court, or Chairperson of the Dependency Division will assign judges to preside over the shelter docket.

(b) All hearings will be held using web-based videoconferencing tools. Parents of sheltered children shall be permitted access to the courthouse (***Courtroom WW4150)*** for the limited purpose of attending a shelter docket.

(c) **Emergencies**. All emergency motions relating to dependency actions, including but not limited to emergency motions for change of placement, emergency medical procedures, travel, pick up orders, and injunctions under Chapter 39, Florida Statutes, shall be heard on the shelter docket, as determined by the Administrative Judge of the Unified Family Division and/or Chairperson of the Dependency Division.

(d) **Judicial Waiver**. Minors seeking to file a judicial waiver of parental notice of termination of pregnancy pursuant to section 394.01114, Florida Statutes, shall be permitted access to the courthouse. All judicial waiver petitions shall be heard on the next shelter docket following the filing of the petition. The minor and her attorney shall attend the hearing.

(3) **Juvenile Detention Hearings**

(a) A juvenile detention docket will be held Monday through Friday. The Chief Judge or Administrative Judge of the Unified Family Court or Chairperson of the Juvenile Delinquency Division will assign judges to preside over such dockets.

(b) ***Emergencies*.** All emergency motions relating to delinquency actions shall be heard on the detention docket, as determined by the Administrative Judge of the Unified Family Court and/or Chairperson of the Juvenile Delinquency Division.

(c) All hearings will be held using web-based videoconferencing. In the event a family member of a defendant, witness, or victim and victim's family member(s) wish to attend any hearing, such person(s) shall be permitted

access to ***Courtroom WW4150*** of the Broward County Courthouse-West Tower, 201 S.E. 6th Street, Fort Lauderdale, Florida 33301 for such limited purpose.

(4) Risk Protection Orders

(a) All petitions seeking a risk protection order shall be filed in compliance with section 790.401, Florida Statutes, and Seventeenth Judicial Circuit Administrative Order 2019-12-Civ.

(b) All hearings regarding risk protection orders shall be held using web-based videoconferencing or other technological means.

(c) Any risk protection order, temporary or final, where a final hearing or hearing on a motion to extend a previously issued risk protection order cannot be effectively held using web-based videoconferencing or other technological means, shall remain in effect until further order of the court.

(d) Nothing in this Administrative Order precludes parties from negotiating a stipulation as to the merits of any risk protection order, provided however, any stipulation be submitted to and approved by the assigned division judge.

(5) Domestic Violence and Related Injunctions

(a) All hearings regarding an injunction against domestic violence, stalking, or dating, repeat or sexual violence, shall be held using web-based videoconferencing or other technological means.

(b) Any injunction, temporary or permanent, where a final hearing or other hearing affecting the term of the injunction cannot be effectively held using web-based videoconferencing or other technological means, shall remain in effect until further order of the court.

(c) ***After-Hours.*** The procedures for petitions for an injunction against domestic violence, stalking, or dating, repeat or sexual violence filed after normal court business hours (8:30 a.m. to 5:00 p.m.) set forth in Administrative Order 2019-81-UFC shall remain in place until further order of the court.

(d) Nothing in this Administrative Order precludes parties from negotiating a stipulation as to the merits of any petition or existing injunction, provided

however, any stipulation is submitted to and approved by the assigned division judge.

(6) Circuit Civil Emergencies.

(a) Upon the receipt of any emergency motion or petition filed in a circuit civil case, including family and probate cases, the Clerk of Court shall contact the assigned division judge. In the event the assigned division judge is unavailable, the Clerk shall notify the appropriate administrative judge and/or chairperson of the division. If the administrative judge and chairperson are unavailable, the Clerk shall contact the Civil Duty Judge who shall handle the matter. If the Civil Duty Judge is unavailable, the Chief Judge shall handle the matter. Any hearings relating to emergency matters shall be conducted using web-based videoconferencing or other technological means.

V. Handling of Proceedings Not Designated Essential

(1) All proceedings not designated essential, including (1) non-jury trials, (2) evidentiary and non-evidentiary hearings in all cases types, (3) status, case management, and pretrial conferences in all case types, (4) alternative dispute resolution proceedings, and (5) any proceeding designated by the Florida Supreme Court as being amenable to being conducted remotely, shall continue via web-based videoconferencing or other technological means in an effort to avoid substantial backlog of pending and newly-filed actions.

(2) All proceedings not designated essential may only be cancelled with the permission of the presiding division judge.

(3) Nothing herein precludes the parties from stipulating that matters be determined based solely on written submissions. Any such stipulation, however, shall be evidenced by an agreement signed by all parties and filed with the Clerk.

(4) **Non-Statewide Grand Jury Proceedings, Jury Proceedings and Jury Trials.** All non-statewide grand jury proceedings, jury selection proceedings, and criminal and civil jury trials shall remain suspended until further order of the court.

(5) **Statewide Grand Jury Proceedings.** Pursuant to Supreme Court Administrative Order No. AOSC20-23 (Amendment 5), issued on July 2, 2020, statewide grand jury proceedings remain suspended through July 26, 2020. Consistent with AOSC20-23 (Amendment 5), the Chief Judge will confer with the Office of the Statewide Prosecutor to determine the resumption of statewide grand jury proceedings after July 26, 2020.

(6) **Mental Health / Competency Evaluations**. If agreed upon by the attorneys or a finding is made by a judge that extraordinary circumstances exist, mental health evaluations, including those related to a defendant's competency, may be conducted using remote means.

VI. Social Distancing

All persons who find themselves in a courthouse facility should maintain at least a 6-foot "social distance" from other persons at all times.

VII. Effective Date

This Administrative Order supersedes and vacates Amended Administrative Order 2020-53-Temp, effective immediately.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 15th day of July, 2020.

/s/ Jack Tuter
Jack Tuter, Chief Judge