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Court of Appeals
of Maryland

IN THE COURT OF APPEALS OF MARYLAND

SEPTEMBER TERM, 2021

MISC. NO. 5

JESSE J. MURPHY, et al.

Appellants

v.

LIBERTY MUTUAL INSURANCE COMPANY

Appellee

**Certified Question from the United States District Court
for the District of Maryland
(The Honorable Stephanie A. Gallagher)**

BRIEF OF APPELLEE

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APPELLEE'S BRIEF

Appellee, Liberty Mutual Insurance Company, by undersigned counsel, submits this brief, and states as follows:

STATEMENT OF THE CASE

Appellee disagrees with one factual statement contained in Appellants' Statement of the Case asserting that jurisdictional discovery revealed that Appellee did not incur more than \$75,000 in damages in the three years preceding the filing date. Including contractually guaranteed attorneys' fees incurred in prosecuting and enforcing its indemnity action against Appellants, as provided under United States Supreme Court precedent, Appellee's damages surpass the \$75,000 diversity threshold regardless of this Court's ruling on the constitutionality of the Administrative Orders. Should this Court find the Administrative Orders tolling or suspending the statute of limitations to be valid, additional losses incurred by Appellants' would qualify for the calculation of the jurisdictional threshold.

CERTIFIED QUESTION

Did the Maryland Court of Appeals act within its enabling authority under, *inter alia*, the State Constitution and the State Declaration of Rights when its April 24, 2020 Administrative Order tolled Maryland's statutes of limitation in response to the COVID-19 pandemic? App. 001.

ARGUMENT

Summary

Chief Judge Mary Ellen Barbera exercised appropriate power granted to her by Governor Hogan through his emergency powers in the face of a global pandemic to safeguard the legal claims of Maryland plaintiffs by tolling or suspending statutory deadlines. When faced with a global pandemic, Maryland Governor Hogan declared a statewide emergency. Vested with authority granted to him by the General Assembly under the Public Safety Article, Governor Hogan subsequently issued a series of executive orders conferring upon the individual head of each unit of State or local government the authority to suspend any Maryland statutory deadline. The Court of Appeals, in accordance with the powers granted to it by The Maryland Constitution, Article IV § 18, and in furtherance of Governor Hogan's grant of authority, adopted Md. R. Ct. Admin. §§ 16-1001-1003, authorizing Judge Barbera to toll the running of statutes of limitation and other filing deadlines.

Chief Judge Barbera's closure of all Maryland courts to the public on March 17, 2020, was consistent with stay at home orders and orders closing non-essential business to the public issued by Governor Hogan. At least until July 20, 2020, Maryland courts remained closed to the public, in line with Governor Hogan's emergency orders curtailing citizens' movement and business operations. Recognizing the hardship litigants faced both in gathering the necessary information and documents to initiate an action as well as physically accessing the closed courthouse to file initiating pleadings, Chief Judge Barbera

acted within the scope of Governor Hogan's emergency order to approve emergency powers of the Court of Appeals that complied with Governor Hogan's executive orders allowing her to toll statutory deadlines in the interest of public safety. The tolled statutes of limitations period instituted by the Court of Appeals is, therefore, a valid exercise of emergency executive power conferred upon the Court, derived from express legislative branch authority. It does not violate the Maryland Constitution or Declaration of Rights, and should be upheld.

I. Governor Hogan conferred his emergency power to suspend any legal deadline on the head of each unit of State or local government, including the Head of the Judiciary.

The General Assembly conferred sweeping emergency powers upon Maryland's chief executive under Title 14 of the Public Safety Article. *See* Md. Code Pub. Safety § 107. Title 14 defines the broad powers of Maryland's Governor during a declared state of emergency including acts usually reserved to the General Assembly, such as the power to "suspend the effect of any statute or rule or regulation of any agency of the State..." Md. Code PS § 14-107(d)(1)(i). The Governor's declaration of an emergency invokes Title 14's emergency powers. *Id.* at §14-107(d)(1). The General Assembly does not confer such broad authority without recourse should the governor abuse his power. Under the Public Safety Article, "the General Assembly by joint resolution may terminate a state of emergency at any time," extinguishing the extraordinary powers afforded to the chief executive in time of emergency. *Id.* at § 14-107(a)(4)(i).

On March 5, 2020, Governor Hogan declared a “catastrophic health emergency” for “the entire state of Maryland” Md. Proclamation, Declaration of State of Emergency (March 5, 2020).¹ By declaring an emergency, Governor Hogan invoked the broad emergency powers of the Public Safety Article. Governor Hogan then issued two emergency orders suspending statutory deadlines across the State, pursuant to his emergency powers. Md. Exec. Ord. (March 12, 2020); Md. Exec. Ord. No. 20-06-19-01, (June 19, 2020). In both executive orders, Governor Hogan ordered “[T]he head of each unit of State or local government may...suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule or regulation that it administers.” *Id.*

The Legislature has broadly defined a governmental unit as “a department, agency, commission, board, council, or other body of State government that is established by law.” Md. Code, Gen. Provis. § 5-101(q). The Constitution of the State of Maryland establishes the Court of Appeals as a body of State government. Md. Const. Art. IV. The Chief Judge of the Court of Appeals is “the administrative head of the judicial system.” Maryland Constitution Article IV § 18(b)(1); *see also* Md. R. Ct. Admin. § 16-102. Under the Rules, “[t]he Chief Judge of the Court of Appeals may exercise the authority granted by the Maryland Constitution, the Maryland Code, the Maryland Rules, or other law.” *Id.* at § 16-102(a). Accordingly, Governor

¹ All cited Maryland Executive Orders and Proclamations can be accessed at <https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>

Hogan's directive in the Executive Orders vested in Chief Judge Barbera, as the administrative head of the judicial system, the authority to suspend the running of the statutes of limitation.

Under the Maryland Constitution, the Standing Committee on Rules of Practice and Procedure is another judiciary unit of the State, charged with assisting the Court of Appeals in the exercise of its rulemaking power. *Id.* at § 18. On March 13, 2020, the Rules Committee, by its Chair, Alan M. Wilner, submitted proposed changes to the Maryland Rules of Court to encompass the powers granted by Governor Hogan's emergency orders pertinent to the administration of the Courts of Maryland. 204th Report by the Standing Committee on Rules of Practice and Procedure (March 13, 2020). The Committee recommended adding section 16-1001, noting that the new section's authority derives from the Governor's declaration of an emergency under the Public Safety Article, Title 14, that affects the "ability of the Maryland Judiciary to operate effectively." *See Id.* at 2. It further noted that a state of emergency allowed the Court of Appeals to promulgate Rules of Court that derive from executive orders during the state of emergency. *See Id.* at 3. Proposed new Rule 16-1003 spelled out the grant of emergency power to the Chief Judge during the Governor's declared state of emergency. *Id.*

In accordance with Governor Hogan's grant of power to suspend statutory deadlines to the heads of units of State government, on March 16, 2020, Chief Judge Barbera convened a public meeting to consider and ultimately adopt the recommendations of the Rules Committee to define the Chief Judge's emergency powers in the interest of safeguarding the public. *See Administrative Order of the Court of Appeals*, (March 15,

2020).² As the head of a unit of State government, at the recommendation of the head of another governmental unit of the State, Chief Judge Barbera issued an administrative order applying the power conferred upon her by the emergency executive order tolling or suspending “all statutory and rules deadlines related to the initiation of matters required to be filed in a Maryland state trial or appellate court, including statutes of limitations...” Administrative Order of the Court of Appeals, (April 3, 2020). The Chief Judge later clarified that Order with the April 24, 2020 Order at issue before this Court. Administrative Order of the Court of Appeals, (April 24, 2020). Accordingly, the Chief Judge exercised her emergency authority as granted to her by the Governor in accordance with the time frame in which Governor Hogan retained his emergency powers.

Separation of co-equal branches of government is part of the bedrock of American democracy. Under normal circumstances, the State of Maryland subscribes to this principle and demands the separation of powers both in its Declaration of Rights and in its restriction of the judicial branch from performing non-judicial functions. Md. Const. Decl. of Rts. § 8; *see also Consol. Const. Servs., Inc. v. Simpson*, 372 Md. 434, 449, 813 A.2d 260, 269 (2002) (citing *Shell Oil Co. v. Supervisor of Assessments of Prince George’s County*, 276 Md. 36, 46, 343 A.2d 521, 527 (1975)). Normal circumstances, however, do not always prevail.

² All cited Maryland Court of Appeals Administrative Orders can be accessed at <https://mdcourts.gov/coronavirusorders>.

The Maryland General Assembly envisioned a time of abnormal circumstances where the usual separate machinery of government could not move swiftly and decisively enough to protect Maryland citizens from an imminent threat. The General Assembly recognized that a more agile approach, vested in a single individual, might be necessary to meet and manage such a threat. Thus, it enacted Title 14 of the Public Safety Article, giving broad powers to the Maryland Governor after his declaration of a state of emergency. Md. Code, PS § 14-107. In the Maryland Declaration of Rights, the General Assembly provided for the Legislature’s ability to vest certain of its powers in a non-legislative branch of government, stating “[t]hat no power of suspending Laws or the execution of Laws, *unless by, or derived from* the Legislature, ought to be exercised, or allowed.” Md. Const. Decl. of Rts. § 9 (emphasis added). The General Assembly demonstrates that it foresaw circumstances where the suspending of laws or their execution could be “derived from the Legislature” as well as performed “by” the Legislature itself, setting the stage for Title 14 emergency powers. Under the statute, the Governor assumes broad powers in a state of emergency, including powers traditionally reserved to the Legislature. Among these are the power to suspend statutory deadlines. Md. Code, PS §14-107(d)(1)(i).

The General Assembly also recognized that this extensive grant of power to a single individual could be fertile ground for tyranny. To guard against an unscrupulous executive intent on indefinitely retaining Title 14’s broad powers, the General Assembly created a fail-safe to withdraw its grant of power by simply declaring in joint session at any time that no state of emergency existed. *Id.* at § 14-107(a)(4)(i). While here, the General Assembly

did not choose to revoke its grant of power, the General Assembly thus always retained ultimate control of legislative functions, ensuring the principle of separation of powers.

When Governor Hogan declared a “catastrophic health emergency,” he invoked Title 14’s broad emergency powers, which included the power to suspend any statute. After invoking the emergency powers, Governor Hogan empowered every head of a unit of State government to suspend statutory and regulatory deadlines. Chief Judge Barbera then acted under the ambit of that grant of emergency power, applying the suspension of statutory deadlines broadly to all potential litigants without requiring a showing of actual hardship in filing by the statutory deadline. The Chief Judge even added an additional layer of oversight to the Court’s exercise of the emergency power by accepting proposed Rule amendments tracking the Governor’s emergency executive orders from the Rules Committee with a public meeting for commentary. *See* Md. R. Ct. Admin. § 16-802. Throughout the period of statutory tolling, Governor Hogan renewed his declaration of a state of emergency every 30 days as required by the statute. Md. Code, PS § 14-107(a)(3). The Chief Judge’s orders tolling and suspending statutes of limitations concluded within the time period the renewed orders were in effect. The Chief Judge reopened the courts throughout Maryland on July 20, 2020, and issued an Administrative Order defining the time period of the emergency, which stated that “any such filings made within the period...shall relate back to the day before the deadline would have expired had it not been tolled or suspended.” Second Revised Administrative Order of the Court of Appeals (June 3, 2020). As applied in the context of the specific grant of power by the Governor to the

head of any unit of State government to suspend statutory deadlines, the Chief Judge acted within her grant of power to suspend or toll statutory deadlines. Her order did not overstep the authority of the Court. Instead, it realized the emergency powers of Maryland's Chief Executive derived from the legislature to protect citizens' legal rights during an imminent threat to the health and safety of the citizens of Maryland.

II. The Maryland Court of Appeals joins a number of states who have taken similar action to suspend statutes of limitations during court closures and reduced functions necessitated by the pandemic.

While Maryland's General Assembly was forward thinking in its vision of an emergency that would require its powers to be shared with or temporarily vested in another branch of government, its forethought is not unique. Many states throughout the country have instituted similar laws that confer broad emergency powers on an executive to toll or suspend statutes of limitation.

New York made a near identical journey in tolling its statutes of limitations as a consequence of the COVID-19 emergency but has traveled further than Maryland in determining that such tolling of its statutes was a valid exercise of emergency powers by the executive through the judiciary. On March 20, 2020, Governor Cuomo of New York issued Executive Order No. 202.8, directing, "any specific time limit for the commencement, filing, or service of any legal action, notice, motion or other process or proceeding as proscribed by the procedural laws of the state...is hereby tolled from the date of this executive order until April 19, 2020." 9 NYCRR 8.202.8 (March 20, 2020). Governor Cuomo exercised the emergency powers afforded to him by the state legislature

under Executive Law § 29-a, similar in character to Maryland's Title 14. *See* NY EXC §29-a. In response to this emergency order, two days later, Chief Administrative Judge Lawrence Marks issued an administrative order implementing the executive order and curtailing the filing of both paper and electronic filings across all state trial courts. Administrative Order 78/20 (March 22, 2020), <https://nycourts.gov/whatsnew/pdf/AO-78-2020.pdf>. Chief Judge Marks later clarified the curtailment with a prohibition against commencing any new non-essential cases. Administrative Order 85/20 (April 8, 2020), <https://nycourts.gov/whatsnew/pdf/AO-85-20.pdf>. Following seven extensions of Governor Cuomo's order, the courts administered the tolling of the statute of limitations period for 78 days for causes of action that could have been timely filed by March 20, 2020 and 31 days for causes of action accruing during the closure period.

The court has rejected constitutional challenges to the validity of Governor Cuomo's tolling of the statute under his emergency powers in multiple cases. *Foy v. State of New York*, 144 N.Y.S. 3d 285, *4 2021 N.Y. Slip Op., 71 Misc.3d 605, 610 (Ct. Cl. Feb 16, 2021) (holding that tolling of statutes of limitation via executive order was authorized by Executive Law § 29-a, and the claim filed far outside the statute of limitations was timely as a result of the tolling provisions of the executive orders); *Morse v. LoveLive TV US, Inc.*, 135 N.Y.S.3d 629, *7 2020 N.Y. Slip Op. 51481(U) (Sup. Ct., N.Y. Cty. Dec 15, 2020) (deeming the filing of an amended complaint after the 30 day period the court allowed was timely and subject to the valid executive orders tolling all statutory deadlines).

New York is not alone in its cooperation between the executive and judicial branches to effect emergency powers granted by the state legislature; California, Delaware, and Georgia also tolled statutes of limitation through judicial action derived from the legislature's grant of authority to the chief executive of the state. *See* Cal. Rules of Court, Appendix I, <https://jcc.legistar.com/View.ashx?M=F&ID=8234474&GUID=79611543-6A40-465C-8B8B-D324F5CAE349>; *see also* Supreme Court of the State of Delaware, Administrative Order No. 6 (May 14, 2020), <https://courts.delaware.gov/rules/pdf/COVIDOrderCJS3.pdf>; *see also* Supreme Court of Georgia, Second Order Extending Declaration of Statewide Judicial Emergency (May 11, 2020), https://www.gabar.org/upload/Second-Order-Extending-Declaration-of-Statewide-Judicial-Emergency_issued.pdf.

Like Maryland's General Assembly, New York's State Assembly enacted laws to vest power in a single executive in times of emergency. Like Maryland's Governor, New York's Governor issued an executive order suspending and tolling all statutory deadlines. Maryland's Governor simply vested the determination of whether to use the power granted to the executive branch in the head of each unit of State government. Maryland's Chief Judge applied the power granted by the Governor in an administrative order detailing the suspension and tolling of statutory deadlines, just as New York's Chief Judge did by preventing the filing of new non-essential matters. Maryland should look to New York's sound reasoning as instructive in finding that Maryland's Governor and Chief Judge acted within the power granted by the General Assembly during a state of emergency.

Inherent in the statutory provision allowing Governor Hogan to suspend the statute of limitations during an emergency is the principle that Maryland prefers to adjudicate its cases on the merits rather than disposing of them for procedural defects. *See Bertonazzi v. Hillman*, 241 Md. 361, 368, 216 A.2d 723, 726-27 (1966). When viewed in the full context of the global pandemic, it is clear that Governor Hogan used his broad emergency powers to protect citizens with valid claims who, in the face of stay-at-home orders, statewide court closures, and threats to personal safety, may have struggled to file an otherwise ripe suit. Governor Hogan issued executive orders that allowed the Chief Judge to issue the administrative orders suspending and tolling the statutory deadlines to avoid such a procedural stumbling block for an otherwise valid claim. To review those orders issued in the early days of the pandemic with late 2021 eyes is to diminish their sweeping intent. Invalidating emergency executive orders based on hindsight does a disservice to the citizens of Maryland and fails to recognize the General Assembly's view that Governor Hogan was better positioned to respond to the emergent needs of Maryland citizens through heads of units of State government than the General Assembly during the pandemic.

CONCLUSION

WHEREFORE, Appellee respectfully requests that the Court of Appeals answer the certified question in the affirmative, thereby affirming as constitutional Judge Barbera's Administrative Order, derived from the Executive Orders tolling and suspending statutes of limitations.

Dated: November 2, 2021

Respectfully Submitted

**LIBERTY MUTUAL INSURANCE
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CERTIFICATION OF WORD COUNT AND COMPLIANCE
WITH RULE 8-112

This brief contains **3093** words, excluding the parts of the brief exempted from the word count by Rule 8-503 (tables of contents and authorities) and the citation and text required by Rule 8-504(a)(8).

This brief complies with the font, spacing, and type size requirements stated in Rule 8-112. It was printed using Times New Roman, size 13 font.

/s/ Shannon J. Briglia
Shannon J. Briglia (AIS#9406160003)

CERTIFICATE OF SERVICE

I HEREBY CERTIFIED that on this 2nd day of November, 2021, eight (8) copies of this brief were hand delivered to this Court and two copies were served via electronic mail and by first class mail, postage pre-paid US mail to counsel for Appellant.

/s/ Shannon J. Briglia
Shannon J. Briglia (AIS#9406160003)

PERTINENT PROVISIONS

§ 18. Rules and regulations; responsibilities of Chief Judge..., MD CONST Art. 4, § 18

West's Annotated Code of Maryland
Constitution of Maryland Adopted by Convention of 1867
Article IV. Judiciary Department
Part II. Courts of Appeal

MD Constitution, Art. 4, § 18

§ 18. Rules and regulations; responsibilities of Chief Judge of Court of Appeals

Currentness

<Section effective until approval of amendments proposed by Acts 2021, c. 82, § 1, and Acts 2021, c. 83, § 1. See, also, Art. 4, § 18 effective after approval of amendments proposed by Acts 2021, c. 82, § 1, and Acts 2021, c. 83, § 1.>

(a) The Court of Appeals from time to time shall adopt rules and regulations concerning the practice and procedure in and the administration of the appellate courts and in the other courts of this State, which shall have the force of law until rescinded, changed or modified by the Court of Appeals or otherwise by law. The power of courts other than the Court of Appeals to make rules of practice and procedure, or administrative rules, shall be subject to the rules and regulations adopted by the Court of Appeals or otherwise by law.

(b)(1) The Chief Judge of the Court of Appeals shall be the administrative head of the Judicial system of the State. The Chief Judge of the Court of Appeals shall from time to time require, from each of the judges of the Circuit Courts, of the District Court and of any intermediate courts of appeal, reports as to the judicial work and business of each of the judges and their respective courts.

(2) Subject to paragraphs (3) and (4) of this subsection, the Chief Judge of the Court of Appeals may, in case of a vacancy, or of the illness, disqualification or other absence of a judge or for the purpose of relieving an accumulation of business in any court assign any judge except a judge of the Orphans' Court to sit temporarily in any court except an Orphans' Court.

(3) A retired judge of the Circuit Court for Montgomery County that sits as the Orphans' Court for Montgomery County may be assigned by the Chief Judge of the Court of Appeals, upon approval of a majority of the Court of Appeals, to do an act that a judge of the Orphans' Court for Montgomery County is authorized to perform.

(4) A retired judge of the Circuit Court for Harford County that sits as the Orphans' Court for Harford County may be assigned by the Chief Judge of the Court of Appeals, upon approval of a majority of the Court of Appeals, to do an act that a judge of the Orphans' Court for Harford County is authorized to perform.

§ 18. Rules and regulations; responsibilities of Chief Judge..., MD CONST Art. 4, § 18

(5) Any judge assigned by the Chief Judge of the Court of Appeals pursuant to this section has all the power and authority pertaining to a judge of the court to which the judge is so assigned; and the judge's power and authority shall continue with respect to all cases (including any motion, or other matters incidental thereto) which may come before the judge by virtue of such assignment until the judge's action thereon shall be completed. In the absence of the Chief Judge of the Court of Appeals, the provisions of this section shall be applicable to the senior judge present in the Court of Appeals. The powers of the Chief Judge set forth in this section shall be subject to any rule or regulation adopted by the Court of Appeals.

Credits

Acts 1943, c. 772, ratified Nov. 7, 1944; Acts 1966, c. 10, ratified Nov. 8, 1966; Acts 1969, c. 789, ratified Nov. 3, 1970; Acts 1977, c. 681, ratified Nov. 7, 1978; Acts 1980, c. 523, ratified Nov. 4, 1980; Acts 1998, c. 323, § 1, ratified Nov. 3, 1998.

Notes of Decisions (23)

MD Constitution, Art. 4, § 18, MD CONST Art. 4, § 18

Current with all legislation from the 2021 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Maryland **Rules**
Title 16. Court Administration
Chapter 1000. Emergency Powers of the Chief Judge of Court of Appeals

MD Rules, Rule 16-1001

RULE 16-1001. APPLICABILITY OF CHAPTER

Effective: March 16, 2020

Currentness

(a) Generally. The Rules in this Chapter apply to situations in which the Governor has declared an emergency pursuant to Code, Public Safety Article, Title 14 and the emergency or directives issued by the Governor pursuant to the emergency significantly affect access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Maryland Judiciary to operate effectively.

Cross reference: See Code, Public Safety Article, §§ 14-101, 14-3A-01, and 14-302.

(b) Other Events Affecting the Judiciary. The authority granted specifically by these Rules and by Article IV, Section 18 of the Maryland Constitution generally may be exercised, to the extent necessary, by the Chief Judge of the Court of Appeals in the event of a natural or other event that significantly affects access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Maryland Judiciary to operate effectively.

Committee note: Section (b) is intended to cover situations in which, due to a local event not warranting an emergency declaration by the Governor or possibly a quarantine or isolation order issued by the Secretary of Health on his or her own initiative pursuant to Health-General Article § 18-905, access to or the functioning of one or more courts or other judicial facilities or operations is, or is likely to be, significantly inhibited for a significant period of time.

(c) Supplemental; Conflict. The Rules in this Chapter are in addition to and supplement the authority of administrative judges granted in other Chapters of this Title and to the Rules in Chapter 1100 of Title 15, but, to the extent of any conflict, the exercise by the Chief Judge of the Court of Appeals or a designee of the Chief Judge of any authority provided in this Chapter shall prevail.

Committee note: The Rules in this Chapter are based on three core Constitutional principles: (1) that the Judiciary is a Constitutionally created co-equal branch of the State Government, and, to assure the liberty of the People under both the Maryland and United States Constitutions, must be permitted to operate as effectively and efficiently as possible, even under adverse conditions; (2) the authority of the Court of Appeals under Art. IV, § 18 (a) of the Md. Constitution to adopt Rules, having the force of law, to govern practice and procedure in, and the administration of, the Maryland courts; and (3) the Constitutional designation of the Chief Judge of the Court of Appeals by Art. IV, § 18 (b) as the administrative head of the Judicial system of the State. The Rules recognize that, in the event of an emergency declared by the Governor, the authority granted under these Rules must be exercised in harmony with lawful directives of the Governor and other Executive Branch officials to the maximum extent practicable.

Source: This Rule is new.

Credits

[Adopted eff. March 16, 2020.]

MD Rules, Rule 16-1001, MD R CTS J AND ATTYS Rule 16-1001

Current with amendments received through September 30, 2021. Some sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Maryland Rules
Title 16. Court Administration
Chapter 1000. Emergency Powers of the Chief Judge of Court of Appeals

MD Rules, Rule 16-1002

RULE 16-1002. COORDINATION WITH GOVERNOR

Effective: March 16, 2020

Currentness

Upon the declaration of any emergency by the Governor pursuant to Code, Title 14 of the Public Safety Article, the Chief Judge of the Court of Appeals, directly or through designees, shall, to the extent practicable, consult with the Governor, the Governor's designees, the Maryland Emergency Management Agency, and, as appropriate, other Executive Branch officials, in order to coordinate Judicial and Executive Branch responses to the emergency.

Source: This Rule is new.

Credits

[Adopted eff. March 16, 2020.]

MD Rules, Rule 16-1002, MD R CTS J AND ATTYS Rule 16-1002

Current with amendments received through September 30, 2021. Some sections may be more current, see credits for details.

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West's Annotated Code of Maryland
Maryland Rules
Title 16. Court Administration
Chapter 1000. Emergency Powers of the Chief Judge of Court of Appeals

MD Rules, Rule 16-1003

RULE 16-1003. AUTHORITY OF CHIEF JUDGE

Effective: March 16, 2020

Currentness

(a) Generally. Upon a determination by the Chief Judge of the Court of Appeals that an emergency declared by the Governor or an event within the scope of Rule 16-1001 (b) significantly affects access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Maryland Judiciary to operate effectively, the Chief Judge, by Administrative Order, may, to the extent necessary:

- (1) amend and superintend the implementation of continuity of operations plans adopted pursuant to Rule 16-803;
 - (2) suspend the operation of Rules that cannot be implemented as intended because of the emergency or event;
 - (3) identify and direct the use of alternative locations to conduct judicial business in the event that one or more existing locations become inaccessible or otherwise unusable for that purpose;
- Committee note:** The intent of this subsection is to permit courts or other judicial agencies to operate in facilities not otherwise designated as courthouses and to permit a circuit court to operate as such in a District Court or appellate court facility, and *vice versa*.
- (4) transfer cases pending in a court that becomes inaccessible or otherwise unusable to any other court having subject matter jurisdiction over the case;
 - (5) permit cases to be filed in any court having subject matter jurisdiction where no court with venue is reasonably accessible or otherwise usable, subject to transfer, on motion of a party or on the court's own initiative, when the emergency ends;
 - (6) permit pleadings and papers to be filed and proceedings to be conducted in the manner set forth in Rule 15-1104 (d);
 - (7) suspend, toll, extend, or otherwise grant relief from time deadlines, requirements, or expirations otherwise imposed by applicable statutes, Rules, or court orders, including deadlines for appeals or other filings, deadlines for filing or conducting judicial proceedings, and the expiration of injunctive, restraining, protective, or other orders that otherwise would expire, where there is no practical ability of a party subject to such deadline, requirement, or expiration to comply with the deadline or requirement or seek other relief;

Committee note: Granting relief from filing deadlines may take the form of directing relation back of filings made promptly after termination of the emergency to the day before the deadline expired.

(8) suspend any judicial business that is deemed not essential by the Chief Judge or close a court entirely when necessary;

(9) triage cases and categories of cases with respect to expedited treatment;

(10) designate and authorize other judges or judicial officials or employees to implement directives issued under this Rule or directives issued by the Governor upon an emergency declared by the Governor;

(11) to the extent necessary to fulfill Constitutional mandates, require that certain courts and judicial facilities remain operational to the extent possible during a state of emergency and resume operations upon termination of a state of emergency;

(12) authorize administrative judges or security personnel to preclude or control entry into courthouses or other judicial facilities by persons who pose a credible threat to the health or safety of members of the public or judicial personnel who are in the courthouse or other facility;

(13) use any means of communication likely to be effective; and

(14) take any other appropriate action necessary to ensure that, to the maximum extent possible, essential judicial business is effectively handled by the courts.

(b) Duration; Compatibility with Governor's Directives. The authority granted in section (a) may be implemented only as necessary during the emergency or its immediate aftermath and, if exercised following an emergency declared by the Governor, shall, to the extent practicable, be compatible with directives and orders issued by the Governor. Promptly upon termination of the emergency, the Chief Judge shall review all directives issued pursuant to this Rule and determine a reasonable schedule for the rescission of those directives.

Committee note: Termination of the emergency does not mean that all courts will immediately be back in full operation, and even to the extent they are, they will be immediately faced with having to deal with the cases backlogged during the emergency plus new filings. Some time deadlines that were extended and some triaging may need to remain in place for a reasonable time.

(c) Inability of Chief Judge. During any period in which the Chief Judge is unable to exercise the authority granted in section (a), that authority may be exercised by the judge on the Court of Appeals most senior in length of service on that Court, unless the Chief Judge has designated another judge of the Court to exercise that authority or the Governor has designated another judge of the Court to serve as Acting Chief Judge during that period.

(d) Notice and Posting of Directives. To the extent practicable, a copy of all directives and orders issued under section (a) following a declaration of emergency by the Governor, shall be sent to the Governor, the President of the Senate, the Speaker of the House of Delegates, the Director of the Maryland Emergency Management Agency, and, in a catastrophic health emergency, the Secretary of Health, and shall be posted on the Judiciary website. Notices may be sent electronically.

Source: This Rule is new.

Credits

[Adopted eff. March 16, 2020.]

MD Rules, Rule 16-1003, MD R CTS J AND ATTYS Rule 16-1003

Current with amendments received through September 30, 2021. Some sections may be more current, see credits for details.

End of Document

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§ 14-107. State of emergency--Declaration by Governor, MD PUBLIC SAFETY § 14-107

West's Annotated Code of Maryland

Public Safety (Refs & Annos)

Title 14. Emergency Management (Refs & Annos)

Subtitle 1. Maryland Emergency Management Act (Refs & Annos)

MD Code, Public Safety, § 14-107

Formerly cited as MD CODE Art. 16A, § 6A; MD CODE Art. 16A, § 6B

§ 14-107. State of emergency--Declaration by Governor

Effective: October 1, 2021

Currentness

In general

(a)(1) If the Governor finds that an emergency has developed or is impending due to any cause, the Governor shall declare a state of emergency by executive order or proclamation.

(2) The state of emergency continues until the Governor:

(i) finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no longer exist; and

(ii) terminates the state of emergency by executive order or proclamation.

(3) A state of emergency may not continue for longer than 30 days unless the Governor renews the state of emergency.

(4)(i) The General Assembly by joint resolution may terminate a state of emergency at any time.

(ii) After the General Assembly terminates a state of emergency, the Governor shall issue an executive order or proclamation that terminates the state of emergency.

Contents of declaration; publicity

(b)(1) Each executive order or proclamation that declares or terminates a state of emergency shall indicate:

(i) the nature of the emergency;

(ii) the area threatened; and

(iii) the conditions that have brought about the state of emergency or that make possible the termination of the state of emergency.

(2) Each executive order or proclamation shall be:

(i) disseminated promptly by means calculated to publicize its contents; and

(ii) unless prevented or impeded by the circumstances of the emergency, filed promptly with:

1. the Department;

2. the State Archives; and

3. the chief local records-keeping agency in the area to which the executive order or proclamation applies.

Responsibility of Secretary; effect of declaration

(c)(1) After the Governor declares a state of emergency, the Secretary shall coordinate the activities of the agencies of the State and of those political subdivisions included in the declaration in all actions that serve to prevent or alleviate the ill effects of the imminent or actual emergency.

(2) An executive order or proclamation that declares a state of emergency;

(i) activates the emergency response and recovery aspects of the State and local emergency plans applicable to the political subdivision or area covered by the declaration; and

(ii) is authority for:

1. the deployment and use of resources to which the State or local plans apply; and
2. the use or distribution of supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available in accordance with this subtitle or any other law that relates to emergencies.

Other actions by Governor

(d)(1) After declaring a state of emergency, the Governor, if the Governor finds it necessary in order to protect the public health, welfare, or safety, may:

- (i) suspend the effect of any statute or rule or regulation of an agency of the State or a political subdivision;
- (ii) direct and compel the evacuation of all or part of the population from a stricken or threatened area in the State;
- (iii) set evacuation routes and the modes of transportation to be used during an emergency;
- (iv) direct the control of ingress to and egress from an emergency area, the movement of individuals in the area, and the occupancy of premises in the area;
- (v) authorize the use of private property, in which event the owner of the property shall be compensated for its use and for any damage to the property;
- (vi) provide for temporary housing; and
- (vii) authorize the clearance and removal of debris and wreckage.

(2) The powers of the Governor under this subsection are in addition to any other authority vested in the Governor by law.

Credits

Added by Acts 2003, c. 5, § 2, eff. Oct. 1, 2003. Amended by Acts 2006, c. 369, § 1, eff. Oct. 1, 2006; Acts 2006, c. 505, § 1, eff. Oct. 1, 2006; Acts 2021, c. 287, § 1, eff. Oct. 1, 2021; Acts 2021, c. 288, § 1, eff. Oct. 1, 2021.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note (Acts 2003, c. 5):

This section is new language derived without substantive change from former Art. 16A, §§ 6A and 6B.

In subsection (a)(4)(ii) of this section, the phrase “[a]fter the General Assembly terminates a state of emergency” is substituted for the former reference to “[i]hereupon” for clarity.

In subsection (b)(2)(i) of this section, the phrase “to publicize its contents” is substituted for the former phrase “to bring its contents to the attention of the general public” for clarity and brevity.

In subsection (b)(2)(ii)3 of this section, the reference to the “chief” local records-keeping agency is added for clarity and consistency with § 14-111(b)(2)(ii) of this subtitle.

In subsection (c)(1) of this section, the reference to the activities of the “agencies of the State” is substituted for the former reference to the activities of the “offices of the State government” for consistency with terminology used throughout this subtitle.

In subsection (c)(2)(i) of this section, the reference to an “emergency” response is substituted for the former reference to a “disaster” response for consistency with terminology used throughout this subtitle. Similarly, the former reference to “disaster” emergency plans is deleted as redundant.

Also in subsection (c)(2)(i) of this section, the reference to the political subdivision or area “covered by the declaration” is substituted for the former reference to the political subdivision or area “in question” for clarity.

In subsection (d)(1)(i) of this section, the reference to the “effect of any” statute, rule, or regulation is added for clarity.

Also in subsection (d)(1)(i) of this section, the reference to a rule or regulation of “an agency of the State or a

§ 14-107. State of emergency--Declaration by Governor, MD PUBLIC SAFETY § 14-107

political subdivision” is substituted for the former reference to a rule or regulation of a “State or local agency” for clarity and consistency throughout this subtitle.

In subsection (d)(1)(iv) of this section, the reference to “individuals” is substituted for the former reference to “persons” because individuals, and not the other entities included in the defined term “person”, move about in an area covered by the declaration of a state of emergency. *See* § 1-101 of this article for the definition of “person”.

Defined terms: “Emergency” § 14-101

“Emergency management” § 14-101

“MEMA” § 14-101

“Political subdivision” § 14-101

MD Code, Public Safety, § 14-107, MD PUBLIC SAFETY § 14-107

Current with all legislation from the 2021 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

End of Document

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STATE OF MARYLAND



Proclamation

Declaration of State of Emergency and
Existence of Catastrophic Health Emergency — COVID-19

- WHEREAS, an outbreak of disease (“COVID-19”) caused by the novel coronavirus occurred in Hubei province, China, in late 2019, and has currently been detected in more than 89 countries, including the United States;
- WHEREAS, COVID-19 is a severe respiratory disease, resulting in illness or death, caused by the person-to-person spread of the novel coronavirus, which was not previously found in humans;
- WHEREAS, the novel coronavirus, as a viral agent capable of causing extensive loss of life or serious disability, is a deadly agent;
- WHEREAS, the World Health Organization (“WHO”) and the Centers for Disease Control and Prevention (“CDC”) have declared the COVID-19 outbreak a “public health emergency of international concern”;
- WHEREAS, the Secretary of the U.S. Department of Health and Human Services has declared that COVID-19 creates a public health emergency;
- WHEREAS, the CDC has issued guidance to all state and local governments, and all citizens, recommending preparedness to prevent community spread and guard against the potential of a COVID-19 pandemic;
- WHEREAS, as of March 5, 2020, the CDC found that COVID-19 has infected individuals in 17 states, and resulted in a total of 177 confirmed and presumed positive cases in the United States;

WHEREAS, the transmission of the novel coronavirus in the state is a threat to human health in all of Maryland;

WHEREAS, the person-to-person spread modeled by the CDC and WHO indicates that extensive loss of life or serious disability is threatened imminently in all of Maryland because of the transmission in the state of novel coronavirus;

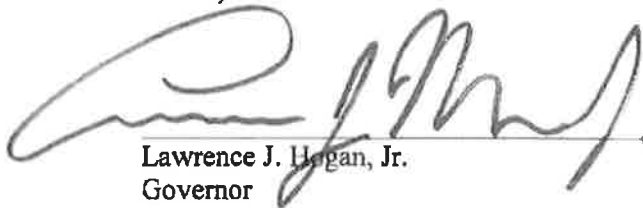
WHEREAS, COVID-19 is a public health catastrophe and public emergency;

WHEREAS, COVID-19 poses an immediate danger to public safety; and

WHEREAS, the impending threat to Maryland by COVID-19 is a catastrophic health emergency requiring the State to deploy resources and implement the emergency powers of the Governor to protect the health and safety of Marylanders;

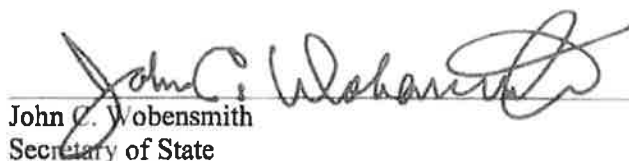
NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE MARYLAND CONSTITUTION AND THE LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, HEREBY PROCLAIM, EFFECTIVE IMMEDIATELY, THAT A STATE OF EMERGENCY AND CATASTROPHIC HEALTH EMERGENCY EXISTS WITHIN THE ENTIRE STATE OF MARYLAND.

Given Under My Hand and the Great Seal of the State of Maryland in the City of Annapolis, this 5th day of March, 2020.



Lawrence J. Hogan, Jr.
Governor

ATTEST:



John C. Wobensmith
Secretary of State



The State of Maryland
Executive Department

**ORDER
OF THE
GOVERNOR OF THE STATE OF MARYLAND**

**EXTENDING CERTAIN LICENSES, PERMITS, REGISTRATIONS, AND
OTHER GOVERNMENTAL AUTHORIZATIONS, AND AUTHORIZING
SUSPENSION OF LEGAL TIME REQUIREMENTS**

- WHEREAS,** A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;
- WHEREAS,** COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed in several Maryland counties;
- WHEREAS,** The U.S. Centers for Disease Control and Prevention has advised employers, such as the State of Maryland, to prepare for increased employee absence and alternative working arrangements (such as teleworking) in response to an outbreak of COVID-19;
- WHEREAS,** Increased employee absence and alternative working arrangements within the State of Maryland's workforce may impact the State's ability to timely process renewals of expiring permits, licenses, registrations, and other governmental authorizations;
- WHEREAS,** The U.S. Centers for Disease Control and Prevention and the Maryland Department of Health recommend social distancing to reduce the spread of COVID-19;
- WHEREAS,** Renewal of expiring permits, licenses, registrations, and other governmental authorizations often requires the public to enter public buildings and interact with State employees and other persons, which may be contrary to prudent social distancing; and

WHEREAS, To reduce the threat to human health caused by transmission of the COVID-19 in Maryland, and to protect and save lives, it is necessary and reasonable that permits, licenses, registrations, and other governmental authorizations be extended until after the state of emergency and catastrophic health emergency has ended;

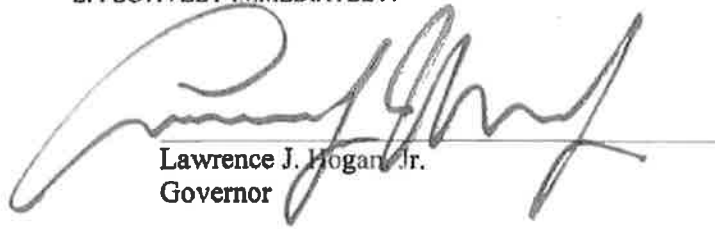
NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

- I. This Order applies to all licenses, permits, registrations, and other authorizations issued by the State of Maryland, any agency of the State of Maryland, or any political subdivision of the State of Maryland, including, without limitation, driver's licenses, vehicle registrations, and professional licenses (collectively, the "Covered Authorizations"), that would otherwise:
 - a. expire during the state of emergency and catastrophic health emergency; and
 - b. be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations.
- II. The expiration date of each Covered Authorization is hereby extended to the 30th day after the date by which the state of emergency is terminated and the catastrophic health emergency is rescinded.
- III. Suspension of Legal Time Requirements
 - a. The head of each unit of State or local government may, upon a finding that the suspension will not endanger the public health, welfare, or safety, and after notification to the Governor, suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule, or regulation that it administers. The unit head shall provide reasonable public notice of any such suspension.
 - b. Such suspension may, at the discretion of the unit head and to the extent that it will not endanger public health, welfare, or safety, continue until no later than the 30th day after the date by

which the state of emergency is terminated and the catastrophic health emergency is rescinded.

- IV. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order is hereby suspended.

ISSUED UNDER MY HAND THIS 12TH DAY OF MARCH, 2020, AND EFFECTIVELY IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor



The State of Maryland
Executive Department

**ORDER
OF THE
GOVERNOR OF THE STATE OF MARYLAND**

NO. 20-06-19-01

**AMENDING AND RESTATING THE ORDER OF MARCH 12, 2020, EXTENDING CERTAIN
LICENSES, PERMITS, REGISTRATIONS, AND OTHER GOVERNMENTAL AUTHORIZATIONS,
AND AUTHORIZING SUSPENSION OF LEGAL TIME REQUIREMENTS**

- WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, 2020, April 10, 2020, May 6, 2020, and June 3, 2020, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency still exists;
- WHEREAS, COVID-19, a respiratory disease that spreads easily from person to person and may result in serious illness or death, is a public health catastrophe and has been confirmed throughout Maryland;
- WHEREAS, The U.S. Centers for Disease Control and Prevention (“CDC”) has advised employers, such as the State of Maryland, to prepare for increased employee absence and alternative working arrangements (such as teleworking) in response to an outbreak of COVID-19;
- WHEREAS, Increased employee absence and alternative working arrangements within the State of Maryland’s workforce may impact the State’s ability to timely process renewals of expiring permits, licenses, registrations, and other governmental authorizations;
- WHEREAS, The CDC and the Maryland Department of Health (“MDH”) recommend social distancing to reduce the spread of COVID-19;
- WHEREAS, Renewal of expiring permits, licenses, registrations, and other governmental authorizations often requires the public to enter public buildings and interact with State employees and other persons, which may be contrary to prudent social distancing; and
- WHEREAS, To reduce the threat to human health caused by transmission of COVID-19 in Maryland, and to protect and save lives, it is necessary and

reasonable that permits, licenses, registrations, and other governmental authorizations be extended until after the state of emergency and catastrophic health emergency has ended;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

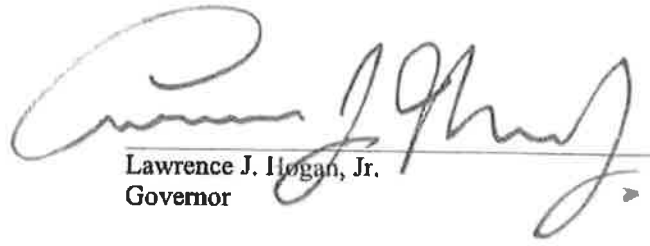
- I. Amendment and Restatement. The Order of the Governor of the State of Maryland, dated March 12, 2020, entitled “Extending Certain Licenses, Permits, Registrations, and Other Government Authorizations, and Authorizing Suspension of Legal Time Requirements”, is amended and restated in its entirety as set forth herein.
- II. Extension of Certain Licenses, Permits, Registrations and Authorizations.
 - a. This Order applies to all licenses, permits, registrations, and other authorizations issued by the State of Maryland, any agency of the State of Maryland, or any political subdivision of the State of Maryland, including, without limitation, driver’s licenses, vehicle registrations, and professional licenses (collectively, the “Covered Authorizations”), that would otherwise:
 - i. expire during the state of emergency and catastrophic health emergency; and
 - ii. be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations.
 - b. The expiration date of each Covered Authorization (other than Covered Authorizations excluded pursuant to paragraph II.c below) is hereby extended to the 30th day after the date by which the state of emergency is terminated and the catastrophic health emergency is rescinded.
 - c. The head of each unit of State or local government may opt to exclude a Covered Authorization from paragraph II.b above upon a finding that:
 - i. excluding the Covered Authorization from paragraph II.b is necessary to:
 1. protect public health, welfare, or safety; or

2. comply with (a) any federal legal requirement; or (b) any agreement, contract, compact, decree, or order to which the unit is a party or otherwise bound; and
- ii. renewal of any Covered Authorization can be accomplished in accordance with applicable guidance published by the CDC and MDH.
- d. The unit head shall provide reasonable public notice of each exclusion pursuant to paragraph II.c above.

III. Suspension of Legal Time Requirements.

- a. The head of each unit of State or local government may, upon a finding that the suspension will not endanger the public health, welfare, or safety, and after notification to the Governor, suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule, or regulation that it administers. The unit head shall provide reasonable public notice of any such suspension.
 - b. Such suspension may, at the discretion of the unit head and to the extent that it will not endanger public health, welfare, or safety, continue until no later than the 30th day after the date by which the state of emergency is terminated and the catastrophic health emergency is rescinded.
- IV. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order is hereby suspended to the extent of the inconsistency.
- V. The underlined paragraph headings in this Order are for convenience of reference only and shall not affect the interpretation of this Order.
- VI. If any provision of this Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of the Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Order are severable

ISSUED UNDER MY HAND THIS 19TH DAY OF JUNE, 2020, AND EFFECTIVE IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor

§ 5-101. Definitions, MD GEN PROVIS § 5-101

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Annotated Code of Maryland
General Provisions (Refs & Annos)
Title 5. Maryland **Public Ethics Law** (Refs & Annos)
Subtitle 1. Definitions; General Provisions (Refs & Annos)

MD Code, General Provisions, § 5-101
Formerly cited as MD CODE, SG, § 15-102

§ 5-101. Definitions

Effective: October 1, 2021
Currentness

In general

(a) In this title the following words have the meanings indicated unless:

- (1) the context clearly requires a different meaning; or
- (2) a different definition is adopted for a particular provision.

Advisory body

(b) "Advisory body" means:

- (1) a governmental unit designated by the Court of Appeals to give advice with respect to the application or interpretation of Subtitles 5 and 6 of this title to a State official of the Judicial Branch;
- (2) the Joint Ethics Committee, for questions arising under Subtitle 5 of this title regarding a State official of the Legislative Branch; or
- (3) the Ethics Commission, for all other questions.

Bicounty commission

(c) "Bicounty commission" means:

- (1) the Maryland-National Capital Park and Planning Commission;

(2) the Washington Suburban Sanitary Commission; or

(3) the Washington Suburban Transit Commission.

Board

(d) "Board" means an executive unit composed of at least two members, all of whom are appointed and serve on a part-time basis.

Business entity

(e) "Business entity" means a person engaged in business, whether profit or nonprofit, regardless of form.

Compensation

(f) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person from an employer for services rendered.

Employee

(g)(1) "Employee" means an individual who is employed:

(i) by an executive unit;

(ii) by the Legislative Branch; or

(iii) in the Judicial Branch.

(2) "Employee" does not include:

(i) a public official; or

(ii) a State official.

Employer

(h) "Employer" means an entity that pays or agrees to pay compensation to another entity for services rendered.

Entity

(i) "Entity" means:

(1) a person; or

(2) a government or instrumentality of government.

Entity doing business with the State

(j) "Entity doing business with the State" means:

(1) a regulated lobbyist;

(2) an entity regulated by the executive unit of the applicable official or employee; or

(3) an entity that is a party to one or a combination of sales, purchases, leases, or contracts to, from, or with the State, or any unit of the State, involving consideration:

(i) of at least \$5,000 on a cumulative basis during the calendar year for which a statement required by Subtitle 6 of this title is filed, regardless of when the consideration is to be paid; and

(ii) which shall include, as of the award or execution of a contract or lease, the total consideration committed to be paid under the contract or lease, to the extent ascertainable when awarded or executed, regardless of the period over which payments are to be made.

Ethics Commission

(k) "Ethics Commission" means the State Ethics Commission.

Executive action

(l) "Executive action" means an act:

(1) for which the Executive Branch of State government is responsible; and

(2) that is taken by an official or employee of the Executive Branch.

Executive unit

(m)(1) "Executive unit" means a department, agency, commission, board, council, or other body of State government that:

(i) is established by law; and

(ii) is not in the Legislative Branch or the Judicial Branch of State government.

(2) "Executive unit" includes:

(i) a county health department unless the officials and employees of the department are expressly designated as local officials in § 5-801 of this title;

(ii) the office of the sheriff in each county; and

(iii) the office of the State's Attorney in each county.

Financial interest

(n) "Financial interest" means:

(1) ownership of an interest as the result of which the owner has received within the past 3 years, is currently receiving, or in the future is entitled to receive, more than \$1,000 per year; or

(2)(i) ownership of more than 3% of a business entity by:

1. an official;

2. an employee; or

3. the spouse of an official or employee; or

(ii) ownership of securities of any kind that represent, or are convertible into, ownership of more than 3% of a business entity by:

1. an official;

2. an employee; or

3. the spouse of an official or employee.

General Assembly

(o) "General Assembly" includes a member, committee, or subcommittee of the General Assembly.

Gift

(p)(1) "Gift" means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration.

(2) "Gift" does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with:

(i) the Election Law Article; or

(ii) any other State law regulating:

1. the conduct of elections; or

2. the receipt of political contributions.

Government

(q) "Governmental unit" means a department, an agency, a commission, a board, a council, or any other body of State government that is established by law.

Honorarium

(r)(1) "Honorarium" means the payment of money or anything of value for:

(i) speaking to, participating in, or attending a meeting or other function; or

(ii) writing an article that has been or is intended to be published.

(2) "Honorarium" does not include payment for writing a book that has been or is intended to be published.

Immediate family

(s) "Immediate family" means an individual's spouse and dependent children.

Interest

(t)(1) "Interest" means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition.

(2) "Interest" does not include:

(i) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) an interest in a time or demand deposit in a financial institution;

(iii) an interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period;

(iv) a common trust fund or a trust that forms part of a pension or a profit-sharing plan that:

1. has more than 25 participants; and

2. is determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code or a qualified tuition plan established pursuant to Section 529 of the Internal Revenue Code; or

(v) a mutual fund or exchange-traded fund that is publicly traded on a national scale unless the mutual fund or exchange-traded fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual's governmental unit.

Joint Ethics Committee

(u) "Joint Ethics Committee" means the Joint Committee on Legislative Ethics.

Legislative action

(v)(1) "Legislative action" means an official action or nonaction relating to:

(i) a bill, a resolution, an amendment, a nomination, an appointment, a report, or any other matter within the jurisdiction of the General Assembly;

(ii) a bill presented to the Governor for signature or veto; or

(iii) testimony or other advocacy in an official capacity as a member of the General Assembly before a unit of State or local government.

(2) "Legislative action" includes:

- (i) introduction;
- (ii) sponsorship;
- (iii) consideration;
- (iv) debate;
- (v) amendment;
- (vi) passage;
- (vii) defeat;
- (viii) approval; and
- (ix) veto.

Legislative unit

(w) "Legislative unit" means:

- (1) the General Assembly;
- (2) either house of the General Assembly;
- (3) a standing committee of the General Assembly, provided that the presiding officer of the House of Delegates and the presiding officer of the Senate shall be deemed an ex officio member of any standing committee of the presiding officer's chamber; or
- (4) a county or regional delegation of members of the General Assembly that is recognized by a presiding officer of the General Assembly.

Lobbying

(x) "Lobbying" means performing any act that requires registration under § 5-702 of this title.

Local official

(y) "Local official", subject to § 5-801 of this title, means an official, officer, or employee of a county or municipal corporation that the governing body of the county or municipal corporation determines is subject to Subtitle 8, Part II of this title.

Member of household

(z) "Member of household" means:

(1) if sharing an individual's legal residence, the individual's:

(i) spouse;

(ii) child;

(iii) ward;

(iv) financially dependent parent; or

(v) other financially dependent relative; or

(2) an individual's spouse, child, ward, parent, or other relative, over whose financial affairs the individual has legal or actual control.

Municipal corporation

(aa) "Municipal corporation" means a municipality governed by Article XI-E of the Maryland Constitution.

Official

(bb) "Official" means either a State official or a public official.

Political contribution

(cc) "Political contribution" means a contribution as defined in § 1-101 of the Election Law Article.

Principal political party

(dd) "Principal political party" means the State Democratic Party or the State Republican Party.

Procurement contract

(ee) "Procurement contract" has the meaning stated in § 11-101 of the State Finance and Procurement Article.

Public official

(ff) "Public official" means an individual determined to be a public official under § 5-103 of this subtitle.

Qualifying relative

(gg) "Qualifying relative" means a spouse, parent, child, brother, or sister.

Quasi-governmental entity

(gg-1) "Quasi-governmental entity" means an entity that is created by State statute, that performs a public function, and that is supported in whole or in part by the State but is managed privately.

Regulated lobbyist

(hh) "Regulated lobbyist" means an entity that is required to register with the Ethics Commission under § 5-702(a) of this title.

Respondent

(ii) "Respondent" means any of the following that is the subject of a complaint before the Ethics Commission:

- (1) an official;
- (2) an employee;
- (3) a candidate for office as a State official;
- (4) an entity subject to Subtitle 7 of this title; or
- (5) an entity subject to § 5-512 of this title.

School board

(jj) "School board" means a county board of education or, in Baltimore City, the Board of School Commissioners.

School system

(kk) "School system" means the educational system under the authority of a school board.

State official

(ll) "State official" means:

- (1) a constitutional officer or officer-elect in an executive unit;
- (2) a member or member-elect of the General Assembly;
- (3) a judge or judge-elect of a court under Article IV, § 1 of the Maryland Constitution;
- (4) a judicial appointee as defined in Maryland Rule 18-200.3;
- (5) a State's Attorney;
- (6) a clerk of the circuit court;
- (7) a register of wills; or
- (8) a sheriff.

Superintendent

(mm) "Superintendent" means a county superintendent as defined in § 1-101 of the Education Article.

Credits

Added by Acts 2014, c. 94, § 2, eff. Oct. 1, 2014. Amended by Acts 2017, c. 31, § 1, eff. Oct. 1, 2017; Acts 2017, c. 62, § 1, eff. April 11, 2017; Acts 2017, c. 519, § 1, eff. Oct. 1, 2017; Acts 2018, c. 525, § 1, eff. May 8, 2018; Acts 2020, c. 185, § 1, eff. Oct. 1, 2020; Acts 2021, c. 253, § 1, eff. June 1, 2021; Acts 2021, c. 254, § 1, eff. June 1, 2021; Acts 2021, c. 425, § 2, eff. Oct. 1, 2021.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note (Acts 2014, c. 94):

This subsection [(a)] formerly was SG § 15-102(a).

No changes are made.

This subsection [(b)] is new language derived without substantive change from former SG § 15-102(b).

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURT ADMINISTRATION
CHAPTER 100 - ADMINISTRATIVE STRUCTURE

Rule 16-102. CHIEF JUDGE OF THE COURT OF APPEALS

The Chief Judge of the Court of Appeals is the administrative head of the Maryland judicial system and has overall responsibility for the administration of the courts of this State. In the execution of that responsibility, the Chief Judge:

(a) may exercise the authority granted by the Maryland Constitution, the Maryland Code, the Maryland Rules, or other law;

(b) shall appoint a State Court Administrator to serve at the pleasure of the Chief Judge;

(c) may delegate administrative duties to other persons within the judicial system, including retired judges recalled pursuant to Code, Courts Article, §1-302; and

(d) may assign judges pursuant to Rule 16-108 (b).

Source: This Rule is derived from former Rule 16-101 a (2016).

March 13, 2020

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Robert N. McDonald

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Joseph M. Getty

The Honorable Brynja M. Booth

The Honorable Jonathan Biran,
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its Two Hundred and Fourth Report, and recommends that the Court adopt the new Rules and amendments to existing Rules transmitted with this Report. The new Rules - 16-1001, 16-1002, and 16-1003 - provide authority for the Chief Judge of the Court, as the Constitutional administrative head of the Maryland Judiciary, to take certain actions to maintain access to, and the effective operation of, the courts of the State in the face of public emergencies or other extraordinary events. The amendments to Rules 1-202, 2-131, 2-221, 3-131, 3-221, 9-202, 15-1103 (a), 15-1104 (d), 16-103, and 16-601 are clarifying and conforming ones. All proposed changes are submitted as emergency measures.

The existing statutes dealing with public emergencies, whether arising from natural events, widespread infectious disease, military attack, or riots or insurrection, understandably focus on the authority of the Governor and other Executive Branch officials to respond. See Code, sections 14-101, 14-302, and 14-3A-01 of the Public Safety Article and Title 18, Subtitle 9 of the Health-General Article. The emergency itself, however, and exercise of that authority by the Governor or other Executive Branch officials, can have a significant impact on the operation of the Maryland courts, yet, except for authorizing judicial review of quarantine/isolation orders, there is little of any consequence in those statutes regarding

the Judiciary's responsibility to maintain, as best as practicable, a functioning judicial system.¹

So far, that gap has not been consequential, but events elsewhere - the September 11, 2001 attacks, Hurricane Katrina in New Orleans, the massive flooding in several of the southern and mid-western States, wildfires in California, the H1N1 influenza pandemic in 2009-10 - and the immediate concern in Maryland over the coronavirus COVID-19 provide a clear warning that events may occur here that could result in courthouses and other judicial facilities becoming inaccessible or unusable, judicial personnel becoming unavailable, and communications and transportation becoming disrupted, any of which could create significant barriers to the Judiciary's ability to fulfill its Constitutional mission.²

The Maryland Constitution vests responsibility for assuring the effective operation of the Judiciary largely on the Court of Appeals and the Chief Judge of the Court and provides authority, in part through Rule-making, to discharge that responsibility. The proposed Rules, derived in large part from steps taken in other States, are designed to create a lawful administrative structure for achieving that objective.

Rule 16-1001 sets forth, in sections (a) and (b), the two circumstances under which the Chief Judge may exercise the authority granted in Rule 16-1003: (1) when the Governor declares an emergency pursuant to Title 14 of the Public Safety Article and the emergency, or directives of the Governor in response to it, significantly affect access to, or the operations of, one or more courts or judicial facilities or the ability of the Judiciary to operate effectively, or (2) an event occurs other than a declared emergency that has the same effect.

¹ A Maryland Public Health Emergency Law Bench Book approved and published by the Administrative Office of the Courts exists. It was last revised in 2010 and, as its name indicates, deals only with public health emergencies and not emergencies arising from other causes or events. It is currently under review for necessary updating. Local Continuity of Operations Plans (COOP) adopted pursuant to Rule 16-803 are broader in scope, but they do not address area-wide responses or some of the kinds of authority provided for in the proposed Rules that only the Chief Judge of the Court of Appeals could lawfully exercise. A broader COOP plan exists for judicial facilities in the Annapolis area.

² On March 5, 2020, the Governor, upon a finding that "COVID-19 is a public health catastrophe and public emergency," proclaimed "that a state of emergency and catastrophic health emergency exists within the entire State of Maryland." That proclamation followed a January 29, 2020 directive by the Governor to "all state agencies" to take "every precaution to prepare and mobilize whatever resources are necessary to address COVID-19."

Section (c) takes account of the general authority of administrative judges and the judicial review of quarantine/isolation orders in Title 15, Chapter 1100 but provides that, in the event of any conflict, emergency directives of the Chief Judge will prevail.

Rule 16-1002 requires, to the extent practicable, that, upon the declaration of an emergency by the Governor, the Chief Judge consult with the Governor, the Maryland Emergency Management Agency, and other Executive Branch officials in order to coordinate Judicial and Executive Branch responses.

Rule 16-1003 sets forth more specifically the authority of the Chief Judge to assure, to the extent possible, the continued functioning of the courts and the judicial system. Most of that authority is taken from what other States have done. The authority is necessarily broad, but its exercise is limited to those things that prove necessary to assure reasonable access to the courts during and immediately following an emergency or other disabling event. It includes the authority to:

- Amend and superintend the implementation of local COOP plans. That may be necessary to provide a consistent area-wide response;
- Suspend the operation of Rules that cannot be implemented as intended;
- Identify and direct the use of alternative locations to conduct judicial business;
- Transfer cases pending in a court that has become inaccessible or unusable to any other court having subject matter jurisdiction;
- Permit cases to be filed in any court with subject matter jurisdiction if no court with venue is reasonably accessible or usable, subject to transfer when the emergency ends;
- Permit pleadings and papers to be filed and proceedings to be conducted in the manner set forth in Rule 15-1104 (d);
- Suspend, toll, extend or otherwise grant relief from time deadlines, requirements, or expirations where there is no practicable ability of a party subject to such deadline, requirement, or expiration to comply or seek other relief;

- Suspend judicial business that is deemed not essential;
- Triage cases and categories of cases with respect to expedited treatment;
- Designate other judges or judicial officials or employees to implement directives under the Rule or directives issued by the Governor;
- To the extent necessary to fulfill Constitutional mandates, require that certain courts and judicial facilities remain operational;
- Authorize or direct administrative judges or security personnel to preclude or control entry into courthouses and other judicial facilities by persons who pose a credible threat to the health or safety of members of the public and judicial personnel who are in the facility;
- Use any means of communication likely to be effective; and
- Take any other appropriate action necessary to assure that judicial business is effectively handled by the courts.

It is anticipated that, although some directives may need to be Statewide in scope, others may be directed at specific courts or as authorizations for administrative judges or other judicial personnel to implement. The intent is to provide flexibility in addressing the particular situation.

Section (c) addresses the situation of the Chief Judge becoming unavailable to exercise this authority. Section (d) requires that all directives issued by the Chief Judge following a declaration of emergency by the Governor be sent to the Governor, the President of the Senate, and the Speaker of the House of Delegates and, to the extent practicable, posted on the Judiciary website.

The Committee recognizes that adoption of Rules of this kind is only a first step in assuring adequate preparation for any event that may require their implementation. Draft administrative orders and a COOP plan with respect to these Rules should be prepared.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:wlp
cc: Suzanne C. Johnson, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 1000 - EMERGENCY POWERS OF CHIEF JUDGE OF COURT OF

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IN THE COURT OF APPEALS OF MARYLAND
ADMINISTRATIVE ORDER ON
COURT OF APPEALS EMERGENCY RULES MEETING TO CONSIDER THE 204TH
REPORT OF THE RULES COMMITTEE

WHEREAS, Pursuant to the Maryland Constitution, Article IV § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State, including the closing of courts in the State of Maryland and non-court judicial facilities; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control, an emergency exists that poses a threat of imminent and potentially lethal harm to vulnerable individuals who may come into contact with a court or judicial facility and personnel; and

WHEREAS, The Administrative Order on Statewide Closing Due to the COVID-19 Emergency, filed on March 13, 2020, has closed courthouses statewide to the public, except for emergency matters and to the extent that an individual court has the capacity to hear additional matters; and

WHEREAS, A meeting of the Court of Appeals has been scheduled on an emergency basis on March 16, 2020, at 1:00 PM, to consider new rules and amendments to existing rules of procedure proposed in the Two Hundred and Fourth (204th) Report of the Standing Committee on Rules of Practice and Procedure, which seek to elaborate the administrative authority of the Chief Judge of the Court of Appeals during an emergency, and

WHEREAS, The proposed additions and changes to the Maryland Rules of Practice and Procedure having been considered by the full Standing Committee on Rules of Practice

and Procedure on March 13, 2020, at a public meeting, and the consensus draft having been submitted to the Court of Appeals as the 204th Report on the same date; and

WHEREAS, Meetings of the Court of Appeals to review and consider the changes to the Maryland Rules of Practice and Procedure shall be open to the public,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 15th day of March, 2020, as follows:

- (a) The Meeting of the Court of Appeals (Meeting) to consider the 204th Report shall be held in the courtroom, located on the fourth floor of the Courts of Appeal Building in order to allow the hearing to be livestreamed; and
- (b) Individuals who wish to attend the Meeting or to provide testimony about the proposed rules and amendments shall be allowed to enter the Courts of Appeal building and shall proceed directly to the fourth floor for the Meeting; and
- (c) All regular security, including entrance screening, shall remain in place; and
- (d) In addition, any person who appears to be ill with a respiratory illness shall not be admitted; and
- (e) Any person who is aware he or she has been exposed to a person with COVID-19 or who been advised to self-quarantine or has been ordered to be quarantined shall not attempt to gain access to the Courts of Appeal Building; and
- (f) Any such person who wishes to provide testimony may instead send an e-mail identifying themselves and the text of their testimony, not to exceed 750 words, by noon on March 16, 2020, to the following e-mail address at

the Clerk of the Court of Appeals of Maryland:

COAClerkoftheCourt@mdcourts.gov; and

- (g) If a person attending the Meeting leaves before its conclusion, he or she shall return directly to the first floor and exit the building. Upon conclusion of the Meeting, all members of the public in attendance shall leave the fourth floor and exit the building. Any person who does not leave as required shall be subject to removal by building security.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: March 15, 2020

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal
Notarization Act
(§§ 19-1021 et seq. of the State Government Article) this document is authentic.



2020-03-16 08:11-04:00

Suzanne C. Johnson, Clerk

IN THE COURT OF APPEALS OF MARYLAND
ADMINISTRATIVE ORDER
ON EMERGENCY TOLLING OR SUSPENSION OF
STATUTES OF LIMITATIONS AND STATUTORY AND RULES DEADLINES
RELATED TO THE INITIATION OF MATTERS
AND CERTAIN STATUTORY AND RULES DEADLINES IN PENDING MATTERS

WHEREAS, Pursuant to the Maryland Constitution, Article IV § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, The Court of Appeals has approved Chapter 1000 of Title 16 of the Maryland Rules of Practice and Procedure setting forth the emergency powers of the Chief Judge of the Court of Appeals; and

WHEREAS, In instances of emergency conditions, whether natural or otherwise, that significantly disrupt access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Judiciary to operate effectively, the Chief Judge of the Court of Appeals may be required to determine the extent to which court operations or judicial functions shall continue; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control, an emergency exists that poses a threat of imminent and potentially lethal harm to individuals who may come into contact with a court or judicial facility and personnel; and

WHEREAS, The COVID-19 emergency continues to require comprehensive measures to protect the health and safety of Maryland residents and Judiciary personnel,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 3rd day of April 2020, that:

- (a) Pursuant to Maryland Rule 16-1003(a)(7), all statutory and rules deadlines related to the initiation of matters required to be filed in a Maryland state court, including statutes of limitations, shall be tolled or suspended, as applicable,

effective March 16, 2020, by the number of days that the courts are closed to the public due to the COVID-19 emergency by order of the Chief Judge of the Court of Appeals; and

- (b) Pursuant to Maryland Rule 16-1003(a)(7), all statutes and rules deadlines to hear pending matters, including, but not limited to juvenile matters, shall be tolled or suspended, as applicable, effective March 16, 2020, by the number of days that the courts are closed to the public due to the COVID-19 emergency by order of the Chief Judge of the Court of Appeals; and
- (c) Such deadlines further shall be extended by a period to be described in an order by the Chief Judge of the Court of Appeals terminating the COVID-19 emergency period; and
- (d) Any such filings made within the period to be described in (b) shall relate back to the day before the deadline expired; and
- (e) To the extent that this Administrative Order conflicts with extant Administrative Orders or local administrative orders, this Administrative Order shall prevail, except as provided in the Administrative Order Expanding Statewide Judiciary Restricted Operations Due to the COVID-19 Emergency filed on April 3, 2020, and the Administrative Order on Expanding the Statewide Suspension of Jury Trials and Suspending Grand Juries, filed April 3, 2020; and
- (f) This Administrative Order will be revised as circumstances warrant.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: April 3, 2020

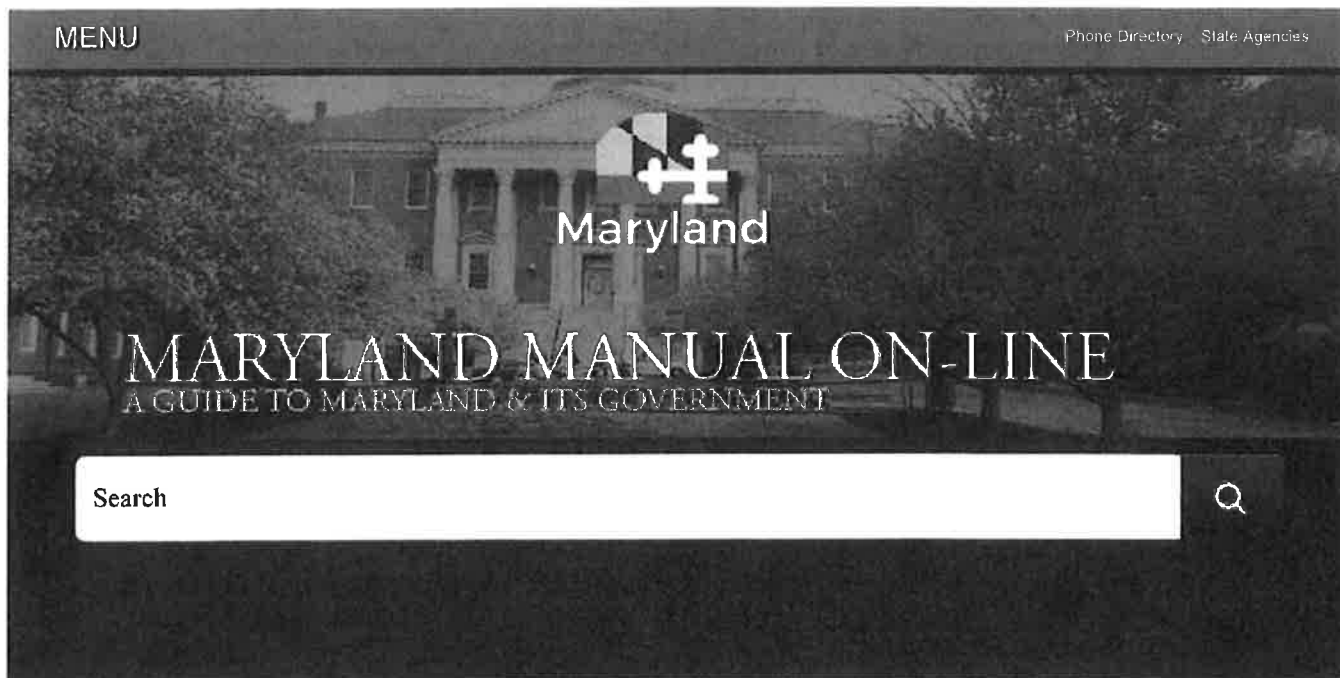
/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document
is authentic.



Suzanne C. Johnson, Clerk

Suzanne Johnson
2020-04-03
16:10-04:00



CONSTITUTION OF MARYLAND

ADOPTED BY THE CONVENTION

Which Assembled at the City of Annapolis on the Eighth Day of May, Eighteen Hundred and Sixty-seven, and Adjourned on the Seventeenth Day of August, Eighteen Hundred and Sixty-seven, and was Ratified by the People on the Eighteenth Day of September, Eighteen Hundred and Sixty-seven [with Amendments through Two Thousand and Eighteen (including amendments proposed by the General Assembly and ratified by the voters November 6, 2018)].

DECLARATION OF RIGHTS.

We, the People of the State of Maryland, grateful to Almighty God for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good Constitution in this State for the sure foundation and more permanent security thereof, declare:

Article 1. That all Government of right originates from the People, is founded in compact only, and instituted solely for the good of the whole; and they have, at all times, the inalienable right to alter, reform or abolish their Form of Government in such manner as they may deem expedient.

Art. 2. The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.

Art. 3. The powers not delegated to the United States by the Constitution thereof, nor prohibited by it to the States, are reserved to the States respectively, or to the people thereof.

Art. 4. That the People of this State have the sole and exclusive right of regulating the internal government and police thereof, as a free, sovereign and independent State.

Art. 5. (a)

(1) That the Inhabitants of Maryland are entitled to the Common Law of England, and the trial by Jury, according to the course of that Law, and to the benefit of such of the English statutes as existed on the Fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the Courts of Law or Equity; and also of all Acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven; except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State. And the Inhabitants of Maryland are also entitled to all property derived to them from, or under the Charter granted by His Majesty Charles the First to Caecilius Calvert, Baron of Baltimore.

(2) Legislation may be enacted that limits the right to trial by jury in civil proceedings to those proceedings in which the amount in controversy exceeds \$15,000 (*added by Chapter 422, Acts of 2006, ratified Nov. 7, 2006; amended by Chapter 480, Acts of 2010, ratified Nov. 2, 2010*).

(b) The parties to any civil proceeding in which the right to a jury trial is preserved are entitled to a trial by jury of at least 6 jurors.

(c) That notwithstanding the Common Law of England, nothing in this Constitution prohibits trial by jury of less than 12 jurors in any civil proceeding in which the right to a jury trial is preserved (*amended by Chapters 203, 204, Acts of 1992, ratified Nov. 3, 1992*).

Art. 6. That all persons invested with the Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

Art. 7. That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage (*amended by Chapter 357, Acts of 1971, ratified Nov. 7, 1972*).

Art. 8. That the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other; and no person exercising the functions of one of said Departments shall assume or discharge the duties of any other.

Art. 9. That no power of suspending Laws or the execution of Laws, unless by, or derived from the Legislature, ought to be exercised, or allowed.

Art. 10. That freedom of speech and debate, or proceedings in the Legislature, ought not to be impeached in any Court of Judicature.

Art. 11. That Annapolis be the place of meeting of the Legislature; and the Legislature ought not to be convened, or held at any other place but from evident necessity.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 800 - MISCELLANEOUS COURT ADMINISTRATION MATTERS

Rule 16-802. PROMULGATION OF RULES

(a) Report of Rules Committee

All recommendations by the Standing Committee on Rules of Practice and Procedure for new Rules or changes to existing Rules shall be transmitted to the Court of Appeals in a consecutively numbered report or supplement thereto setting forth the changes proposed and the reasons for the proposed changes. A proposed new Rule shall show in plain type the text of the proposed Rule. Proposed amendments to existing Rules shall show in plain type the current Rule with proposed deletions indicated by strikeouts and proposed additions indicated by underlined language.

(b) Posting of Report; Opportunity for Comment

The Reporter to the Committee shall cause all reports and supplements to them that transmit proposed additions or changes to the Maryland Rules, together with the text of the changes proposed, to be posted for comment on the Judiciary website. Unless otherwise directed by the Court of Appeals, the comment period ordinarily shall be 30 days.

(c) Written Comments

Unless otherwise directed or approved by the Court of Appeals, comments to proposed additions or changes shall (1) be in writing, (2) identify the individual or group making the

comment, and (3) be sent to the Reporter to the Committee within the time specified in the notice posted on the Judiciary website. At the conclusion of the comment period, the Reporter shall collect and promptly transmit the comments to the Court. Comments not sent to the Reporter in accordance with this section ordinarily will not be considered by the Court.

(d) Court Proceedings

(1) Generally

(A) The Court of Appeals shall conduct all proceedings involving the exercise of its authority under Article IV, Section 18 (a) of the Maryland Constitution to adopt or modify Rules of Procedure at a meeting open to the public. The meeting may consist of a public hearing pursuant to subsection (d) (2) of this Rule or be limited to specific presentations invited by the Court and discussion and voting by the Court. The meeting may be in the courtroom, in the Court's conference room, or at any other suitable place designated by the Court. Advance notice of the meeting shall be given in the manner designated by the Court.

(B) The Clerk of the Court shall serve as recording secretary at all public hearings and open meetings. The Clerk shall monitor an audio recording of the proceedings, which the Clerk shall retain as a permanent record and make available upon request. Recording of the proceedings by other persons in attendance is prohibited.

(C) In order to furnish easy access to Rules proceedings, doors to the court or conference room shall remain open at all

times during all public hearings and open meetings.

(2) Public Hearing

(A) Unless, for good cause, the Court of Appeals orders otherwise, the Court, upon the expiration of any comment period, shall hold a public hearing on all proposed additions or changes to the Maryland Rules.

(B) Persons desiring to be heard shall notify the Clerk of the Court at least two days before the hearing of their desire to be heard and of the amount of time requested to address the Court. The Court may prescribe a shorter period for oral presentation and may pose questions to the individual addressing the Court.

(3) Extended Coverage

(A) In this Rule, "extended coverage" has the meaning set forth in Rule 16-601 (a).

(B) Ordinarily, extended coverage will be permitted at a public hearing conducted pursuant to subsection (d) (2) of this Rule, provided that a request for such coverage is made to the Clerk of the Court at least five days before the hearing. For good cause shown, the Court may grant a request that does not comply with the requirements of this subsection.

(C) Absent exceptional circumstances, extended coverage shall not be permitted during open meetings that are not public hearings conducted pursuant to subsection (d) (2) of this Rule. If extended coverage is sought, a written request setting forth the exceptional circumstances warranting extended coverage shall

be made to the Clerk at least five days before the meeting coverage. A decision by the Court denying extended coverage is not intended to restrict the right of the media to report the proceedings.

(D) Extended coverage under this Rule is subject to the operational requirements set forth in Rule 16-607.

(e) Rules Order

New Rules and the amendment or rescission of existing Rules adopted by the Court of Appeals shall be by a Rules Order of the Court.

(f) Effective Date

(1) Stated in Rules Order

The Rules Order shall state the effective date of the changes and the extent to which those changes will apply to proceedings pending on that date.

(2) Minimum Delay; Exception

Unless the Court of Appeals determines that, due to exigent circumstances, Rules changes should take effect sooner, Rules changes shall become effective no earlier than the later of:

(A) thirty days after posting of the Rules Order on the Judiciary website, or

(B) the first day of January or the first day of July next succeeding posting of the Rules Order on the Judiciary website, whichever first occurs.

(g) Posting of Rules Order and Rules Changes

(1) Generally

A copy of every Rules Order shall be posted on the Judiciary website. The Court may direct that other forms of public notice also be given.

(2) Text of Rules Changes

The full text of any new Rules and any amendments to existing Rules, showing deleted language by strikeouts and new language by underlining, shall be posted on the Judiciary website with the Rules Order.

(h) Record of Rules

The Clerk of the Court of Appeals shall maintain a separate record designated as the "Maryland Rules of Procedure," which shall contain all Rules and amendments adopted by the Court.

Source: This Rule is derived from former Rule 16-801 (c) through (j) (2016).

IN THE COURT OF APPEALS OF MARYLAND
SECOND REVISED ADMINISTRATIVE ORDER ON
THE EMERGENCY TOLLING OR SUSPENSION OF
STATUTES OF LIMITATIONS AND STATUTORY AND RULES DEADLINES
RELATED TO THE INITIATION OF MATTERS
AND CERTAIN STATUTORY AND RULES DEADLINES IN PENDING MATTERS

WHEREAS, Pursuant to the Maryland Constitution, Article IV, § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, The Court of Appeals has approved Chapter 1000 of Title 16 of the Maryland Rules of Practice and Procedure setting forth the emergency powers of the Chief Judge of the Court of Appeals; and

WHEREAS, In instances of emergency conditions, whether natural or otherwise, that significantly disrupt access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Judiciary to operate effectively, the Chief Judge of the Court of Appeals may be required to determine the extent to which court operations or judicial functions shall continue; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control, an emergency exists that poses a threat of imminent and potentially lethal harm to individuals who may come into contact with a court or judicial facility and personnel; and

WHEREAS, The COVID-19 emergency continues to require comprehensive measures to protect the health and safety of Maryland residents and Judiciary personnel and comply with the guidelines of the Centers for Disease Control, including the stay-at-

home orders issued by the Governor and restricted operations of the courts and judicial facilities, and is causing delays in the processing of routine matters; and

WHEREAS, The impact of the restrictions required to respond to the COVID-19 pandemic has had a widespread detrimental impact upon the administration of justice, impeding the ability of parties and potential litigants to meet with counsel, conduct research, gather evidence, and prepare complaints, pleadings, and responses, with the impact falling hardest upon those who are impoverished; and

WHEREAS, the detrimental impact of the COVID-19 pandemic is so widespread as to have created a general and pervasive practical inability for certain deadlines to be met; and

WHEREAS, pursuant to the *Amended Administrative Order on the Progressive Resumption of Full Function of Judiciary Operations Previously Restricted Due to the COVID-19 Emergency*, filed May 22, 2020, (*Amended Resumption Order*), offices of the clerks of court will be reopened to the public on July 20, 2020,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 3rd day of June 2020, that:

- (a) By previous Order, pursuant to Maryland Rule 16-1003(a)(7), all statutory and rules deadlines related to the initiation of matters required to be filed in a Maryland state trial or appellate court, including statutes of limitations, were tolled or suspended, as applicable, effective March 16, 2020, by the number of days that the courts were closed to the public due to the COVID-19 emergency; and

- (b) By this Order, those same deadlines remain tolled or suspended, as applicable, effective March 16, 2020, by the number of days that the courts were closed to the public due to the COVID-19 emergency; and
- (c) Justice requires that the ordering of the suspension of such deadlines during an emergency as sweeping as a pandemic be applied consistently and equitably throughout Maryland, and no party or parties shall be compelled to prove his, her, its, or their practical inability to comply with such a deadline if it occurred during the COVID-19 emergency to obtain the relief that this Administrative Order provides; and
- (d) For the purposes of tolling of statutes of limitations and other deadlines related to the initiation of matters, in this Order, “tolled or suspended by the number of days that the courts were closed” means that the days that the offices of the clerks of court were closed to the public (from March 16, 2020 through July 20, 2020) do not count against the time remaining for the initiation of that matter; and
- (e) With the offices of the clerks of courts to be reopened to the public on July 20, 2020, the filing deadlines to initiate matters are hereby extended by an additional 15 days¹; and
- (f) Any such filings made within the period described in (d) and (e) shall relate back to the day before the deadline would have expired had it not been tolled or suspended; and
- (g) By previous Order, pursuant to Maryland Rule 16-1003(a)(7), all statutes and rules deadlines to conduct pending judicial proceedings shall be tolled or suspended, as applicable, effective March 16, 2020, by the number of days that

¹ For example, if two days remained for the filing of a new matter on March 15, 2020, then two days would have remained upon the reopening of the offices of the clerks of court to the public on July 20, 2020. With the additional fifteen days, seventeen days would be left for a timely filing, beginning July 20, 2020.

the courts are closed to the public due to the COVID-19 emergency by order of the Chief Judge of the Court of Appeals; and

- (h) For the purposes of tolling all statutes and rules deadlines to conduct pending judicial proceedings, in this Order, “tolled or suspended by the number of days that the courts were closed” means that the days that the offices of the clerks of court were closed to the public (from March 16, 2020 through July 20, 2020) do not count against the time remaining to conduct judicial proceedings; and
- (i) With the offices of the clerks of courts to be reopened to the public on July 20, 2020, the deadlines to conduct proceedings pending on March 16, 2020, are hereby extended by an additional 60 days in order for the courts to reschedule and hold the same; and
- (j) For purposes of Maryland Rules 2-507 and 3-507, extensions shall be calculated consistent with sections (h) and (i) of this Order;
- (k) To the extent that this Administrative Order conflicts with extant Administrative Orders or local administrative orders, this Administrative Order shall prevail, except as provided in Section (cc) of the *Amended Resumption Order*, and the *Amended Administrative Order Lifting the Statewide Suspension of Jury Trials and Resuming Grand Juries*, filed June 3, 2020; and
- (l) The *Revised Administrative Order Further Clarifying the Emergency Tolling or Suspension of Statutes of Limitations and Statutory and Rules Deadlines Related to the Initiation of Matters and Certain Statutory and Rules Deadlines in Pending Matters*, filed May 22, 2020, shall be and hereby is rescinded; and

(m) This Administrative Order will be revised as circumstances warrant.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: June 3, 2020

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal Materials Act
(§§ 10-1001 et seq. of the State Government Article) this document
is authentic.



Suzanne Johnson
2020-06-03 15:17-04:00

Suzanne C. Johnson, Clerk



State of New York

Executive Chamber

No. 202.8

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York;

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to be continue;

WHEREAS, in order to facilitate the most timely and effective response to the COVID-19 emergency disaster, it is critical for New York State to be able to act quickly to gather, coordinate, and deploy goods, services, professionals, and volunteers of all kinds; and

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, I hereby temporarily suspend or modify, for the period from the date of this Executive Order through April 19, 2020 the following:

- In accordance with the directive of the Chief Judge of the State to limit court operations to essential matters during the pendency of the COVID-19 health crisis, any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby tolled from the date of this executive order until April 19, 2020;
- Subdivision 1 of Section 503 of the Vehicle and Traffic Law, to the extent that it provides for a period of validity and expiration of a driver's license, in order to extend for the duration of this executive order the validity of driver's licenses that expire on or after March 1, 2020;
- Subdivision 1 of Section 491 of the Vehicle and Traffic Law, to the extent that it provides for a period of validity and expiration of a non-driver identification card, in order to extend for the duration of this executive order the validity of non-driver identification cards that expire on or after March 1, 2020;
- Sections 401, 410, 2222, 2251, 2261, and 2282(4) of the Vehicle and Traffic law, to the extent that it provides for a period of validity and expiration of a registration certificate or number plate for a motor vehicle or trailer, a motorcycle, a snowmobile, a vessel, a limited use vehicle, and an all-terrain vehicle, respectively, in order to extend for the duration of this executive order the validity of such registration certificate or number plate that expires on or after March 1, 2020;
- Section 420-a of the vehicle and traffic law to the extent that it provides an expiration for temporary registration documents issued by auto dealers to extend the validity of such during the duration of this executive order.
- Subsection (a) of Section 602 and subsections (a) and (b) of Section 605 of the Business Corporation Law, to the extent they require meetings of shareholders to be noticed and held at a physical location.

NOW, THEREFORE, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I hereby issue the following directives for the period from the date of Executive Order through April 19, 2020:

- The provisions of Executive Order 202.6 are hereby modified to read as follows: Effective on March 22 at 8 p.m.: All businesses and not-for-profit entities in the state shall utilize, to the maximum extent possible, any telecommuting or work from home procedures that they can safely utilize. Each employer shall reduce the in-person workforce at any work locations by 100% no later than March 22 at 8 p.m. Any essential business or entity providing essential services or functions shall not be subject to the in-person restrictions. An entity providing essential services or functions whether to an essential business or a non-essential business shall not be subjected to the in-person work restriction, but may operate at the level necessary to provide such service or function. Any business violating the above order shall be subject to enforcement as if this were a violation of an order pursuant to section 12 of the Public Health Law.
- There shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of ninety days.
- Effective at 8 p.m. March 20, any appointment that is in-person at any state or county department of motor vehicles is cancelled, and until further notice, only on-line transactions will be permitted.
- The authority of the Commissioner of Taxation and Finance to abate late filing and payment penalties pursuant to section 1145 of the Tax Law is hereby expanded to also authorize abatement of interest, for a period of 60 days for a taxpayers who are required to file returns and remit sales and use taxes by March 20, 2020, for the sales tax quarterly period that ended February 29, 2020.



GIVEN under my hand and the Privy Seal of the
State in the City of Albany this
twentieth day of March in the year
two thousand twenty.

BY THE GOVERNOR


Secretary to the Governor



§ 29-a. Suspension of other laws, NY EXEC § 29-a

McKinney's Consolidated Laws of New York Annotated
Executive Law (Refs & Annos)
Chapter Eighteen. Of the Consolidated Laws
Article 2-B. State and Local Natural and Man-Made Disaster Preparedness (Refs & Annos)

McKinney's Executive Law § 29-a

§ 29-a. Suspension of other laws

Effective: March 3, 2020

Currentness

1. Subject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order temporarily suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster.

2. Suspensions pursuant to subdivision one of this section shall be subject to the following standards and limits:

a. no suspension shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, the governor may extend the suspension for additional periods not to exceed thirty days each;

b. no suspension shall be made which does not safeguard the health and welfare of the public and which is not reasonably necessary to the disaster effort;

c. any such suspension order shall specify the statute, local law, ordinance, order, rule or regulation or part thereof to be suspended and the terms and conditions of the suspension;

d. the order may provide for such suspension only under particular circumstances, and may provide for the alteration or modification of the requirements of such statute, local law, ordinance, order, rule or regulation suspended, and may include other terms and conditions;

e. any such suspension order shall provide for the minimum deviation from the requirements of the statute, local law, ordinance, order, rule or regulation suspended consistent with the disaster action deemed necessary; and

§ 29-a. Suspension of other laws, NY EXEC § 29-a

f. when practicable, specialists shall be assigned to assist with the related emergency actions to avoid needless adverse effects resulting from such suspension.

3. Such suspensions shall be effective from the time and in the manner prescribed in such orders and shall be published as soon as practicable in the state bulletin.

4. The legislature may terminate by concurrent resolution executive orders issued under this section at any time.

Credits

(Added L.1978, c. 640, § 3, eff. Apr. 1, 1979. Amended L.2012, c. 55, pt. G, § 7, eff. March 30, 2012; L.2020, c. 23, § 2.)

Notes of Decisions (20)

McKinney's Executive Law § 29-a, NY EXEC § 29-a

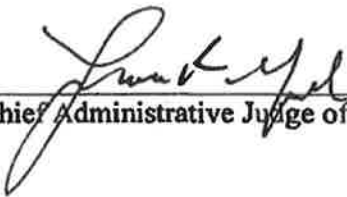
Current through L.2021, chapters 1 to 516. Some statute sections may be more current, see credits for details.

End of Document

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ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, in light of the emergency circumstances caused by the continuing COVID-19 outbreak in New York State and the nation, and consistent with the Governor of New York's recent executive order suspending statutes of limitation in legal matters, I direct that, effective immediately and until further order, no papers shall be accepted for filing by a county clerk or a court in any matter of a type not included on the list of essential matters attached as Exh. A. This directive applies to both paper and electronic filings.



Chief Administrative Judge of the Courts

Dated: March 22, 2020

AO/78/20

Exhibit A

Essential Proceedings
Administrative Order AO/78/20
March 22, 2020

- A. Criminal matters
 - 1. arraignments
 - 2. bail applications, reviews and writs
 - 3. temporary orders of protection
 - 4. resentencing of retained and incarcerated defendants
 - 5. essential sex offender registration act (SORA) matters

- B. Family Court
 - 1. child protection intake cases involving removal applications
 - 2. newly filed juvenile delinquency intake cases involving remand placement applications, or modification thereof
 - 3. emergency family offense petitions/temporary orders of protection
 - 4. orders to show cause
 - 5. stipulations on submission

- C. Supreme Court
 - 1. Mental Hygiene Law (MHL) applications and hearings addressing patient retention or release
 - 2. MHL hearings addressing the involuntary administration of medication and other medical care
 - 3. newly filed MHL applications for an assisted outpatient treatment (AOT) plan
 - 4. emergency applications in guardianship matters
 - 5. temporary orders of protection (including but not limited to matters involving domestic violence)
 - 6. emergency applications related to the coronavirus
 - 7. emergency Election Law applications
 - 8. extreme risk protection orders (ERPO)

- D. Civil/Housing matters
 - 1. applications addressing landlord lockouts (including reductions in essential services)
 - 2. applications addressing serious code violations
 - 3. applications addressing serious repair orders
 - 4. applications for post-eviction relief

- E. All Courts
 - 1. any other matter that the court deems essential

This list of essential proceedings is subject to ongoing review and amendment as necessary.

**ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Pursuant to the authority vested in me, and at the direction of the Chief Judge, I hereby promulgate, effective April 13, 2020, the following additional procedures and protocols to mitigate the effects of the COVID-19 outbreak upon the users, visitors, staff, and judicial officers of the Unified Court System.

1. In addition to essential court functions as set forth in AO/78/20, trial courts will address the following matters through remote or virtual court operations and offices:

- **Conferencing Pending Cases:** Courts will review their docket of pending cases, assess matters that can be advanced or resolved through remote court conferencing, and schedule and hold conferences in such matters upon its own initiative, and where appropriate at the request of parties.

- **Deciding Fully Submitted Motions:** Courts will decide fully submitted motions in pending cases.

- **Discovery and Other Ad Hoc Conferences:** Courts will maintain availability during normal court hours to resolve ad hoc discovery disputes and similar matters not requiring the filing of papers.

2. **Video Technology:** Video teleconferences conducted by the court, or with court participation, will be administered exclusively through Skype for Business.

3. **No New Filings in Nonessential Matters:** No new nonessential matters may be filed until further notice; nor may additional papers be filed by parties in pending nonessential matters. The court shall file such orders in essential and nonessential matters as it deems appropriate.

Provisions of prior administrative orders inconsistent with this order shall be superseded by this order.



Chief Administrative Judge of the Courts

Dated: April 8, 2020

AO/85/20

Appendix I
Emergency Rules Related to COVID-19

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Emergency rule 1. Unlawful detainers

(a) Application

Notwithstanding any other law, including Code of Civil Procedure sections 1166, 1167, 1169, and 1170.5, this rule applies to all actions for unlawful detainer.

(b) Issuance of summons

A court may not issue a summons on a complaint for unlawful detainer unless the court finds, in its discretion and on the record, that the action is necessary to protect public health and safety.

(c) Entry of default

A court may not enter a default or a default judgment for restitution in an unlawful detainer action for failure of defendant to appear unless the court finds both of the following:

- (1) The action is necessary to protect public health and safety; and
- (2) The defendant has not appeared in the action within the time provided by law, including by any applicable executive order.

(d) Time for trial

If a defendant has appeared in the action, the court may not set a trial date earlier than 60 days after a request for trial is made unless the court finds that an earlier trial date is necessary to protect public health and safety. Any trial set in an unlawful detainer proceeding as of April 6, 2020 must be continued at least 60 days from the initial date of trial.

(e) Sunset of rule

This rule will remain in effect through September 1, 2020, or until amended or repealed by the Judicial Council. Notwithstanding Code of Civil Procedure section 1170.5 and this subdivision, any trial date set under (d) as of September 1, 2020, will remain as set unless a court otherwise orders.

1 *(Subd (e) amended effective August 13, 2020.)*

2
3 *Emergency Rule 1 amended effective August 13, 2020.*

4
5
6 **Emergency rule 2. Judicial foreclosures—suspension of actions**

7
8 Notwithstanding any other law, this rule applies to any action for foreclosure on a
9 mortgage or deed of trust brought under chapter 1, title 10, of part 2 of the Code of Civil
10 Procedure, beginning at section 725a, including any action for a deficiency judgment, and
11 provides that, through September 1, 2020, or until this rule is amended or repealed by the
12 Judicial Council:

- 13
14 (1) All such actions are stayed, and the court may take no action and issue no
15 decisions or judgments unless the court finds that action is required to further the
16 public health and safety.
17
18 (2) The period for electing or exercising any rights under that chapter, including
19 exercising any right of redemption from a foreclosure sale or petitioning the court
20 in relation to such a right, is extended.

21
22 *Emergency Rule 2 amended effective August 13, 2020.*

23
24 **Advisory Committee Comment**

25
26 The provision for tolling any applicable statute of limitations, in prior subdivision (2), has been
27 removed as unnecessary because the tolling provisions in emergency rule 9 apply to actions
28 subject to this rule.

29
30
31 **Emergency rule 3. Use of technology for remote appearances**

32
33 **(a) Remote appearances**

34
35 Notwithstanding any other law, in order to protect the health and safety of the public,
36 including court users, both in custody and out of custody defendants, witnesses, court
37 personnel, judicial officers, and others, courts must conduct judicial proceedings and
38 court operations as follows:

- 39
40 (1) Courts may require that judicial proceedings and court operations be
41 conducted remotely.

1 (2) In criminal proceedings, courts must receive the consent of the defendant to
2 conduct the proceeding remotely and otherwise comply with emergency rule
3 5. Notwithstanding Penal Code sections 865 and 977 or any other law, the
4 court may conduct any criminal proceeding remotely. As used in this rule,
5 “consent of the defendant” means that the consent of the defendant is
6 required only for the waiver of the defendant’s appearance as provided in
7 emergency rule 5. For good cause shown, the court may require any witness
8 to personally appear in a particular proceeding.
9

10 (3) Conducting proceedings remotely includes, but is not limited to, the use of
11 video, audio, and telephonic means for remote appearances; the electronic
12 exchange and authentication of documentary evidence; e-filing and e-service;
13 the use of remote interpreting; and the use of remote reporting and electronic
14 recording to make the official record of an action or proceeding.
15

16 **(b) Sunset of rule**

17
18 This rule will remain in effect until 90 days after the Governor declares that the
19 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
20 repealed by the Judicial Council.
21

22
23 **Emergency rule 4. Emergency Bail Schedule [Repealed]**

24 *Emergency rule 4 repealed effective June 20, 2020.*
25

26
27 **Emergency rule 5. Personal appearance waivers of defendants during health
28 emergency**

29
30 **(a) Application**

31
32 Notwithstanding any other law, including Penal Code sections 865 and 977, this
33 rule applies to all criminal proceedings except cases alleging murder with special
34 circumstances and cases in which the defendant is currently incarcerated in state
35 prison, as governed by Penal Code section 977.2.
36

37 **(b) Types of personal appearance waivers**

38
39 (1) With the consent of the defendant, the court must allow a defendant to waive
40 his or her personal appearance and to appear remotely, either through video
41 or telephonic appearance, when the technology is available.
42

1 (2) With the consent of the defendant, the court must allow a defendant to waive
2 his or her appearance and permit counsel to appear on his or her behalf. The
3 court must accept a defendant's waiver of appearance or personal appearance
4 when:

5
6 (A) Counsel for the defendant makes an on the record oral representation
7 that counsel has fully discussed the waiver and its implications with the
8 defendant and the defendant has authorized counsel to proceed as
9 counsel represents to the court;

10
11 (B) Electronic communication from the defendant as confirmed by
12 defendant's counsel; or

13
14 (C) Any other means that ensures the validity of the defendant's waiver.
15

16 **(c) Consent by the defendant**

17
18 (1) For purposes of arraignment and entry of a not guilty plea, consent means a
19 knowing, intelligent, and voluntary waiver of the right to appear personally in
20 court. Counsel for the defendant must state on the record at each applicable
21 hearing that counsel is proceeding with the defendant's consent.
22

23 (2) For purposes of waiving time for a preliminary hearing, consent also means a
24 knowing, intelligent, and voluntary waiver of the right to hold a preliminary
25 hearing within required time limits specified either in Penal Code section
26 859b or under emergency orders issued by the Chief Justice and Chair of the
27 Judicial Council.
28

29 (3) The court must accept defense counsel's representation that the defendant
30 understands and agrees with waiving any right to appear unless the court has
31 specific concerns in a particular matter about the validity of the waiver.
32

33 **(d) Appearance through counsel**

34
35 (1) When counsel appears on behalf of a defendant, courts must allow counsel to
36 do any of the following:

37
38 (A) Waive reading and advisement of rights for arraignment.

39
40 (B) Enter a plea of not guilty.

41
42 (C) Waive time for the preliminary hearing.
43

1 (2) For appearances by counsel, including where the defendant is either
2 appearing remotely or has waived his or her appearance and or counsel is
3 appearing by remote access, counsel must confirm to the court at each
4 hearing that the appearance by counsel is made with the consent of the
5 defendant.

6
7 **(e) Conduct of remote hearings**

8
9 (1) With the defendant’s consent, a defendant may appear remotely for any
10 pretrial criminal proceeding.

11
12 (2) Where a defendant appears remotely, counsel may not be required to be
13 personally present with the defendant for any portion of the criminal
14 proceeding provided that the audio and/or video conferencing system or other
15 technology allows for private communication between the defendant and his
16 or her counsel. Any private communication is confidential and privileged
17 under Evidence Code section 952.

18
19 **(f) Sunset of rule**

20
21 This rule will remain in effect until 90 days after the Governor declares that the
22 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
23 repealed by the Judicial Council.

24
25
26 **Emergency rule 6. Emergency orders: juvenile dependency proceedings**

27
28 **(a) Application**

29
30 This rule applies to all juvenile dependency proceedings filed or pending until the
31 state of emergency related to the COVID-19 pandemic is lifted.

32
33 **(b) Essential hearings and orders**

34
35 The following matters should be prioritized in accordance with existing statutory
36 time requirements.

37
38 (1) Protective custody warrants filed under Welfare and Institutions Code section
39 340.

40
41 (2) Detention hearings under Welfare and Institutions Code section 319. The
42 court is required to determine if it is contrary to the child’s welfare to remain

1 with the parent, whether reasonable efforts were made to prevent removal,
2 and whether to vest the placing agency with temporary placement and care.

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- (3) Psychotropic medication applications.
- (4) Emergency medical requests.
- (5) A petition for reentry of a nonminor dependent.
- (6) Welfare and Institutions Code section 388 petitions that require an immediate response based on the health and safety of the child, which should be reviewed for a prima facie showing of change of circumstances sufficient to grant the petition or to set a hearing. The court may extend the final ruling on the petition beyond 30 days.

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(c) Foster care hearings and continuances during the state of emergency

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- (1) A court may hold any proceeding under this rule via remote technology consistent with rule 5.531 and emergency rule 3.
- (2) At the beginning of any hearing at which one or more participants appears remotely, the court must admonish all the participants that the proceeding is confidential and of the possible sanctions for violating confidentiality.
- (3) The child welfare agency is responsible for notice of remote hearings unless other arrangements have been made with counsel for parents and children. Notice is required for all parties and may include notice by telephone or other electronic means. The notice must also include instructions on how to participate in the court hearing remotely.

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- (4) Court reports
 - (A) Attorneys for parents and children must accept service of the court report electronically.
 - (B) The child welfare agency must ensure that the parent and the child receive a copy of the court report on time.
 - (C) If a parent or child cannot receive the report electronically, the child welfare agency must deliver a hard copy of the report to the parent and the child on time.

- 1 (5) Nothing in this subdivision prohibits the court from making statutorily
2 required findings and orders, by minute order only and without a court
3 reporter, by accepting written stipulations from counsel when appearances
4 are waived if the stipulations are confirmed on the applicable Judicial
5 Council forms or equivalent local court forms.
6
- 7 (6) If a court hearing cannot occur either in the courthouse or remotely, the
8 hearing may be continued up to 60 days, except as otherwise specified.
9
- 10 (A) A dispositional hearing under Welfare and Institutions Code section
11 360 should not be continued more than 6 months after the detention
12 hearing without review of the child’s circumstances. In determining
13 exceptional circumstances that justify holding the dispositional hearing
14 more than 6 months after the child was taken into protective custody,
15 the impact of the state of emergency related to the COVID-19
16 pandemic must be considered.
17
- 18 i. If the dispositional hearing is continued more than 6 months after
19 the start date of protective custody, a review of the child must be
20 held at the 6-month date. At the review, the court must determine
21 the continued necessity for and appropriateness of the placement;
22 the extent of compliance with the case plan or available services
23 that have been offered; the extent of progress which has been
24 made toward alleviating or mitigating the causes necessitating
25 placement; and the projected likely date by which the child may
26 return home or placed permanently.
27
- 28 ii. The court may continue the matter for a full hearing on all
29 dispositional findings and orders.
30
- 31 (B) A judicial determination of reasonable efforts must be made within 12
32 months of the date a child enters foster care to maintain a child’s
33 federal title IV-E availability. If a permanency hearing is continued
34 beyond the 12-month date, the court must review the case to determine
35 if the agency has made reasonable efforts to return the child home or
36 arrange for the child to be placed permanently. This finding can be
37 made without prejudice and may be reconsidered at a full hearing.
38
- 39 (7) During the state of emergency related to the COVID-19 pandemic, previously
40 authorized visitation must continue, but the child welfare agency is to
41 determine the manner of visitation to ensure that the needs of the family are
42 met. If the child welfare agency changes the manner of visitation for a child
43 and a parent or legal guardian in reunification, or for the child and a

1 sibling(s), or a hearing is pending under Welfare and Institutions Code
2 section 366.26, the child welfare agency must notify the attorneys for the
3 children and parents within 5 court days of the change. All changes in
4 manner of visitation during this time period must be made on a case by case
5 basis, balance the public health directives and best interest of the child, and
6 take into consideration whether in-person visitation may continue to be held
7 safely. Family time is important for child and parent well-being, as well as
8 for efforts toward reunification. Family time is especially important during
9 times of crisis. Visitation may only be suspended if a detriment finding is
10 made in a particular case based on the facts unique to that case. A detriment
11 finding must not be based solely on the existence of the impact of the state of
12 emergency related to the COVID-19 pandemic or related public health
13 directives.

14
15 (A) The attorney for the child or parent may ask the juvenile court to
16 review the change in manner of visitation. The child or parent has the
17 burden of showing that the change is not in the best interest of the child
18 or is not based on current public health directives.

19
20 (B) A request for the court to review the change in visitation during this
21 time period must be made within 14 court days of the change. In
22 reviewing the change in visitation, the court should take into
23 consideration the factors in (c)(7).

24
25 **(d) Sunset of rule**

26
27 This rule will remain in effect until 90 days after the Governor declares that the
28 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
29 repealed by the Judicial Council.

30
31 **Advisory Committee Comment**

32
33 When courts are unable to hold regular proceedings because of an emergency that has resulted in
34 an order as authorized under Government Code section 68115, federal timelines do not stop.
35 Circumstances may arise where reunification services to the parent, including visitation, may not
36 occur or be provided. The court must consider the circumstances of the emergency when deciding
37 whether to extend or terminate reunification services and whether services were reasonable given
38 the state of the emergency. (Citations: 42 U.S.C. § 672(a)(1)–(2), (5); 45 CFR § 1355.20; 45 CFR
39 § 1356.21 (b) – (d); 45 C.F.R. § 1356.71(d)(1)(iii); Child Welfare Policy Manual, 8.3A.9 Title
40 IV-E, Foster Care Maintenance Payments Program, Reasonable efforts, Question 2
41 (www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citlD=92)); Letter dated March 27, 2020, from Jerry Milner, Associate Commissioner, Children’s

1 Bureau, Administration for Children and Families, U.S. Department of Health and Human
2 Services.)
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4

5 **Emergency rule 7. Emergency orders: juvenile delinquency proceedings**
6

7 **(a) Application**
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9 This rule applies to all proceedings in which a petition has been filed under Welfare
10 and Institutions Code section 602 in which a hearing would be statutorily required
11 during the state of emergency related to the COVID-19 pandemic.
12

13 **(b) Juvenile delinquency hearings and orders during the state of emergency**
14

15 (1) A hearing on a petition for a child who is in custody under Welfare and
16 Institutions Code section 632 or 636 must be held within the statutory
17 timeframes as modified by an order of the court authorized by Government
18 Code section 68115. The court must determine if it is contrary to the welfare
19 of the child to remain in the home, whether reasonable services to prevent
20 removal occurred, and whether to place temporary placement with the
21 probation agency if the court will be keeping the child detained and out of the
22 home.
23

24 (2) If a child is detained in custody and an in-person appearance is not feasible
25 due to the state of emergency, courts must make reasonable efforts to hold
26 any statutorily required hearing for that case via remote appearance within
27 the required statutory time frame and as modified by an order of the court
28 authorized under Government Code section 68115 for that proceeding. If a
29 remote proceeding is not a feasible option for such a case during the state of
30 emergency, the court may continue the case as provided in (d) for the
31 minimum period of time necessary to hold the proceedings.
32

33 (3) Without regard to the custodial status of the child, the following hearings
34 should be prioritized during the state of emergency related to the COVID-19
35 pandemic:
36

37 (A) Psychotropic medication applications.

38 (B) All emergency medical requests.

39 (C) A petition for reentry of a nonminor dependent.

40 (D) A hearing on any request for a warrant for a child.
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(E) A probable cause determination for a child who has been detained but has not had a detention hearing within the statutory time limits.

(4) Notwithstanding any other law, and except as described in (5), during the state of emergency related to the COVID-19 pandemic, the court may continue for good cause any hearing for a child not detained in custody who is subject to its juvenile delinquency jurisdiction until a date after the state of emergency has been lifted considering the priority for continued hearings in (d).

(5) For children placed in foster care under probation supervision, a judicial determination of reasonable efforts must be made within 12 months of the date the child enters foster care to maintain a child's federal title IV-E availability. If a permanency hearing is continued beyond the 12-month date, the court must nevertheless hold a review to determine if the agency has made reasonable efforts to return the child home or place the child permanently. This finding can be made without prejudice and may be reconsidered at a full hearing.

(c) Proceedings with remote appearances during the state of emergency.

(1) A court may hold any proceeding under this rule via remote technology consistent with rule 5.531 and emergency rule 3.

(2) At the beginning of any hearing conducted with one or more participants appearing remotely, the court must admonish all the participants that the proceeding is confidential and of the possible sanctions for violating confidentiality.

(3) The court is responsible for giving notice of remote hearings, except for notice to a victim, which is the responsibility of the prosecuting attorney or the probation department. Notice is required for all parties and may include notice by telephone or other electronic means. The notice must also include instructions on how to participate in the hearing remotely.

(4) During the state of emergency, the court has broad discretion to take evidence in the manner most compatible with the remote hearing process, including but not limited to taking testimony by written declaration. If counsel for a child or the prosecuting attorney objects to the court's evidentiary procedures, that is a basis for issuing a continuance under (d).

1 **(d) Continuances of hearings during the state of emergency.**

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Notwithstanding any other law, the court may for good cause continue any hearing other than a detention hearing for a child who is detained in custody. In making this determination, the court must consider the custody status of the child, whether there are evidentiary issues that are contested, and, if so, the ability for those issues to be fairly contested via a remote proceeding.

9 **(e) Extension of time limits under Welfare and Institutions Code section 709**

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In any case in which a child has been found incompetent under Welfare and Institutions Code section 709 and that child is eligible for remediation services or has been found to require secure detention, any time limits imposed by section 709 for provision of services or for secure detention are tolled for the period of the state of emergency if the court finds that remediation services could not be provided because of the state of emergency.

17
18 **(f) Sunset of rule**

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This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

23
24 **Advisory Committee Comment**

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This emergency rule is being adopted in part to ensure that detention hearings for juveniles in delinquency court must be held in a timely manner to ensure that no child is detained who does not need to be detained to protect the child or the community. The statutory scheme for juveniles who come under the jurisdiction of the delinquency court is focused on the rehabilitation of the child and thus makes detention of a child the exceptional practice, rather than the rule. Juvenile courts are able to use their broad discretion under current law to release detained juveniles to protect the health of those juveniles and the health and safety of the others in detention during the current state of emergency related to the COVID-19 pandemic.

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37 **Emergency rule 8. Emergency orders: temporary restraining or protective orders**

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(a) Application

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Notwithstanding any other law, this rule applies to any emergency protective order, temporary restraining order, or criminal protective order that was requested, issued, or set to expire during the state of emergency related to the COVID-19 pandemic.

1 This includes requests and orders issued under Family Code sections 6250 or 6300,
2 Code of Civil Procedure sections 527.6 , 527.8, or 527.85, Penal Code sections
3 136.2, 18125 or 18150, or Welfare and Institutions Code sections 213.5, 304,
4 362.4, or 15657.03, and including any of the foregoing orders issued in connection
5 with an order for modification of a custody or visitation order issued pursuant to a
6 dissolution, legal separation, nullity, or parentage proceeding under Family Code
7 section 6221.

8
9 **(b) Duration of orders**

- 10
11 (1) Any emergency protective order made under Family Code section 6250 that
12 is issued during the state of emergency must remain in effect for up to 30
13 days from the date of issuance.
14
15 (2) Any temporary restraining order or gun violence emergency protective order
16 issued or set to expire during the state of emergency related to the COVID-19
17 pandemic must remain in effect for a period of time that the court determines
18 is sufficient to allow for a hearing on the long-term order to occur, for up to
19 90 days.
20
21 (3) Any criminal protective order, subject to this rule, set to expire during the
22 state of emergency, must be automatically extended for a period of 90 days,
23 or until the matter can be heard, whichever occurs first.
24
25 (4) Upon the filing of a request to renew a restraining order after hearing that is
26 set to expire during the state of emergency related to the COVID-19
27 pandemic, the current restraining order after hearing must remain in effect
28 until a hearing on the renewal can occur, for up to 90 days from the date of
29 expiration.

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31 *(Subd (b) amended effective April 20, 2020.)*
32

33 **(c) Ex parte requests and requests to renew restraining orders**

- 34
35 (1) Courts must provide a means for the filing of ex parte requests for temporary
36 restraining orders and requests to renew restraining orders. Courts may do so
37 by providing a physical location, drop box, or, if feasible, through electronic
38 means.
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40 (2) Any ex parte request and request to renew restraining orders may be filed
41 using an electronic signature by a party or a party's attorney.

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43 *(Subd (c) amended effective April 20, 2020.)*

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(d) Service of Orders

If a respondent appears at a hearing by video, audio, or telephonically, and the court grants an order, in whole or in part, no further service is required upon the respondent for enforcement of the order, provided that the court follows the requirements of Family Code section 6384.

(e) Entry of orders into California Law Enforcement Telecommunications System

Any orders issued by a court modifying the duration or expiration date of orders subject to this rule, must be transmitted to the Department of Justice through the California Law Enforcement Telecommunications System (CLETS), as provided in Family Code section 6380, without regard to whether they are issued on Judicial Council forms, or in another format during the state of emergency.

Emergency Rule 8 amended effective April 20, 2020.

Emergency rule 9. Tolling statutes of limitations for civil causes of action

(a) Tolling statutes of limitations over 180 days

Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.

(Subd (a) amended effective May 29, 2020.)

(b) Tolling statutes of limitations of 180 days or less

Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that are 180 days or less are tolled from April 6, 2020, until August 3, 2020.

(Subd (b) amended effective May 29, 2020.)

Emergency Rule 9 amended effective May 29, 2020.

Advisory Committee Comment

Emergency rule 9 is intended to apply broadly to toll any statute of limitations on the filing of a pleading in court asserting a civil cause of action. The term “civil causes of action” includes

1 special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of the code (Of
2 the Time of Commencing Civil Actions), is construed “as including a special proceeding of a
3 civil nature”]; special proceedings of a civil nature include all proceedings in title 3 of the code,
4 including mandamus actions under §§ 1085, 1088.5, and 1094.5—all the types of petitions for
5 writ made for California Environmental Quality Act (CEQA) and land use challenges]; see also
6 Pub. Resources Code, § 21167(a)–(e) [setting limitations periods for civil “action[s]” under
7 CEQA].)

8
9 The rule also applies to statutes of limitations on filing of causes of action in court found in codes
10 other than the Code of Civil Procedure, including the limitations on causes of action found in, for
11 example, the Family Code and Probate Code.

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14 **Emergency rule 10. Extensions of time in which to bring a civil action to trial**

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16 **(a) Extension of five years in which to bring a civil action to trial**

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18 Notwithstanding any other law, including Code of Civil Procedure section 583.310,
19 for all civil actions filed on or before April 6, 2020, the time in which to bring the
20 action to trial is extended by six months for a total time of five years and six
21 months.

22
23 **(b) Extension of three years in which to bring a new trial**

24
25 Notwithstanding any other law, including Code of Civil Procedure section 583.320,
26 for all civil actions filed on or before April 6, 2020, if a new trial is granted in the
27 action, the three years provided in section 583.320 in which the action must again
28 be brought to trial is extended by six months for a total time of three years and six
29 months. Nothing in this subdivision requires that an action must again be brought
30 to trial before expiration of the time prescribed in (a).

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33 **Emergency rule 11. Depositions through remote electronic means**

34 *Emergency rule 11 repealed effective November 13, 2020.*

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37 **Emergency rule 12. Electronic service**

38 *Emergency rule 12 repealed effective November 13, 2020.*

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41 **Emergency rule 13. Effective date for requests to modify support**

1 **(a) Application**

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Notwithstanding any other law, including Family Code sections 3591, 3603, 3653, and 4333, this rule applies to all requests to modify or terminate child, spousal, partner, or family support. For the purpose of this rule, “request” refers to *Request for Order* (form FL-300), *Notice of Motion (Governmental)* (form FL-680), or other moving papers requesting a modification of support.

9 **(b) Effective date of modification**

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Except as provided in Family Code section 3653(b), an order modifying or terminating a support order may be made effective as of the date the request and supporting papers are mailed or otherwise served on the other party, or other party’s attorney when permitted. Nothing in this rule restricts the court’s discretion to order a later effective date.

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17 **(c) Service of filed request**

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If the request and supporting papers that were served have not yet been filed with the court, the moving party must also serve a copy of the request and supporting papers after they have been filed with the court on the other party, or other party’s attorney when permitted. If the moving party is the local child support agency and the unfiled request already has a valid court date and time listed, then subsequent service of the request is not required.

25
26 **(d) Court discretion**

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Nothing in this rule is meant to limit court discretion or to alter rule 5.92 or 5.260 regarding which moving papers are required to request a modification of support.

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31 **(e) Sunset of rule**

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This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

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37 *Emergency Rule 13 adopted effective April 20, 2020.*

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39 *Appendix I amended effective November 13, 2020; adopted effective April 6, 2020; previously*
40 *amended effective April 17, 2020, April 20, 2020, June 20, 2020, and August 13., 2020*

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE COVID-19 §
PRECAUTIONARY MEASURES §

ADMINISTRATIVE ORDER NO. 6
EXTENSION OF JUDICIAL EMERGENCY

On this 14th day of May 2020:

WHEREAS, under the Delaware Constitution, Article IV, § 13, the Chief Justice of the Delaware Supreme Court is the administrative head of all the courts in the State and has general administrative and supervisory powers over all the courts;

WHEREAS, under 10 *Del. C.* § 2004(a), the Chief Justice, in consultation with other members of the Supreme Court, has the authority to “declare a judicial emergency when the Chief Justice determines that there are emergency circumstances affecting 1 or more court facilities;”

WHEREAS, under 10 *Del. C.* § 2004(a), “emergency circumstances” includes but is not limited to “disease ... or other natural or manmade causes [affecting] the ability to access the courthouses, or the ability to staff courts;”

WHEREAS, under 10 *Del. C.* § 2004(c), an order declaring a judicial emergency is limited to an initial duration of not more than 30 days, but may be modified or extended for additional periods of 30 days each;

WHEREAS, under his authority set forth in 20 *Del. C.* ch. 31, Governor John C. Carney declared a State of Emergency for the State of Delaware due to the public health threat caused by COVID-19, and extended the State of Emergency on April 10, 2020 and May 8, 2020;

WHEREAS, under 10 *Del. C.* § 2004, the Chief Justice, in consultation with other members of the Supreme Court, declared a judicial emergency that went into effect on March 16, 2020 at 8:00 a.m. and continued for 30 days, subject to further review;

WHEREAS, in an order dated March 22, 2020, all courthouses and their administrative offices in the State of Delaware were closed to the public from March 23, 2020 until April 15, 2020 and certain deadlines that expired between March 23, 2020 and April 15, 2020 were extended until April 21, 2020;

WHEREAS, on March 22, 2020, Governor Carney ordered Delawareans to stay at home whenever possible and the closure of all non-essential businesses in Delaware until May 15, 2020 or until the public health threat of COVID-19 was eliminated;

WHEREAS, on April 14, 2020 the Chief Justice, in consultation with the other members of the Supreme Court, extended the judicial emergency through May 14, 2020, continued the closure of State courthouses and their administrative offices to the public through May 14, 2020, and extended certain deadlines that expired between March 23, 2020 and May 14, 2020 until June 1, 2020;

WHEREAS, on April 30, 2020, after Governor Carney modified his order declaring a State of Emergency to require that Delawareans wear a mask or face covering in public areas, the Chief Justice ordered Court staff, lawyers, litigants, jurors, contractors, vendors, and any other visitors to any court facility to wear a mask or face covering when in the common or public areas of court facilities if they could not maintain a 6-foot separation from other individuals;

WHEREAS, COVID-19 continues to pose a serious threat to public health, including the jurors, parties, witnesses, lawyers, judges, and court staff who would typically enter the courthouses and facilities of the Supreme Court, the Court of Chancery, the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court;

WHEREAS, the judicial emergency that went into effect on March 16, 2020 and was extended on April 14, 2020 will be expiring;

WHEREAS, the Chief Justice, in consultation with the other members of the Supreme Court, has determined that extension of the judicial emergency is necessary and required by the Governor's May 8, 2020 extension of the State of Emergency in the State of Delaware; and

WHEREAS, the Chief Justice, in consultation with the Liaison Justice, other members of the Supreme Court, the Executive Director, Chair, and Vice Chair of the Board of Bar Examiners, has determined that the Delaware Bar Examination, presently scheduled to take place on July 27-July 29, 2020, must be rescheduled in light of the public health threat currently posed by COVID-19;

NOW, THEREFORE, IT IS ORDERED that:

1. Under the authority of 10 *Del. C.* § 2004, the judicial emergency for all State courts and their facilities in Delaware is extended for another 30 days through June 13, 2020, subject to further review.
2. In light of the threat COVID-19 poses to public health, all courts in the State are authorized, to the greatest extent possible under 10 *Del. C.* § 2008, to continue to utilize audiovisual devices at their facilities and remotely to conduct all proceedings (except for jury trials) for the duration of this order.
3. During the period of judicial emergency, all time requirements under the Speedy Trial Guidelines are tolled.
4. All State courthouses and their administrative offices shall remain closed to the public through June 13, 2020, or further order of the Chief Justice of the Supreme Court of Delaware. Access to the State courthouses is restricted to identified personnel and emergency and essential hearings and operations.
5. Each State court shall continue to have sufficient judicial officers and staff to hear emergency and essential matters in person or remotely through video or teleconferencing during the pendency of this Order.
6. Judicial branch personnel identified by the Presiding Judges of each court and the State Court Administrator, or their designees, shall continue to report to work as required. If an identified employee is unable to serve due to illness or has been excused consistent with applicable leave policies, a substitute shall be determined. Other judicial branch personnel shall continue not to report to the courthouses until further notice. Instead, other judicial branch personnel shall work remotely as directed by the Presiding Judge of each court, the State Court Administrator, or their designee.
7. Each courthouse shall continue to provide a method, such as a dropbox or mailing address, for attorneys and the public to fill out and file paper documents if electronic filing is not available to them. For such cases, the courts shall continue to provide, when practical, an email address for attorneys and the public to email paper documents which will be considered filed with the court when received.

8. Non-emergency and non-essential telephonic arguments, telephonic hearings or videoconferences shall continue to proceed at the discretion of each of the State courts. For all court proceedings conducted through June 13, 2020, when practical, the courts shall post on their websites the date and time of the hearing or proceeding, and when requested and permitted, provide reasonable access to media organizations.
9. Except as set forth in 10 *Del. C.* § 2007(c), deadlines in court rules or state or local statutes and ordinances applicable to the judiciary that expire between March 23, 2020 and June 13, 2020 are extended through July 1, 2020. Statutes of limitations and statutes of repose that would otherwise expire during the period between March 23, 2020 and June 13, 2020 are extended through July 1, 2020. Deadlines, statutes of limitations, and statutes of repose that are not set to expire between March 23, 2020 and June 13, 2020 are not extended or tolled by this order. Deadlines imposed by court order continue to remain in place but may be extended, consistent with court practices, for good cause shown, including a COVID-19 related cause. Notwithstanding the foregoing, each State court shall retain the discretion to require the prompt filing of public versions of documents initially filed under seal and, for good cause shown, to expedite proceedings.
10. The time periods for bringing an arrested person before a magistrate pursuant to 11 *Del. C.* § 1909 and for bringing a prisoner before a judge pursuant to 10 *Del. C.* § 6907 are extended not more than 7 days under § 2007(c). The time for taking a juvenile charged with a delinquent act before a court is extended not more than 2 days under § 2007(c).
11. The Family Court shall continue to have the authority, in its discretion, to extend emergency ex parte protection from abuse orders beyond 30 days, but not to exceed 45 days. Temporary injunctions and interim guardianships that would expire between March 23, 2020 and June 13, 2020 are hereby extended until July 1, 2020.
12. Administrative Order No. 3 regarding the suspension of any requirements for sworn declarations, verifications, certificates, statements, oaths, or affidavits in filings with the Supreme Court, the Court of Chancery, the Superior Court, the Family Court, the Court of Common Pleas, or the Justice of the Peace Court remains in effect.

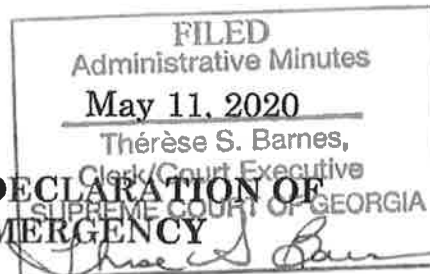
13. Administrative Order No. 5 regarding the use of face masks/coverings in court facilities remains in effect.
14. The Delaware Bar Examination, originally scheduled to take place on July 27-July 29, 2020, is rescheduled to take place on September 9-September 11, 2020. Board of Bar Examiner Rule 5(b), which provides that the application fee is non-refundable, is modified to allow any applicant who chooses not to sit for the Delaware Bar Examination in September 2020 to receive a refund of their application fee.
15. The Clerk of the Court is directed to transmit forthwith a certified copy of this Order to the clerk of each trial court in each county.

BY THE CHIEF JUSTICE:

/s/ Collins J. Seitz, Jr.
Chief Justice



SUPREME COURT OF GEORGIA



SECOND ORDER EXTENDING DECLARATION OF STATEWIDE JUDICIAL EMERGENCY

On March 14, 2020, in response to the COVID-19 pandemic, the Honorable Harold D. Melton, as the Chief Justice of the Supreme Court of Georgia, issued an Order Declaring Statewide Judicial Emergency pursuant to OCGA § 38-3-61. Due to the continuing statewide emergency, on April 6, 2020, the Order was extended until May 13, 2020. While the work of the courts in Georgia has gone forward on essential and critical matters, and most courts have continued some non-essential court operations, in particular by using technology to conduct proceedings remotely, most court facilities are not prepared to comply with social distancing and other public health requirements to safeguard the health of litigants, lawyers, judges, court personnel, and the public during extensive in-court proceedings or proceedings involving a large number of people. After consulting with the Judicial Council of Georgia and other judicial partners, and recognizing that most in-court proceedings compel the attendance of various individuals rather than allowing them to decide how best to protect their own health, it is hereby determined that the statewide judicial emergency Order should be extended, with some clarifications and modifications as well as directions regarding efforts to resume court operations in a manner that protects public health.

Accordingly, the Order Declaring Statewide Judicial Emergency, which would have expired on Wednesday, May 13, 2020, at 11:59 p.m., is further extended until Friday, June 12, 2020, at 11:59 p.m. All Georgia courts shall continue to operate under the restrictions set forth in that Order as extended, with the following clarifications, modifications, and directions. Where this order refers to “public health guidance,” courts should consider the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), the Georgia Department of Public Health (DPH), and their local health departments.

1. Guidance on Application of the Order

Included in the Appendix to this Order are several guidance documents that clarify the application of the Order in particular contexts: tolling of filing deadlines; tolling of statutes of limitations; deadlines and time limits defined by reference to terms of court; and the continued authority of grand juries impaneled prior to the issuance of the Order. Additional guidance documents may be posted on the AOC's website at <https://georgiacourts.gov/judicial-council/aoc/>. It should be noted, however, that as discussed in Section 6 below, judges are being granted authority on a case-specific basis to reimpose certain deadlines that would otherwise be tolled by the Order or establish new deadlines or schedules.

2. Prohibition on Jury Trial Proceedings and Most Grand Jury Proceedings

Current public health guidance recommends social distancing and other measures that make it impracticable for courts to protect the health of the large groups of people who are normally assembled for jury proceedings, including jury selection. Accordingly, until further order, all courts are prohibited from summoning new trial jurors and grand jurors and from conducting criminal or civil jury trials.

Grand juries that are already impaneled or are recalled from a previous term of court may meet to attend to time-sensitive essential matters, but these grand juries should not be assembled except when necessary and only under circumstances in which social distancing and other public health guidance can be followed.

As discussed below, efforts are being pursued to allow the safe resumption of jury trials. The clerks and court administrators of trial courts that conduct jury trials and convene grand juries will be provided sufficient notice of the resumption of jury proceedings to allow the complicated process of summoning potential jurors to be completed. Information about this issue will be provided to trial court clerks and court administrators.

3. Proceedings Conducted Remotely Using Technology

All courts should continue to use and increase the use of technology to conduct remote judicial proceedings as a preferred alternative to in-person proceedings, both to ensure that essential court functions are continued and to conduct non-essential proceedings to limit the backlog of such matters when the judicial emergency is terminated. Courts should understand and utilize the authority provided by the emergency amendments made to court rules on videoconferences and teleconferences.

Courts may compel the participation of litigants, lawyers, witnesses, and other essential personnel in remote judicial proceedings, including civil non-jury trials and other non-jury adjudicative proceedings, where allowed by court rules (including emergency amendments thereto). Such proceedings, however, must be consistent with public health guidance, must not impose undue burdens on participants, and must not be prohibited by the requirements of the United States or Georgia constitutions or applicable statutes or court rules.

In civil, criminal, and juvenile proceedings, parties may expressly consent in the record to remote proceedings not otherwise authorized and affirmatively waive otherwise applicable legal requirements. Courts must ensure the public's right of access to judicial proceedings and, unless affirmatively waived in the record, a criminal defendant's rights to confrontation and open courtrooms.

4. In-Court Proceedings: Development of Guidelines

Except for jury and grand jury proceedings as discussed in Section 2 above, courts have discretion to conduct essential and non-essential in-person judicial proceedings, but only in compliance with public health guidance and with the requirements of the United States and Georgia constitutions and applicable statutes and court rules, including the public's right of access to judicial proceedings and a criminal defendant's rights to confrontation and open courtrooms.

Before conducting extensive in-person proceedings, particularly in non-essential matters, each court should develop written guidelines as to how in-court proceedings generally and particular types of proceedings will be conducted to protect the health of litigants, lawyers, judges, court personnel, and the public. Guidelines should specify who should be admitted to the courthouse and courtroom and how public health guidance will be followed regarding such matters as health screening of court personnel and visitors, social distancing (including by capping the occupancy of courthouses, interior areas, and courtrooms based on their size), availability and use of personal protective equipment (PPE) by court personnel and visitors, and sanitization practices. Guidelines should provide for accommodations for high-risk individuals. Courts should consider the use of staggered, smaller proceedings to conduct proceedings involving many cases or participants, such as calendar calls and arraignments. Guidelines should be prominently posted at courthouse entrances and on court and government websites to provide advance notice to litigants, lawyers, and the public.

Support for the development of guidelines will be provided by the Judicial COVID-19 Task Force discussed in Section 7 below, as well as by the councils for each class of court. Courts of different classes that share courthouse facilities or operate in the same county should seek to coordinate their guidelines.

5. Discretion of Chief Judges to Declare More Restrictive Local Judicial Emergencies

Nothing in the Order Declaring Statewide Judicial Emergency as extended and modified limits the authority of the Chief Judge of a superior court judicial circuit under OCGA §§ 38-3-61 and 38-3-62 to add to the restrictions imposed by the statewide judicial emergency, if such additional restrictions are constitutional, necessitated by local conditions, and to the extent possible ensure that courthouses or properly designated alternative facilities remain accessible to carry out essential judicial functions. However, no court may disregard the restrictions imposed by the Order as extended and modified.

6. Discretion of Judges to Reimpose Deadlines in Specific Cases

After the date of this order, and with the exception of deadlines regarding jury trials and grand juries, judges are granted the following authority to reimpose deadlines set by statutes, rules, regulations, and court orders that have been suspended, tolled, or extended by the Order Declaring Statewide Judicial Emergency as extended and modified and to establish new deadlines and schedules. In pending or newly filed cases, a judge may reimpose or establish such deadlines on a case-by-case basis after considering the particular circumstances of the case, including any public health concerns and known individual health, economic, and other concerns regarding the litigants, lawyers, witnesses, and other persons who may be involved in the case. The judge must enter a written order in the record for the case identifying the deadlines that are being reimposed or established. Standing orders applicable to multiple cases and orders simply reimposing previous scheduling orders are not permitted. The judge should allow any party or other participant in a case to seek reconsideration of such an order for good cause shown.

Judges should in particular consider reimposing deadlines that do not require any or only insignificant in-person contact, such as deadlines for filing and responding to pleadings, motions, and briefs, written discovery in civil cases, scheduling of depositions that may be taken remotely or require few participants, and scheduling of hearings requiring only legal argument or few participants.

7. Judicial COVID-19 Task Force; Comments Solicited

A Judicial COVID-19 Task Force is hereby established to assist courts in conducting remote proceedings and in restoring more in-court proceedings, in particular jury trials and grand jury proceedings. The Task Force will include judges from the various classes of court and will obtain input from key stakeholders including the State Bar of Georgia, prosecutors and public defenders, civil plaintiff and defense attorneys, court clerks, sheriffs, and the public.

To assist in evaluating the effects of the Order Declaring Statewide Judicial Emergency as extended and modified, comments are

solicited from judges, lawyers, and the general public. Comments should be delivered in Word or PDF format by email to JCTFcomments@gasupreme.us.

8. Professionalism

With regard to all matters in this challenging time, all lawyers are reminded of their obligations of professionalism. Judges are also reminded of their obligation to dispose of all judicial matters promptly and efficiently, including by insisting that court officials, litigants, and their lawyers cooperate with the court to achieve that end, although this obligation must not take precedence over the obligation to dispose of matters fairly and with patience, which requires sensitivity to health and other concerns raised by court officials, litigants and their lawyers, witnesses, and others.

9. Notice Provisions

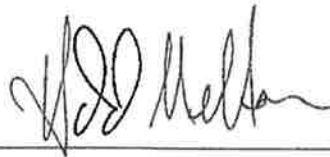
Notice will be provided as to the expected termination of the Order as extended and modified at least one week in advance to allow courts to plan for the transition to fuller operations.

The impact of COVID-19 varies across the state, and the level of response and adjustment will likewise vary among courts. Courts are strongly encouraged to make available to the public the steps they are taking to safely increase operations while responding to the COVID-19 pandemic. Recognizing that not all courts have a social media presence or website, the Administrative Office of the Courts will continue to post court-specific information as it becomes available on the AOC website at <https://georgiacourts.gov/covid-19-preparedness/>.

Pursuant to OCGA § 38-3-63, notice and service of a copy of this order shall immediately be sent to the judges and clerks of all courts in this State and to the clerk of the Court of Appeals of Georgia, such service to be accomplished through means to assure expeditious receipt, which include electronic means. Notice shall also be sent to the media, the State Bar of Georgia, and the officials and entities listed below and shall

constitute sufficient notice of the issuance of this order to the affected parties, counsel for the affected parties, and the public.

IT IS SO ORDERED this 11th day of May, 2020.



Chief Justice Harold D. Melton
Supreme Court of Georgia

Appendix

Guidance on Tolling of Filing Deadlines (March 27, 2020)

Guidance on Tolling of Statutes of Limitation (April 6, 2020)

Guidance on Deadlines and Time Limits Defined by Reference to Terms
of Court (May 4, 2020)

Guidance on Grand Juries (May 4, 2020)

Further Guidance on Grand Juries (May 11, 2020)

cc:

Governor Brian P. Kemp
Lt. Governor Geoff Duncan
Speaker David Ralston
State Bar of Georgia
Administrative Office of the Courts
Judicial Council of Georgia
Council of Superior Court Clerks of Georgia
Department of Juvenile Justice
Criminal Justice Coordinating Council
Council of Accountability Court Judges
Georgia Commission on Dispute Resolution
Institute of Continuing Judicial Education of Georgia
Georgia Council of Court Administrators
Chief Justice's Commission on Professionalism
Judicial Qualifications Commission
Association County Commissioners of Georgia
Georgia Municipal Association
Georgia Sheriffs' Association
Georgia Association of Chiefs of Police
Georgia Public Defender Council
Prosecuting Attorneys' Council of Georgia
Department of Corrections
Department of Community Supervision
Georgia Court Reporters Association
Board of Court Reporting
State Board of Pardons and Paroles
Constitutional Officers Association of Georgia
Council of Magistrate Court Clerks
Council of Municipal Court Clerks

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the
minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto
affixed the day and year last above written.

 , Clerk

