



Supreme Court of Appeals State of West Virginia

News

Administrative Office
1900 Kanawha Blvd., East
Bldg. 1, Room, E-316
Charleston, West Virginia 25305
(304) 340-2305 Jennifer Bundy
(304) 340-2306 April Harless
(304) 558-1212 FAX
Web Site: www.courtswv.gov
Facebook: [wvjudiciary](https://www.facebook.com/wvjudiciary)
Twitter: [WVCourts](https://twitter.com/WVCourts)
SmugMug: <https://wvcourts.smugmug.com>
Email: Jennifer.Bundy@courtwv.gov
Email: April.Harless@courtswv.gov

West Virginia Supreme Court Declares Judicial Emergency to Reduce In-Person Proceedings

For immediate release Sunday, March 22, 2020

CHARLESTON, W.Va. – In order to further limit potential exposure of the COVID-19 virus to litigants, jurors, attorneys, witnesses and the general public, the West Virginia Supreme Court of Appeals has issued an Administrative Order declaring a Judicial Emergency from March 23, 2020, through April 10, 2020, in all fifty-five (55) counties throughout West Virginia.

“Medical experts have consistently advised that in-person contact should be eliminated in all instances where such limitation is possible. We believe it is our responsibility to limit such in-person contact to the fullest extent possible while ensuring that our courts address emergency matters necessary to protect the health or safety of our individual citizens and our communities,” Chief Justice Tim Armstead said.

The Administrative Order was developed with input and recommendations of the justices of the Supreme Court of Appeals as well as circuit judges, family court judges and magistrates from throughout the state.

Under the March 22, 2020, order declaring a Judicial Emergency, the following changes become effective on March 23, 2020, and remain effective through April 10, 2020:

- Emergency proceedings required to protect the immediate health or safety of a party or the community will still be held, preferably by video conferencing or telephone where appropriate, and will not be delayed or extended. These emergency matters are those relating to:
 - Domestic violence;
 - Child abuse and neglect upon initial removal of a child or where there is an imminent threat to the health or safety of a child;
 - Infant guardianship;
 - Physical custody cases involving an imminent threat to the health or safety of a child;
 - Juvenile detention or placement in state custody;
 - Criminal initial appearances;
 - Bond hearings;

- Search warrants;
 - Criminal preliminary hearings;
 - Mental hygiene; and
 - Matters initiated by public health officials to enforce orders related to the COVID-19 crisis.
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- All proceedings directed to take place and all acts required to be done during the emergency period of March 23, 2020, through April 10, 2020, are stayed and will be rescheduled to a date subsequent to April 10, 2020, by the presiding judicial officer.
 - Deadlines set forth in court rules, statutes, ordinances, administrative rules or otherwise that are set to expire during the period of March 23, 2020, through April 10, 2020, are extended to April 11, 2020. Deadlines relating to the emergency matters set forth above will remain in effect.
 - Only those deadlines, statutes of limitations, and statutes of repose **that are set to expire** during the period from March 23, 2020, through April 10, 2020, will be extended to April 11, 2020.
 - To the extent use of technology such as video conferencing and telephonic proceedings does not impermissibly infringe upon the Constitutional rights of a party or litigant, such resources should be used in the emergency matters to eliminate the need for in-person hearings or proceedings.

The Supreme Court is continually monitoring developments related to the COVID-19 outbreak and will assess the need to modify or extend the Judicial Emergency Order as circumstances warrant.

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ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: JUDICIAL EMERGENCY DECLARED

WHEREAS, Article 8, Section 3 of the Constitution of West Virginia grants the Supreme Court of Appeals of West Virginia constitutional supervisory power over the circuit courts, family courts, and magistrate courts in West Virginia;

WHEREAS, Article 3, Section 17 of the Constitution of West Virginia requires that the courts of this state shall be open, and every person, for any injury done to him, in his person, property or reputation, shall have remedy by due course of law; and justice shall be administered without sale, denial or delay;

WHEREAS, the current COVID-19 crisis creates an unprecedented public health emergency that requires immediate action to encourage effective social distancing and reduce the need for people to leave their homes to protect the health and safety of the citizens of West Virginia; and

WHEREAS, the Supreme Court of Appeals of West Virginia desires to balance public health with the constitutional mandate that our courts continue to function for our citizens,

WHEREAS, W. Va. Code § 2-2-2 authorizes the Chief Justice of the Supreme Court of Appeals of West Virginia to declare an emergency in situations where conditions prevent the general transactions of court business;

THEREFORE, it is ORDERED that in order to protect the health and well-being of court employees, litigants, witnesses, jurors, attorneys, and the general public, a judicial emergency is declared for the day(s) of March 23, 2020, through April 10, 2020, in all fifty-five (55) counties in West Virginia. Pursuant to W. Va. Code §2-2-2(a), all proceedings and court deadlines, except the emergency proceedings described herein, directed to take place or any act required to be done on any day falling within this period of judicial emergency, are stayed. All jury trials are stayed during this period of judicial emergency. Deadlines set forth in court rules, statutes, ordinances, administrative rules, scheduling orders, or otherwise that are set to expire between March 23, 2020, and April 10, 2020, are hereby extended to April 11, 2020. Statutes of limitations and statutes of repose that would otherwise expire during the period between March 23, 2020, and April 10, 2020, are hereby extended to April 11, 2020. Deadlines, statutes of limitations, and statutes of repose that are not set to expire between March 23, 2020, and April 10, 2020, are not extended or tolled by this Order. Proceedings previously scheduled between March 23, 2020, and April 10, 2020, are continued until a later date determined by the presiding judicial officer. The Court may extend this order in the event the public health crisis continues.

It is further ORDERED that very limited emergency proceedings that are required to protect the immediate health or safety of a party or the community, specifically, domestic violence; child abuse and neglect only upon the initial removal or where there is an imminent threat to the health or safety of a child; infant guardianship; physical custody cases involving an imminent threat to the health or safety of a child; juvenile detention or placement in state custody; criminal initial appearances, bond hearings, search warrants, and criminal preliminary hearings; mental

hygiene; and matters initiated by public health officials to enforce orders related to the COVID-19 crisis are not limited by this Order, and applicable deadlines and time limits remain in effect. Magistrates may conduct those proceedings expressly required by Rule 1(b) of the Administrative Rules for the Magistrate Courts of West Virginia. Consistent with the Court's prior March 16, 2020, Administrative Order, these proceedings should utilize available technology to limit person-to-person contact whenever possible. To the extent they do not impermissibly infringe upon the constitutional rights of a party or litigant, any West Virginia state or local rules, including but not limited to criminal rules, civil rules, or administrative rules, that limit or preclude a judicial officer or court clerk's ability to utilize remote, telephonic or video technology to limit in-person contact, are suspended.

It is further ORDERED that it is the responsibility of each Chief Circuit Judge and each Chief Family Court Judge to notify the employees of all offices under their supervision of the content of this Order. Each judicial officer shall ensure that these functions are carried out remotely to the greatest extent possible to reduce the number of employees in a courthouse at any given time. The Chief Circuit Judge and the Chief Family Court Judge in every circuit shall prepare a schedule appointing at least one circuit judge and one family court judge to be on-call and available during regular business hours and shall develop a plan to ensure the public's continued access to the judicial system. The Chief Circuit Judge shall provide a copy of this schedule and communication plan to the Administrative Director of the Supreme Court of Appeals of West Virginia. The Circuit Clerk Office and Magistrate Clerk Office shall remain staffed with sufficient personnel to carry out the authorized functions, but in all counties, at least one person must answer telephone calls during regular business hours.

It is further ORDERED that this ORDER supersedes any local administrative order issued by a judicial official.

The Clerk of Court is hereby directed to distribute copies of this Administrative Order by appropriate means to all circuit judges, family court judges, and magistrates.

ENTERED: March 22, 2020



Tim Armstead, Chief Justice



Edythe Nash Gaiser, Clerk of Court