



FAMILY COURT OF THE STATE OF DELAWARE

MICHAEL K. NEWELL
CHIEF JUDGE

LEONARD L. WILLIAMS JUSTICE CENTER
500 N. KING STREET, SUITE 9445
WILMINGTON, DELAWARE 19801-3703

MEMORANDUM

TO: Family Court Stakeholders

FROM: Michael K. Newell, Chief Judge 

DATE: April 3, 2020

RE: **Family Court Calendaring through May 15, 2020**

Over the past several weeks, Family Court has adjusted calendars to reduce the number of staff and litigants in the courthouses in response to COVID-19. We have attempted to reschedule non-urgent matters while holding all other hearings by telephone or video to eliminate in-person appearances. The most recent memorandum that I issued on March 20, 2020 addressed calendaring adjustments through April 17, 2020. This memorandum is extending the calendar adjustments through May 15, 2020 based upon the Governor's State of Emergency and corresponding modifications.

On March 22, 2020, Chief Justice Seitz issued Administrative Order No. 3 ordering all courthouses and administrative offices closed to the public until April 15, 2020, or further order of the Chief Justice. Access to the State courthouses is restricted to identified personnel and emergency and essential hearings and operations. The Order states that "[e]ach state court shall have sufficient judicial officers and staff to hear emergency and essential matters in person or remotely through video or teleconferencing...." Finally, "non-emergency and non-essential telephonic [...] hearings or videoconferences shall proceed at the discretion of each of the State courts."

Below is a restatement of calendaring adjustments made in the previous memorandum; however, where there is a deviation from the March 20th memorandum, the change is indicated in bold.

JUVENILE JUSTICE

Detainee Bail Hearings and RAD Bail Review Hearings

- As previously indicated, for juveniles that are detained, bail hearings will be conducted by video from the facilities. Defense attorneys will need an opportunity to

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confer with their clients prior to the hearing. ODS will make arrangements with DYRS to speak to the clients in advance by phone.

- Bail review hearings from the RAD will be conducted by Skype.
- Attorneys are permitted to participate by phone or video.

Walk-in Bails and Agency Bails

- Agency bails will be conducted by video from the police agency.
- While the courthouses remain closed to the public, juveniles that wish to turn themselves in should be directed to a police agency for a video bail hearing from the agency.
- **Adult capias returns can be directed to JP Court, or if represented by counsel, defense attorneys may file a motion using the bail mailboxes after seeking the State's position.**

All Other Juvenile Delinquency Hearings

- All other juvenile delinquency hearings are rescheduled with the exception of hearings for detained youth. For detained youth, the cases will be rescheduled on a case-by-case basis. DOJ and ODS will alert the Court when a matter for a detained youth will be continued, otherwise the Court will consider the matter as going forward.
- Trials and case reviews for detained juveniles will remain on the calendar for the purpose of a bail review hearing. The proceedings will be by video from the facility.
- Arraignments for non-detained juveniles will be rescheduled through **May 15, 2020**.
- If DOJ or ODS request a bail review to amend bail conditions of a non-detained youth, such as a no contact provision, that request will be made by motion sent by email to one of the following bail mailboxes. Attorneys and juveniles will participate by phone or Skype.

FC_NCC_Bail@delaware.gov
FC_Kent_Bail@delaware.gov
FC_Sussex_Bail@delaware.gov

ADULT CRIMINAL

Calendars have been rescheduled through **May 15, 2020** unless the defendant is detained. Trials for detained defendants will remain on the calendar for bail purposes and will be addressed by telephone or video. For non-detained defendants, if there is a request for a bail review to amend bail conditions, the request will be made by motion sent by email to one of

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the bail mailboxes listed above. Attorneys and defendants will participate by phone or Skype.

PFA

Recognizing the need to provide safety to victims of domestic violence and balance the due process rights of respondents, Family Court will continue to handle petitions for Protection from Abuse. The Court has established electronic processes and procedures for accepting petitions, addressing emergency *ex parte* relief, and scheduling hearings. For those hearings that are currently scheduled through **May 15, 2020**, continuances will be liberally granted, and extension of *ex parte* orders will be considered on a case-by-case basis. **The Supreme Court Administrative Order No. 3 provides Family Court the discretion to extend emergency ex parte protection from abuse orders beyond 30 days, but not to exceed 45 days.** The cases will not be automatically rescheduled by the Court without the request of the parties. The Court will be contacting parties that can be reached to offer alternative means of participation to avoid in-person hearings where at all possible.

Non-compliance for domestic violence treatment will be suspended as the programs are not offering classes at this time. The Court will continue to monitor compliance with the gun relinquishment provisions.

CHILD SUPPORT

Child support matters have been rescheduled through May 15, 2020. At the discretion of the Commissioners, calendars may be added and hearings conducted by phone or video in appropriate cases.

Child support detainee calendars will continue to be heard as scheduled. Attorneys and DCSS workers will participate by phone for the detainee calendar. Custodial parents are not required to appear at the detainee calendar. Arrears calendars will be scheduled out after June 1, 2020.

Civil commitments to the Department of Correction will be suspended subject to review at the next scheduled review of commitment hearing. However, an order may issue if the purge amount is paid or for other good cause shown at the discretion of the assigned hearing officer. DCSS has suspended the filing of arrears petitions but will continue with new support and modification filings. Upon resumption of normal operations, the backlog of petitions for new support and modification will be prioritized over arrears

SUBSTANTIATIONS

Substantiations will be rescheduled after **May 15, 2020.**

DEPENDENCY/NEGLECT

The rescheduling of DFS cases will be at the Judge's discretion, but continuance requests will continue to be liberally granted.

All parties in Preliminary Protective Hearings should participate by phone or Skype.

Adjudicatory, Dispositional, and Permanency Hearings should be by phone or Skype with continuances granted if parents are unavailable or unable to participate.

Review Hearings are paper review which may include a teleconference at the discretion of the Judge. If there is a contested matter which necessitates a full hearing, the matter will be continued.

Contested Termination of Parental Rights hearings should be continued. Uncontested TPR may be resolved by submission of a stipulation of facts and proposed final order.

Children will not be brought to Court under any circumstances; however, the children will continue to be afforded the opportunity to participate in any telephonic hearings conducted. The child attorney will alert the Court regarding child participation.

Requests for continuances may be made by email, with copy to all parties, with motion practices suspended.

Adoptions will be decided on the papers with ceremonies to be scheduled at a later date.

CUSTODY, VISITATION, AND GUARDIANSHIPS

Custody, visitation, and guardianship cases will be rescheduled by the assigned judicial officer at their discretion. Emergency filings will be addressed on the papers with telephone communication utilized whenever necessary.

MENTAL HEALTH COURT

Mental Health Court hearings will be by paper review or rescheduled at the discretion of the judicial officer.

MEDIATION

Mediation calendars through **May 15, 2020** have been rescheduled.

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PLEADING AND MOTION PRACTICE

Processes have been put in place to allow for electronic filing of pleadings and motions, and for the **electronic submission of evidence**. The Court issued a standing order to address the signing the documents and verified pleadings.

All civil motions will be sent to the motions mailbox (indicated below).

FC_NCC_Motion@delaware.gov

FC_KC_Motion@delaware.gov

FC_SC_Motion@delaware.gov

Evidence can be submitted to the evidence mailbox (indicated below).

FC_NCC_Evidence@delaware.gov

FC_Kent_Evidence@delaware.gov

FC_Sussex_Evidence@delaware.gov

As this situation continues to evolve, the Court will issue additional communication as needed.

cc:

Family Court Judges

Family Court Commissioners

Family Court Administrative Team

DSCYF (S. Yeatman, T. Parker, J. Stevenson)

DOJ (A.J. Roop, J. Milecki, A. Rogers, I. Finamore, C. Dorsney, F. Mieczkowski, D. Thompson)

ODS (L. Minutola, K. Lunger)

OCA (T. Culley, K. Ensslin)

Parent Attorneys

DCSS (T. Mermigos)

Family Law Section of the Delaware State Bar Association (M. McGovern)

Kent County Bar (A. Panicola)

Sussex County Bar (E. Soucek)