



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: May 15, 2020

RE: **Family Court Calendaring through June 13, 2020**

On March 13, 2020, I issued Family Court's first calendaring memorandum in response to COVID-19. On March 20, 2020, a second calendaring memorandum was issued to cover the period through April 17, 2020. The third calendaring memorandum, issued on April 3, 2020, extended through May 15, 2020.

On May 14, 2020, Chief Justice Seitz issued Administrative Order No. 6 extending the Judicial Emergency and ordering all courthouses and administrative offices closed to the public until June 13, 2020. 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."

Therefore, in an effort to continue to address emergency and essential matters, and to further expand upon the non-emergency and non-essential telephonic and videoconference hearings, the following matters will be addressed according to this memorandum. The Court will continue to use videoconferencing for hearings and expects that litigants, attorneys, and witnesses will utilize the video capabilities during all hearings, unless the Court is provided a reason that necessitates the use of the telephone instead of video.

The Court will continue to work with our stakeholders in case specific workgroups to refine the details of the remote hearings going forward.

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 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 video.
- Attorneys are permitted to participate by 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 will be handled by telephone. Defendants may call the Court, and staff will collect the necessary information and present it to the Bench Commissioner. 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

- In an effort to begin addressing non-detained juvenile matters, beginning June 1, 2020, juvenile calendars will proceed by video. Cases will be scheduled sequentially to allow ample time to coordinate the remote hearing.
- For detained youth, trials will remain on the calendar for the purpose of a bail review hearing. The proceedings will be by video from the facility.
- Arraignments and case reviews for non-detained juveniles that were previously rescheduled, will be scheduled statewide beginning June 1, 2020. The hearings will proceed by video.
- 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 video.

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

ADULT CRIMINAL

- In an effort to begin addressing non-detained adult criminal matters, beginning June 1, 2020, adult arraignment and case review calendars will proceed by video statewide. Cases will be scheduled sequentially to allow ample time to coordinate the remote hearing.
- Trials for detained defendants will remain on the calendar for bail purposes and will be addressed by 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 the bail mailboxes listed above. Attorneys and defendants will participate by video.

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 **June 13, 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. 6 provides Family Court the discretion to extend emergency ex parte protection from abuse orders beyond 30 days, but not to exceed 45 days.** PFA hearings will be by video, and the Court will be contacting parties that can be reached to offer video 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

Beginning June 1, 2020, there will be child support calendars statewide by video.

SUBSTANTIATIONS

The Court will meet with the Department of Justice to discuss a process to review pending substantiation matters to determine if there are cases that can proceed remotely. Contested substantiations that can otherwise not be handled remotely will be rescheduled for when the public is permitted into the courthouse.

DEPENDENCY/NEGLECT

The scheduling of DFS cases will continue to be at the Judge's discretion, but continuance requests will continue to be liberally granted when the matters cannot proceed by video.

Review Hearings may be paper review which may include a videoconference at the discretion of the Judge. If there is a contested matter which necessitates a full hearing, the matter may be continued if it is determined that it cannot be effectively conducted by video.

Contested Termination of Parental Rights hearings may be continued until the public is permitted into the courthouses at the discretion of the Judge. 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 remote 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.

Adoptions may be decided on the papers with ceremonies to be scheduled at a later date, unless there is a request to proceed with the ceremony by video.

CUSTODY, VISITATION, AND GUARDIANSHIPS

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

MENTAL HEALTH COURT

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

MEDIATION

Child support mediations will be conducted by video beginning May 18, 2020. Custody, guardianship, and visitation mediations may be conducted by video; however, the assigned Judge may hold a case management conference first to determine if a case would benefit from mediation.

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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, and the Court continues to plan for the resumption of operations, I 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)