Superior Court of California
County of Orange

Chambers of
KIRK H. NAKAMURA
PRESIDING JUDGE

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701

SECOND AMENDED ADMINISTRATIVE ORDER NO. 20/15

SECOND AMENDED FAMILY LAW ORDER MANDATING REMOTE HEARINGS

PREFACE

On March 17, 2020, Chief Justice Tani Cantil-Sakauye issued an Emergency Order permitting the closure of Court facilities to the public, with minimal exceptions, from March 17, 2020 through March 27, 2020. On March 20, 2020, the Chief Justice issued an Advisory Memorandum recommending the suspension of all Family Law Trials, Hearings, and Proceedings for at least 60 days, with the exception of time-sensitive matters, such as Restraining Orders and urgent matters.

Based upon the Emergency Orders and Advisory Recommendations of the Chief Justice, the Presiding Judge of the Orange County Superior Court issued Administrative Order No. 20/08 on March 23, 2020, suspending all non-emergency Family Law Trials, Hearings, and Proceedings through June 1, 2020; and setting all such matters for a Status Conference to be scheduled for hearing after June 1, 2020.

On April 4, 2020, The Judicial Council of California issued its Emergency Rule No. 3, effective April 6, 2020, which stated, in relevant part:

Use of technology for remote appearances

(a) Notwithstanding any other law, in order to protect the health and safety of the public, including court users, both in custody and out of custody defendants, witnesses, court personnel, judicial officers, and others, courts **must** conduct judicial proceedings and court operations as follows:

1) Courts ***may require*** that judicial proceedings and court operations be conducted remotely.
2) Conducting proceedings remotely includes, but is not limited to, the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of remote

interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.

[Judicial Council Emergency Rule No. 3, April 4, 2020; Emphasis Added].

BACKGROUND

As a result of the Covid-19 pandemic, and the Orders issued by the Chief Justice and the Governor, the Orange County Superior Court has been closed to the public, with limited exceptions, since March 17, 2020. This was necessary to protect the public, court employees, and judicial officers. Despite this closure, Court Operations have continued based upon the availability of Staff to process filings, minute orders, and other essential services.

Nevertheless, significant backlogs have occurred as a result of the closure in all case types. This will necessitate a prioritization of the allocation of judicial and support services to process time sensitive matters. Of the highest priority, by Federal and State Constitutional Statute and case authority, are criminal matters; such that a reallocation of support staff will be necessary to enable the satisfaction of said Statutory time limitations. This reallocation will necessarily involve the transfer of Sheriff's personnel from non-criminal case types in order to enable currently non-criminal courts to handle criminal matters. This will unavoidably mean that Family Law Courts, with limited exceptions, will not have Sheriff's personnel to act as bailiffs in Family Law Proceedings.

Additionally, significant backlogs are continuing to accrue in Family Law Courts, such that the implementation of protocols to enable these proceedings to go forward must be implemented without delay.

On June 15, 2020, Presiding Judge Kirk H. Nakamura signed Revised Administrative Order 20/15 Mandating Remote Hearings. That order expired August 14, 2020. This Second Amended Administrative Order 20/15 is intended to extend the provisions of the Revised Administrative Order 20/15 for an additional sixty days.

Therefore, as a result of all of the above, and the necessity of providing continuity for the remote Family Law Hearings currently being conducted;

IT IS HEREBY ORDERED:

1. Family law proceedings, with limited exceptions as set forth hereinbelow, shall be conducted via remote hearing, using either the Teams or Webex applications; the use of which application to be determined at the discretion of each family law judicial officer;

2. An in-court proceeding can be scheduled on a showing of good cause as to why a remote hearing cannot occur, within the discretion of the assigned judicial officer;

3. DCSS child support matters shall be heard remotely pursuant to separate remote hearings protocols as established by federal and state statute and the Department of Child Support Services, in conjunction with Judicial Council Emergency Rule No. 3;

4. Specific protocols for the submission of, and presentation of evidence can be found at https://www.occourts.org/media-relations/covid/FamilyLawRemoteHearingsExhibitProtocol.pdf ;

5. Any individual seeking access to a public hearing shall contact the courtroom where the hearing is set no less than 24 hours prior to the scheduled hearing. The clerk shall then provide information to enable remote access to the hearing. All those who apply for public access to a Family Law hearing should be advised that no part of any Family Law proceeding may be recorded without permission of the Court, and a violation of this order shall subject the individual(s) to potential civil and criminal penalties. (Code Civ. Proc., § 177.5; Pen. Code, § 632 *et seq.)* Be advised that certain Family Law hearings are not public by statute;

6. This Administrative Order is to be read in conjunction with Administrative Order No. 20/08, and is to be considered an exception to said Administrative Order suspending family law proceedings for those cases selected by each judicial officer to be heard remotely under this order. Additionally, those matters set for status conference after June 1, 2020 shall be heard remotely unless otherwise ordered;

7. This rule will sunset in 60 days unless renewed by a subsequent administrative order.

THIS ORDER IS EFFECTIVE IMMEDIATELY.

IT IS SO ORDERED this 17th day of August 2020, at Santa Ana, California.

Kirk H. Nakamura
Presiding Judge