

1 **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2 **May 8, 2020**

3 **NO. 20-8500-016**

4 **IN THE MATTER OF THE**
5 **CONTINUITY OF COURT OPERATIONS**
6 **DURING THE COVID-19 PUBLIC HEALTH EMERGENCY**

7 **ORDER**

8 WHEREAS, since the Governor’s declaration of a public health emergency
9 on March 11, 2020, this Court has issued a series of administrative orders to guide
10 the safe and effective operation of the New Mexico Judiciary in a manner that
11 keeps all courts open for all case types through measured precautions and revised
12 court procedures designed to meet the myriad challenges posed by the COVID-19
13 pandemic;

14 WHEREAS, notwithstanding that the evolving nature of the current public
15 health emergency may require courts to operate at reduced staffing levels or from
16 fewer locations with little advance notice, the Court is nonetheless committed to
17 keeping courts open throughout New Mexico in a safe and effective manner that
18 addresses the time-sensitive justice needs of all New Mexicans; and

19 WHEREAS, each judicial district has developed individualized protocols for
20 functioning with less staff on-site or from fewer locations, if such adjustments to

1 operational levels become necessary because of local changes caused by the
2 current public health emergency;

3 WHEREAS, all New Mexico courts have maintained continuity of court
4 operations using protocols designed to minimize in-person contact while keeping
5 all state courts open to meet the justice needs in all types of cases (Level-1 Plans)
6 for all New Mexicans;

7 WHEREAS, the evolving nature of the public health emergency has the
8 potential to impact the operational capacity within a judicial district if there is a
9 significant reduction in the number of court personnel or court facilities available
10 to meet all justice needs within a district;

11 WHEREAS, each judicial district must be prepared to implement plans that
12 maintain (1) core operations even if the number of available judges, court staff, or
13 court facilities are reduced significantly (Level-2 Plans), or (2) minimum
14 operations even if the number of available judges, court staff, or court facilities fall
15 to critical levels within a judicial district (Level-3 Plans); and

16 WHEREAS, in light of the foregoing, and the Court recognizing that the
17 New Mexico Judiciary must remain ready to respond to the time-sensitive justice
18 needs of all New Mexicans as the current public health emergency continues to
19 evolve and being otherwise sufficiently advised, Chief Justice Judith K. Nakamura,

1 Justice Barbara J. Vigil, Justice Michael E. Vigil, Justice C. Shannon Bacon, and
2 Justice David K. Thomson concurring;

3 NOW, THEREFORE, IT IS ORDERED that all judicial districts shall be
4 prepared to implement local case management protocols that are responsive to
5 local conditions in the community caused by the current public health emergency
6 that result in significant reductions to the number of judges, court staff, or court
7 facilities available to provide court services;

8 IT IS FURTHER ORDERED that, if a judicial district experiences a
9 significant reduction in the number of judges, court staff, or court facilities caused
10 by the current public health emergency, the judicial district shall not respond to
11 such a change in circumstances by implementing local case management protocols
12 that would prevent the district from continuing to keep all courts open to handle all
13 case types unless the chief judge of the district requests and receives prior approval
14 from this Court;

15 IT IS FURTHER ORDERED that any changes to local case management
16 protocols in a judicial district that are approved by this Court shall meet the
17 following conditions:

18 (1) at least one (1) court facility shall remain open to the public during
19 regular business hours in each county within the judicial district;
20

1 (2) all available judges and court staff who would not remain on-site shall
2 work remotely;

3
4 (3) a sufficient number of judges and court staff shall remain on site to
5 manage caseload activity, and related administrative functions, that can only take
6 place within a courthouse;

7
8 (4) pleadings and other documents must continue to be accepted for filing
9 in all case types; and

10
11 (5) hearings must continue to be held in all court proceedings within the
12 judicial district in accordance with the prior directives of this Court unless this
13 court approves of a plan to limit court hearings to the core operations listed in
14 Appendix A to this order or approves a plan to limit court hearings to the minimum
15 operations listed in Appendix B to this order; and

16
17 IT IS FURTHER ORDERED that, if all of the judges in a judicial district
18 are unable or unavailable to preside in a case in the district because of the current
19 public health emergency, a case shall be assigned to a sitting judge in another
20 judicial district as set forth in Appendix C to this order and subject to the following
21 conditions:

22 (1) the need for the designation of a judge under this order shall be
23 communicated by the chief judge of the judicial district needing the designation, or
24 the chief judge's designee, to the chief judge of the designated judicial district
25 identified in Appendix C to this order;

26
27 (2) the chief judge of the designated judicial district identified in
28 Appendix C to this order shall designate a sitting judge from the designated
29 judicial district to preside in the case;

30
31 (3) any judge designated under the terms of this order shall not be subject
32 to the exercise of a preemptory excusal by any party to the case; and

1

2

3

4

5

6

7

8

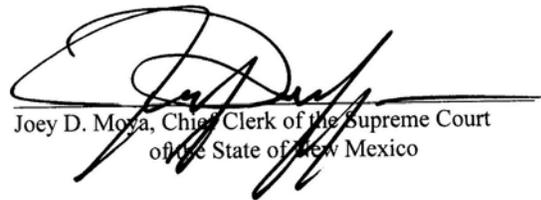
(4) any judge designated under the terms of this order may be reimbursed for per diem and mileage expenses, provided that such expenses shall be paid by the judicial district in which the case was filed; and

IT IS FURTHER ORDERED that this order shall remain in effect until amended or withdrawn by future order of this Court.

IT IS SO ORDERED.



WITNESS, the Honorable Judith K. Nakamura, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 8th day of May, 2020.


Joey D. Moya, Chief Clerk of the Supreme Court
of the State of New Mexico

1 **APPENDIX A TO SUPREME COURT ORDER NO. 20-8500-016**

2 Hearings Required for Core Operations in District Court Level-2 Plans:

- 3 • Hearings for all emergency matters are given priority. Judges should not
4 rely solely on counsel's representation that a matter is an "emergency"
5 but should instead exercise their judicial discretion in determining that
6 any particular matter is in fact in an actual emergency.
7 o Emergency matters involving defendants in custody shall
8 be given priority.
- 9 • Hearings held under the Abuse and Neglect Act for ex parte orders, initial
10 custody hearings, and hearings required under federal law
- 11 • Hearings held under the Delinquency Act for the following matters:
- 12 o First appearances
13 o Detention/warrant/runaway-extradition hearings
14 o Motions to review conditions of release
15 o Emergency motions
16 o Adjudications (Stipulated bench only)
- 17 • Hearing under the Kinship Guardianship Act
- 18 • Hearings in proceedings for a name change
- 19 • Hearings in all domestic violence matters, including hearings for temporary
20 and extended orders of protection
- 21 • Hearings in pretrial detention proceedings
- 22 • Hearings for arraignments (all types)
- 23 • Hearings for felony first appearances (for those courts that do them)
- 24 • Preliminary Hearings
- 25 • Hearings on warrants
- 26 • Hearings in extradition proceedings
- 27 • Probation violation hearings on the merits and for sentencing
- 28 • Sentencing hearings where the defendant is in custody
- 29 • Hearings to review or set conditions of release
- 30 • Emergency child custody, visitation, and financial support
31 hearings
- 32 • Hearings in public health cases
- 33 • Involuntary commitment hearings
- 34 • Hearings to determine competency and dangerousness of a defendant who is
35 in custody

- 1 • Hearings on a change of plea where the defendant is in custody
- 2 • Hearings for civil restraining orders where there are threats of violence
- 3 • Hearings in proceedings under the Election Code
- 4 • Hearings on free process applications
- 5 • Hearings on petitions for emergency medical procedures
- 6 • Hearings on initial Guardianship/Conservatorship proceedings and
- 7 emergency PQ cases
- 8 • Hearings and Appeals under the Uniform Owner Resident
- 9 Relations Act and the Mobile Home Park Act
- 10 • Hearings for docket calls to keep cases moving and scheduled
- 11 • Any other hearing that a judge determines must be heard after
- 12 consultation with and approval of the Chief Judge
- 13

14 Hearings Required for Core Operations in Metropolitan or Magistrate Court Level-
15 2 Plans:

- 16 • Arraignments
- 17 • Felony first appearances
- 18 • Preliminary hearings
- 19 • Probation violations
- 20 • Conditions of release
- 21 • Hearings in proceedings involving charges for DWI
- 22 Hearings in proceedings involving charges for domestic violence and other
- 23 violent crimes
- 24 • Hearings under the Uniform Owner Resident Relations Act and
- 25 the Mobile Home Park Act
- 26 • Traffic cases would continue to be entered and processed by
- 27 court staff but hearings would not need to be set
- 28

1 **APPENDIX B TO SUPREME COURT ORDER NO. 20-8500-016**

2 Hearings Required for Minimum Operations in District Court Level-3 Plans:

- 3 • Hearings for all emergency matters are given priority. Judges should not rely
4 solely on counsel's representation that a matter is an "emergency" but should
5 instead exercise their judicial discretion in determining that any particular
6 matter is in fact an actual emergency.
- 7 o Emergency matters involving defendants in custody shall
8 be given priority.
- 9 • Hearings held under the Abuse and Neglect Act for ex parte orders, initial
10 custody hearings, and hearings required under federal law
- 11 • Hearings held under the Delinquency Act for the following matters:
- 12 o First appearances for juveniles in custody
- 13 o First appearances for juveniles who pose a threat to
14 community safety
- 15 o Detention/warrant/runaway-extradition hearings that
16 impact community safety
- 17 o Motions to review conditions of release that
18 impact community safety
- 19 o Emergency motions
- 20 • Hearings in all domestic violence matters, including hearings for temporary
21 and extended orders of protection
- 22 • Hearings in pretrial detention proceedings
- 23 • Hearings for arraignments (in custody only)
- 24 • Hearings for felony first appearances (in custody only-for those courts that
25 do them)
- 26 • Preliminary Hearings (in custody only)
- 27 • Hearings on warrants
- 28 • Hearings in extradition proceedings
- 29 • Probation violation hearings on the merits and for sentencing that
30 impact community safety
- 31 • Sentencing hearings where the defendant is in custody
- 32 • Hearings to review or set conditions of release that impact community safety
- 33 • Emergency child custody, visitation, and financial support hearings
- 34 • Hearings in public health cases
- 35 • Involuntary commitment hearings

- 1 • Hearings to determine competency and dangerousness of a defendant who
- 2 is in custody
- 3 • Hearings on a changes of plea where the defendant is in custody
- 4 • Hearings for civil restraining orders where there are threats of violence
- 5 • Hearings in proceedings under the Election Code
- 6 • Hearings on free process applications for petitions related to public safety
- 7 • Hearings on petitions for emergency medical procedures
- 8 • Hearings on emergency PQ cases
- 9 • Hearings and Appeals under the Uniform Owner Resident Relations Act and
- 10 the Mobile Home Park Act involving community safety.
- 11 • Any other hearing that a judge determines must be heard after consultation
- 12 with and approval of the Chief Judge
- 13

14 Hearings Required for Minimum Operations in Metropolitan or Magistrate Court
15 Level-3 Plans:

- 16 • Arraignments (in custody only)
- 17 • Felony first appearances (in custody only)
- 18 • Preliminary hearings (in custody only)
- 19 • Probation violations that impact community safety, e.g. violent
- 20 offenses and DWI
- 21 • Conditions of release that impact community safety
- 22 • Hearings in proceedings involving charges for DWI
- 23 Hearings in proceedings involving charges for domestic violence and other
- 24 violent crimes
- 25 • Hearings under the Uniform Owner Resident Relations Act and
- 26 the Mobile Home Park Act involving community safety
- 27
- 28

APPENDIX C TO ORDER NO. 20-8500-016

STANDING JUDGE DESIGNATIONS DURING COVID-19 PUBLIC HEALTH EMERGENCY

Originating Judicial District	Originating County	District of Chief Judge with Designation Authority
1	Santa Fe	2nd JDC
	Los Alamos	4th JDC
	Rio Arriba	4th JDC
2	Bernalillo	1st JDC
3	Doña Ana	6th JDC
4	San Miguel	8th JDC
	Mora	8th JDC
	Guadalupe	10th JDC
5	Chaves	9th JDC
	Lea	9th JDC
	Eddy	12th JDC

STANDING JUDGE DESIGNATIONS DURING COVID-19 PUBLIC HEALTH EMERGENCY

Originating Judicial District	Originating County	District of Chief Judge with Designation Authority
6	Grant	3rd JDC
	Luna	3rd JDC
	Hidalgo	3rd JDC
7	Sierra	3rd JDC
	Socorro	12th JDC
	Torrance	2nd JDC
8	Taos	4th JDC
	Colfax	4th JDC
	Union	4th JDC
9	Curry	5th JDC
	Roosevelt	5th JDC

STANDING JUDGE DESIGNATIONS DURING COVID-19 PUBLIC HEALTH EMERGENCY

Originating Judicial District	Originating County	District of Chief Judge with Designation Authority
10	Quay	9th JDC
	DeBaca	9th JDC
	Harding	8th JDC
11	San Juan	13th JDC
	McKinley	13th JDC
12	Lincoln	7th JDC
	Otero	3rd JDC
13	Sandoval	2nd JDC
	Cibola	11th JDC
	Valencia	7th JDC