

# New Mexico Judicial Branch



*Photo by Justice C. Shannon Bacon*

## **Coronavirus (COVID-19): Frequently Asked Questions and Resources for Judges, CEOs, and Employees**

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*This document will be updated as new information becomes available.*



Photo by Justice Judith K. Nakamura

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# FREQUENTLY ASKED QUESTIONS AND RESOURCES

The New Mexico Judicial Branch is committed to the health and safety of New Mexicans during the COVID-19 pandemic.

These FAQs are intended to provide guidance and direction in conjunction with the NMJB Supreme Court Orders and Protocols. These FAQs apply to all employees and judicial officers and are subject to change as scientific information and understanding of the COVID-19 increases.

## Administrative Leave

Administrative leave **cannot** be approved or awarded for the purpose of allowing an employee to remain at home without working during the coronavirus public health emergency, or to supplement related coronavirus (COVID-19) leave. The Emergency Response Team has compiled a list of training opportunities for staff whose job responsibilities do not typically allow for telework.

### NMJB Telework Training Opportunities for employees

Chief judges, administrative authority, or designee may utilize the teleworking training opportunities list, and amend or add as appropriate for their employee's needs, job classification, etc. The document list includes work-related training resources such as manuals, rules, guidelines, webinars, and videos. Employees may review these training materials and resources from home allowing for telework. Employees who are self-isolating and not able to, or permitted to work from home may use annual or sick leave, or if eligible, the employee may use Paid Pandemic Leave for Positive Coronavirus (COVID-19) Tests, and should contact their Human Resources professional for additional information.

## Checklists

### Coronavirus (COVID-19) Potential or Confirmed Case - Initial Report Checklist

Initial Report Checklist is due to the Supreme Court's ERT within **24-hours** of first notification to the judicial entity. A positive test must be reported to the Supreme Court's ERT within **two (2) hours** of management being notified, and the Court Executive Officer or designee is responsible for reporting the positive case to the NMED OSHA Bureau within four (4) hours of learning of the positive case. Please forward the email response confirming receipt of the report to the AOC HRD.

Municipal and probate courts who have positive COVID-19 cases must work through their local or county channels to report to NMED but also notify ERT within the required timeframe.

## Court Visitor Checklist

### Children's Court

#### Supreme Court Order No. 20-8500-004

Case management protocols for Children's Court Cases are included in Supreme Court Order 20-8500-004. The Order gives district courts the authority to implement case management protocols consistent with those used by the Second Judicial District's Children Court Division.

#### Supreme Court Order No. 20-8500-009

#### Supreme Court Order No. 20-8500-014

#### Supreme Court Order No. 20-8500-018

The Supreme Court has suspended visitation between children in CYFD's care and their parents in counties where the COVID-19 regional transmission rate is 1.15 or more as provided by the [New Mexico Department of Health \(NMDOH\): Epidemiologic Update](#).

Supreme Court Order No. 20-8500-018 allows district judges to permit in-person family visits if those visits can occur in a safe manner based on local COVID-19 conditions. Judges are to presume that in-person visitations are safe in areas where the regional transmission rate for COVID-19 is 1.15 or less and if a visit can be conducted according to public health procedures for minimizing the spread of the virus. The parties, including the Children, Youth, and Families Department (CYFD), may present evidence showing why visitations are unsafe even with low transmission rates and safety procedures. In counties where the regional COVID-19 transmission rates exceed 1.15, there is a rebuttable presumption that in-person visits are not safe. New Mexico's regional COVID-19 transmission rates are reported in the NMDOH Epidemiological Modeling Updates.

In any case, in which in-person visitation has not been established or resumed, the parties shall meet and confer to determine whether in-person visitation can be established or resumed in accordance with the terms of the Order No. 20-8500-018 and the NMDOH protocols for minimizing the risk of infection. If the parties agree to establish or resume in-person visitation, CYFD shall present a stipulated order to the district judge for approval, setting forth the details of the in-person visitation that shall begin as soon as practicable. If the parties cannot agree to resume in-person visitation, CYFD shall file a notice in the district court setting forth the criteria that needs to be met for in-person visitation to be established or resumed in accordance with the terms of Order No. 20-8500-018.

## Cleaning Protocols

All courthouses and other judicial buildings operated by the New Mexico Judiciary must be maintained in accordance with the guidelines issued by the New Mexico Department of Health for the cleaning and disinfection of public facilities during the current public health emergency.

In addition to wearing a face covering, and ensuring a minimum physical distance of six (6) feet from one another, all employees, judicial officers, contractors, vendors, and volunteers must:

- Frequently and daily disinfect their **face coverings**
- Frequently wash their hands for at least 20 seconds with soap and water, or use hand sanitizer,
- Avoid touching your eyes, nose, and mouth with unwashed hands,
- Cover your coughs and sneezes,
- Stay home if you are sick and avoid contact with other people who are sick,
- Practice social and physical distancing by putting a minimum of six (6) feet of distance between yourself and other people,
- Clean and sanitize workspaces and frequently touched surfaces, and
- While staff should limit the contact of using the same items, frequently sanitizing items located in high traffic areas, or that are used by multiple staff.

### Coronavirus (COVID-19) Potential or Confirmed Case - Initial Report Checklist

#### NMDOH Directives on Cleaning and Disinfection of Public Facilities in Response to Novel Coronavirus

## Contractors

Contractors must notify the chief judge, administrative authority or designee immediately and **PRIOR to entering the court, facility or judicial property** if they are experiencing a shortness of breath, difficulty breathing, a dry cough, a temperature at or above 100.4, chills, sore throat, body aches, headaches, congestion or runny nose, nausea or vomiting, diarrhea, or have lost their sense of taste or smell, or if they have concerns that they may have been exposed to the virus.

Contractors who enter the court, facility or judicial property must also report if they have a household member or a visitor staying in their household who is experiencing coronavirus (COVID-19) symptoms.

Contractors who enter the court, facility or judicial property are required to immediately



disclose to the chief judge, administrative authority or designee any positive coronavirus (COVID-19) case either for themselves, or for a household member that has occurred in the past ten (10) days, or if there is still an ongoing self-isolation, and prior to entry into the building. Please ensure your contractors have received the **NMJB COVID-19 FAQs for Contractors**.

The CEO or designee must follow all reporting requirements, including the submittal of the positive or potential case report to the ERT. The CEO or designee must conduct contact tracing to determine if contact occurred while the contractor was in the court, facility or judicial property, and follow the protocols outlined below under the section: **CORONAVIRUS (COVID-19) – Exposure or Contact with Potential Positive**.

## **CourtCall**

### **Supreme Court Order No. 20-8500-024**

- Courts shall suspend the use of CourtCall or other similar services that require the parties to pay for the service if the telephonic or audiovisual proceeding is a public health proceeding or is a proceeding in which a party is a self-represented litigant, a governmental entity, represented by a civil legal services organization, or represented by an attorney providing pro bono legal services.
- Effective September 1, 2020, courts shall discontinue the use of CourtCall and other similar services that require the parties to pay a fee for the service for all court proceedings.

## **Court Filings**

### **Emergency Court Protocols**

- Under Emergency Court Protocol No. 3, all courts shall maintain local procedures for accepting filings by email or by fax from self-represented litigants.
- Filing by email or fax also shall continue to be permitted by attorneys in those case-types that are not eligible for electronic filing through the New Mexico Judiciary's File and Serve System.
- Applicable provisions in the rules of procedure addressing the filing of documents in the appellate, district, metropolitan, and magistrate courts by email or fax shall remain temporarily suspended to the extent necessary to accommodate local procedures used by courts for expanded filing by email or fax during the current public health emergency.

**1. In response to a request from a customer, can a document be notarized remotely (email, phone, video)?**

- No.  
Even if performing an e-notarization, a notary must verify the identity of the signer in-person. The notary cannot use video or audio devices to communicate and verify the identity of the signer.

## **Continuity of Court Operations and Court Hours**

### **Emergency Court Protocols**

- Under Emergency Court Protocol No. 1, all New Mexico state courts shall remain open and operating under regular business hours to ensure that the courts fulfill their constitutional and statutory responsibilities to all New Mexicans.
- There shall be no blanket cancellation of cases or types of proceedings unless authorized pursuant to an approved continuity of operations plan under **Supreme Court Order No. 20-8500-016** or as otherwise ordered by the Supreme Court.
- Probate courts and municipal courts may close if the building in which a court operates by county or municipal authorities, or if the presiding judge in the court chooses to do so. However, a notice must be posted at the closed courthouse with the locations and phone numbers of the nearest magistrate and district courts; and the public and the chief district judge in the judicial district must be provided with advance notice of closure.
- Under Emergency Court Protocol No. 2 (C), no probate or municipal court may conduct in-person proceedings without a plan for reopening that has been approved by the Supreme Court's Emergency Response Team.

## **Coronavirus (COVID-19) Symptoms & Testing**

Employees and judicial officers shall notify their supervisor or manager immediately and **PRIOR to entering the workplace** if they are experiencing a shortness of breath, difficulty breathing, a dry cough, a temperature at or above 100.4, chills, sore throat, body aches, headaches, congestion or runny nose, nausea or vomiting, diarrhea, or have lost their sense of taste or smell, or if they have concerns that they may have been exposed to the virus. Employees and judicial officers must also report if they have a household member or a visitor staying in their household who is experiencing coronavirus (COVID-19) symptoms.

## Voluntary Testing:

- Employees and judicial officers shall notify their supervisor or manager **prior to entering the workplace if they voluntarily received a coronavirus (COVID-19) test and are awaiting the results** (as opposed to obtaining a coronavirus test because of concerns regarding illness or exposure, no matter how remote).
- Management should ascertain if there is an underlying cause for concern, or if contact with a possible positive case occurred resulting in the voluntary test.
- If the judicial officer or employee or other person wishing to enter the courthouse or judicial building engages in routine testing, such as when required by their employer, medical provider, or otherwise, the Chief Judge or designee may allow the person to enter the courthouse or judicial facility based on the specific circumstances. The exception must be approved using the **NMJB ERT Screening Exception to Enter Courthouse or Judicial Building form**, with a copy of the approval sent to the ERT.
- In such cases, the person must report any new or changing symptoms immediately and follow the requirements of COVID testing and symptoms.

Because COVID-19 is so contagious and can be spread by people who do not have any apparent symptoms, people who have tested positive for COVID-19 and people who have had close contact with someone who tested positive for COVID-19 should physically separate themselves from other people.

## 1. SYMPTOMATIC:

**If an employee or judicial officer is experiencing coronavirus, (COVID-19) related symptoms they must immediately:**

- Receive a coronavirus (COVID-19) **test by an approved NMDOH** testing site, using appropriate and approved NMDOH tests. DOH approved tests include home test kits mailed to a judicial officer or employee from an approved provider sponsored or in coordination with the DOH. Approved site locations in this context include the judicial officer or employee's residence.
- Engage in a period of **self-isolation (duration outlined below and dependent upon whether the employee or judicial officer tests while symptomatic)**.
- Work from home during the period of self-isolation to the extent that work can be performed remotely, and with the permission of the chief judge, administrative authority, or designee. Management is encouraged to utilize the **ERT Telework Training Opportunities**.
- **Cross-Tracing and Contact:** Management must determine all employees or judicial officers that the possible positive employee came in contact with within the preceding **ten (10) days**, and send those employees and judicial officers home to telework until the employee's test results are returned (contact is defined as less than six (6) feet for more than three (3) minutes), and have them immediately contact the DOH to determine if they should receive a coronavirus (COVID-19) test.

- If the judicial officer or employee had contact with other court staff either within or outside of the courthouse or judicial building, management should determine whether violating the Supreme Court Order or corresponding protocols, which include ensuring appropriate social and physical distancing warrants corrective measures or communications.
- A judicial officer or employee **who is teleworking** should report experiencing any of these symptoms, and report any household member who is experiencing these symptoms, to their supervisor and Human Resources immediately if the worker has been at the courthouse or judicial building ten (10) days prior to first experiencing the coronavirus (COVID-19) symptoms.
- The CEO or their designee **must immediately** report the potential or confirmed coronavirus (COVID-19) case to the ERT using the electronic Google Form, and if a positive, case **must submit to the NMED Rapid Response Team within four (4) hours of initial notification** and forward the confirmation of submittal to AOC HRD. A follow-up report is required using the electronic Google form once the test results are received.
  - ❖ If the employee or judicial officer begins exhibiting symptoms before they arrive at work, they may not go to work and must notify their immediate supervisor, manager, and Human Resources immediately.
  - ❖ Employees experiencing a medical emergency should call 911, and notify the operator of their symptoms.

## 2. **NEGATIVE TEST WHILE SYMPTOMATIC:**

**If the employee or judicial officer is tested while symptomatic, and the test is negative for the coronavirus (COVID-19), the employee may:**

- Return to work after they have been symptom-free for 72-hours without the use of fever-reducing medication, and
- Are able to pass the daily screening questions.
  - ❖ **The contacts reported by the symptomatic employee may also return to the workplace.**
  - ❖ Management should determine whether violating the Supreme Court Order or corresponding protocols, which include ensuring appropriate social and physical distancing warrants corrective measures or communications.
  - ❖ **The CEO or their designee must immediately report the test results to the ERT using the electronic Google form.**

**Employees or judicial officers denied access to a courthouse or other building due to symptoms that are related to a CHRONIC ILLNESS OR CONDITION may follow the guidance under **HEALTH SCREENING**.**

### 3. **NEGATIVE TEST WHILE ASYMPTOMATIC:**

If the employee or judicial officer is tested when they are no longer experiencing symptoms, or are asymptomatic, and the test is negative for the coronavirus (COVID-19) the employee must:

- Must **Self-isolate** for **ten (10) days** following the onset of the symptoms, and may not return to the workplace until the employee or judicial officer is able to pass the daily screening questions.
- A negative test if taken while asymptomatic does not replace the required ten (10) day **self-isolation**.
  - ❖ Infection can occur at any point during the self-isolation period and the full ten (10) day self-isolation is required.
  - ❖ The contacts reported by the asymptomatic employee may not return to the workplace until ten (10) days following the contact or exposure.
  - ❖ Management should determine whether violating the Supreme Court Order or corresponding protocols, which include ensuring appropriate social and physical distancing warrants corrective measures or communications.
  - ❖ The CEO or their designee must immediately report the test results to the ERT using the electronic Google form.

**Unless tested while symptomatic, a negative test result does not end the ten (10) day self-isolation. Infection can occur at any point during the self-isolation period and the full self-isolation period should be completed.**

### 4. **POSITIVE TEST WHILE SYMPTOMATIC OR ASYMPTOMATIC:**

If the employee or judicial officer tests positive:

- The chief judge, administrative authority, or designee must report a positive case to the Supreme Court's ERT **within two (2) hours of learning of the positive case**.
- The employee or judicial officer must:
  - ❖ **Self-isolate for fourteen (14) days** from the date of the test, Be symptom-free for 72-hours without the use of fever-reducing medicine,
  - ❖ Be able to pass the daily screening questions, and
  - ❖ Receive written approval by the chief judge, administrative authority or designee to reenter the workplace using the **NMJB ERT Returning to Work for those who have had Covid-19**.
  - ❖ Management should determine whether violating the Supreme Court Order or corresponding protocols, which include ensuring appropriate social and physical distancing warrants corrective measures or communications.
  - ❖ Management may not require a NMDOH clearance (return to work) letter, and should not require a negative test before allowing the employee to return to the workplace. Employees may continue to test positive while still being released by the NMDOH as no longer infectious.

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- All courthouses and other judicial buildings must be maintained in accordance with the guidelines issued by the NM Department of Health for the cleaning and disinfection of public facilities during the current public health emergency.

## **CORONAVIRUS (COVID-19) – EXPOSURE OR CONTACT WITH A POTENTIAL POSITIVE**

The CEO or designee must report if contact occurs between a potential coronavirus (COVID-19) infected employee or judicial officer and another person who works for the judiciary, or who works in the court, facility, or judicial property using the electronic Google Form and a follow-up report is required once the test results are received.

If the employee did have contact with other court staff either within or outside of the courthouse or judicial building, management should determine whether violating the Supreme Court Order or corresponding protocols, which include ensuring appropriate social and physical distancing warrants corrective measures or communications.

**Ten (10) day self-isolation Period for COVID-19: If you have been exposed to someone with the coronavirus (COVID-19), there is ten (10) day period during which you might become infected. The ten (10) days run from the last date you had contact with the person with the coronavirus (COVID-19). This is also, why the travel quarantine in New Mexico runs for ten (10) days.**

**If a judicial officer or employee lives with or cares for someone with a confirmed positive COVID-19 case, the judicial officer or employee must continue to stay in isolation until fourteen (14) days after the positive COVID household member completes their period of self-isolation; this is a self-isolation period of approximately twenty-eight (28-days) from the date the positive test was taken.**

- 1. An employee or judicial officer who has contact with someone who is suspected of having the coronavirus (COVID-19) must do the following:**
  - Immediately self-isolate for ten (10) calendar days from the last date of contact and exposure from that person (e.g., if five (5) days have passed since the employee or judicial officer last had contact or exposure to the possible positive case, then the self-isolation would be for five (5) days, to equal a total of ten (10) days since last contact or exposure) **unless:**
    - ❖ **If the exposure or contact is with a symptomatic person** who receives a negative coronavirus (COVID-19) test while symptomatic, the employee or judicial officer may **immediately** return to the workplace provided they can pass all screening questions.

- The employee or judicial officer **must** immediately contact the NMDOH to obtain a coronavirus (COVID-19) test conducted by an approved NMDOH testing site, using appropriate and approved NMDOH tests.
- **Cross-Tracing and Contact:** Management must identify all employees or judicial officers in contact with the possible positive employee within the preceding ten (10) days, and send those employees and judicial officers home to telework until the employee's test results are returned (contact is defined as less than six (6) feet for more than three (3) minutes).
- The employee or judicial officer may work from home during the period of self-isolation to the extent that work can be performed remotely, and with the permission of the chief judge, administrative authority, or designee.
- The judicial officer or employee must report if they begin experiencing coronavirus (COVID-19) symptoms to their supervisor **and** Human Resources immediately, and provide a list of any employees or judicial officers the worker has been in contact with over the preceding ten (10) days.
- **If an employee or judicial officer has a positive or pending coronavirus (COVID-19) contact case within their household, please refer to #2 below.**

**2. If the exposure or contact is with a household member (child, spouse, etc.):**

- If an employee or judicial officer has a positive or pending coronavirus (COVID-19) contact case within their household, the employee should begin self-isolation of ten (10) days, and **must** immediately contact the NMDOH to obtain a coronavirus (COVID-19) test conducted by an approved NMDOH testing site, using appropriate and approved NMDOH tests. The employee should contact the NMDOH to see if the employee and household members should be tested, and continue self-isolating unless the employee or judicial officer's household member's **contact's** test is confirmed as negative.
- **If the test results of the contact (the person the household member came in contact with) are not able to be obtained, the employee or judicial officer should self-isolate for the full ten (10) days.**
- If the contact of the household member is determined to have been negative, the employee or judicial officer may return to the workplace provided they can pass the daily screening questions.
  - ❖ **Example - DAYCARE or SCHOOL CONTACT:** For example, if an employee or judicial officer's child's school is closed due to a potential coronavirus (COVID-19) case, the employee or judicial officer, and household members should self-isolate for ten (10) days, or until the person, the child was exposed to receive a negative coronavirus (COVID-19) test. The employee or judicial officer, and household members should take a coronavirus (COVID-19) test administered by

an approved NMDOH testing site, using appropriate and approved NMDOH tests.

❖ **Example - SPOUSE CONTACT AT PLACE OF EMPLOYMENT:** For example, if an employee or judicial officer's spouse is exposed to a potential coronavirus (COVID-19) case, the employee or judicial officer, and household members should self-isolate for ten (10) days, or until **the person, the spouse was exposed to** receive a negative coronavirus (COVID-19) test. The employee or judicial officer and household members should take a coronavirus (COVID-19) test taken by an approved NMDOH testing site, using appropriate and approved NMDOH tests.

- If an employee or judicial officer's household member tests positive, the employee or judicial officer must continue to stay in isolation until **fourteen (14) days *after* their positive COVID household member completes *their* fourteen (14) day period of self-isolation. If the employee or judicial officer test positive, they must follow the protocols for positive tests in section 4 above.**

### 3. If the household member works in the medical field with coronavirus (COVID-19) patients?

- A household member who works in the medical field with a coronavirus (COVID-19) positive patient is not considered a potential case for the purposes of an employee or judicial officer's contact.
- Those who work in the medical field follow stringent protective personal equipment (PPE) requirements, and are not required to self-isolate.
- If the household member who works in the medical field displays coronavirus (COVID-19) symptoms the employee must take a coronavirus (COVID-19) test taken by an approved NMDOH testing site, using appropriate and approved NMDOH tests, and begin the ten (10) day period of self-isolation.
- However, if the household member is confirmed positive with the coronavirus (COVID-19), the employee must take a coronavirus (COVID-19) test taken by an approved NMDOH testing site, using appropriate and approved NMDOH tests, and begin the **fourteen (14) day** period of self-isolation.

### 4. What does "came in contact," "close contact," or "contact" with someone, mean?

- There is no distinction between close contact, came in contact, or contact.
- All are defined as being less than a minimum of six (6) feet from a potential or confirmed positive case of the coronavirus (COVID-19) for three (3) minutes or more.
- **Contact** can occur while caring for, living with, visiting, traveling with, or sharing a healthcare waiting area or room with a coronavirus (COVID-19) case; or have been in contact with any secretion of a coronavirus (COVID-19) infected person

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(e.g., being coughed on).

**5. When does a negative coronavirus (\*COVID-19) test replace the ten (10) day self-isolation period?**

- If an employee or judicial officer is symptomatic, experiencing coronavirus (COVID-19) related symptoms and is tested immediately upon becoming symptomatic and the test is negative, the employee or judicial officer may return to the workplace after being symptom-free for 72-hours without the use of fever-reducing medicine and provided they are able to pass all daily screening questions.
- If an employee or judicial officer does not get tested while symptomatic, or if they are tested after the symptoms are gone, then they will need to still get tested, and self-isolate for ten (10) days, and not return to the workplace until they have been symptom-free for 72-hours without the use of fever-reducing medicine, and are able to pass all daily screening questions.
- An employee or judicial officer who is not exhibiting coronavirus (COVID-19) symptoms but has had exposure to a positive case **MUST** self-isolate for fourteen days, and a negative test is not a substitute for the self-isolation (because the employee or judicial officer was tested while asymptomatic).
- The coronavirus (COVID-19 test) must be taken by an approved NMDOH testing site, using appropriate and approved NMDOH tests.

## **Coronavirus (COVID-19): Mandatory Checklist**

A mandatory checklist for addressing potential or confirmed cases of COVID-19 can be found [here](#).

### **Employees**

[NMDOH 2019 Novel Coronavirus Disease \(COVID-19\)](#)

[NMDOH Essential Business – Essential Employees](#)

[Judiciary Pandemic Policies and Forms](#)

### **Employee: Benefits**

[My Benefits New Mexico](#)

- 1. If my employee's spouse or domestic partner was laid off, and they were**

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**carrying the benefits, will my employee be uninsured until the next open enrollment?**

- No.
- Employees may enroll for medical, dental, vision, and prescription benefits outside of the open enrollment period when they have a qualifying event.

**2. What is a Qualifying Event and how does it apply?**

- A qualifying event may include a change in job status of a spouse/domestic partner, including a reduction of hours or termination, which results in a loss of coverage, or inability to gain coverage from new employment, and includes any event resulting in a loss of medical benefits. Other Qualifying Events include:
  - Change in the job status of an employee including a reduction of hours due to FMLA, LWOP, and/or Disability.
  - Marriage or change in marital status, such as divorce or legal separation, resulting in a loss of coverage. This includes satisfying requirements for Domestic Partnership eligibility or termination of a Domestic Partnership.
  - Birth of a child, a court awarded adoption or legal guardianship.
  - An event resulting in a loss of coverage.
  - Loss of dependent status, dependent turning age 26.
  - Receiving a Qualified Medical Child Support Order (QMCSO).
  - Any other circumstance where the individual had other coverage and loses it due to circumstances beyond their control must be evaluated by the Risk Management Division for eligibility.

**3. What does my employee need to do to pick up benefits due to a loss of coverage or a Qualifying Event?**

- The employee must contact ERISA and Human Resources within 31 days of the qualifying event.

**4. When will my employee's benefits be effective?**

<u>Qualifying Event</u>	<u>Effective Date</u>
Birth, adoption, legal guardianship, marriage, termination of domestic partnership	The date the event occurs
Domestic Partnership Affidavits	The date it is notarized
Divorce	The date the Final Decree is filed

Dependent losing coverage due to turning 26 years of age	Benefits will terminate at the end of the last day of the month in which the dependent turns 26
Change in job status (reduction of hours or termination)	The date following the event
The gaining of other coverage	The date prior to new coverage effective date
Death of employee or dependent	The date reflected on the death certificate

## Employee Leave

### Judiciary Pandemic Policies and Forms

- Employees, who are diagnosed with a pandemic, communicable disease, or the coronavirus (COVID-19), may be eligible for the Paid Pandemic Leave for Positive Coronavirus (COVID-19) Tests until March 31, 2021.
- Employees whose immediate family members or household members are confirmed with a pandemic, communicable disease, or the coronavirus (COVID-19) and must provide care may also be eligible for the Paid Pandemic Leave for Positive Coronavirus (COVID-19) Tests until March 31, 2021
- Employees must telework to the extent they are able, and management is encouraged to provide alternative work schedules to support telework.

### Pandemic and Communicable Disease Policy

1. **If I am affected by the daycare and school closures and am only able to telework part-time what type of leave may I take?**
  - Employees affected by the closure of daycare facilities or public or private school due to the Coronavirus (COVID-19) may be eligible for NMJB Paid Pandemic Leave for School or Day Care Closures for up to 20 hours per week for four (4) weeks with a maximum allowance of 80 hours.
  - Employees must telework to the extent they are able, and management is encouraged to provide alternative work schedules to support telework.

## Eviction Proceedings

The Supreme Court has paused evictions for New Mexicans who prove they are unable to pay rent during the COVID-19 public health emergency.

[Supreme Court Order No. 20-8500-007 \[Uniform Owner-Resident Relations Act\]](#)

[Supreme Court Order No. 20-8500-008 \[Mobile Home Park Act\]](#)

Evictions for Non-Payment of Rent – Uniform Owner-Resident Relations Act cases

- Effective for all writs of restitution issued on or after March 24, 2020, judges presiding in eviction proceedings arising under the Uniform Owner-Resident Relations Act shall stay the execution of writs of restitution issued for non-payment of rent only.
- The judge presiding in the case must be satisfied that the resident has demonstrated by a preponderance of the evidence a current inability to pay the monthly rent established by the rental agreement. Evictions for Non-Payment of Rent – Mobile Home Park Act cases.
- Effective for all writs of restitution issued on or after March 24, 2020, judges presiding in eviction proceedings arising under the Mobile Home Park Act shall stay the execution of writs of restitution issued for non-payment of rent only.
- Judges shall stay the removal of the mobile home from the mobile home park or foreclosing upon the mobile home.
- The judge presiding in the case must be satisfied that the resident has demonstrated by a preponderance of the evidence a current inability to pay the monthly rent established by the rental agreement.

## Exhibits

### Emergency Court Protocols

1. **What is the submission deadline to offer documentary exhibits for hearings held by telephonic or audiovisual connection?**
  - Under Emergency Court Protocol No. 3(B), no later than forty-eight (48) hours before the start of any hearing, unless otherwise directed by the court, the offering party shall submit the following to the court with a copy to the opposing parties:
    - The proffered exhibits; and
    - An exhibit list that indicates whether the parties stipulate or object to the admission of each proffered exhibit and, if opposed, the grounds for any objections.
  - If it appears that one or more proffered exhibits will be opposed, the presiding judge may hold an evidentiary hearing prior to the hearing at which the exhibits

are sought to be admitted in order to resolve objections to the admission of exhibits.

- The admission of exhibits opposed on foundational or authentication grounds may be conditionally admitted pending witness testimony, but purely legal objections to the admission of an exhibit may be resolved before the hearing for which the exhibits are sought to be admitted.

## **Extensions of Time Deadlines for Trials in Criminal Cases**

### **Emergency Court Protocols**

- Under Emergency Court Protocol No. 3 (F), the calculation of any deadlines in Rules 5-604, 6-506, 7-506, 8-506, and LR2-308 NMRA for all cases pending or filed on or after the date of this order shall not include any period of time-delay caused by the current public health emergency.
- However, to exclude a period of time from the calculation of deadlines under the terms of this Emergency Court Protocol, the judge must enter specific findings of fact demonstrating that the period of delay was caused by the current public health emergency.

## **Plea and Settlement Deadlines**

### **Emergency Court Protocols**

- 1. In criminal and civil proceedings what is the deadline to submit a plea agreement or settlement agreement?**
  - Under Emergency Court Protocol No. 3, plea agreements and settlement agreements must be submitted for the court's consideration by a deadline set in the court's consideration that will allow the court sufficient time to take action on the plea agreement or settlement agreement no later than five (5) business days before the scheduled date for jury selection or commencement of a bench trial.
  - A request for the court to approve an untimely plea agreement or settlement agreement shall not be granted except upon a written finding by the judge of extraordinary circumstances that excuse the untimely submission of the agreement. If the court denies a request to accept an untimely plea agreement or settlement agreement, the case shall proceed to trial on the scheduled date.
  - Where there is a denial of a request to accept an untimely plea agreement in a criminal case, a defendant may elect to plead guilty to all charges leaving full sentencing discretion with the court or the state may elect to dismiss all charges

- with prejudice any time before or during the trial.
- The provisions of the Emergency Court Protocol shall not apply to the plea deadline provisions in the local Rule LR2-308 NMRA or non-attorney prosecutions in the metropolitan and magistrate courts.
  - The Emergency Court Protocol shall be effective for all cases in which a jury selection or bench trial is scheduled to commence on or after July 1, 2020.

## Fines and Fees

### Supreme Court Order No. 20-8500-005

### Supreme Court Order No. 20-8500-019

- The order adds thirty (30) days to the payment deadline imposed by a Magistrate, Metropolitan, District, or Municipal Court for fines and fees that must be paid between March 19, 2020, and May 29, 2020.
- The extension does not apply to amounts past due.
- Order No. 20-8500-019 adds thirty (days) to the payment deadlines imposed for fines and fees due between May 30, 2020, and June 30, 2020.

## Health Screening and Screening Questions

### Emergency Court Protocols

- Under Emergency Court Protocol No. 1 (B), all courts shall ask the approved screening questions and conduct temperature checks on the forehead (not on the wrist or neck) of judicial officers, employees, jurors, attorneys, witnesses, litigants, the press, and the general public prior to their entry into a courthouse or other building operated or occupied by the judiciary and deny access to anyone, who:
  - 1) Is not wearing a mask or protective face covering;
  - 2) Has a temperature equal to or greater than 100.4 degrees Fahrenheit; or,
  - 3) Answers “yes” to any of the required screening questions located on the [Coronavirus \(COVID-19\) Information web page](#).
- **All judicial officers and employees must answer the daily screening questions using the Supreme Court ERT Google Form, whether teleworking or before reporting to work.**
- **The local judicial entity’s Human Resources professional must review the responses daily to ensure compliance with entry restrictions and to follow reporting requirements. To maintain appropriate confidentiality,**

**daily screening responses shall not be reviewed by the employee's supervisor or non-Human Resources personnel.**

- **The following exception to using the Supreme Court ERT Google Form before reporting to work must be approved by the chief judge, administrative authority or designee, and includes:**
  - Passing the verbal screening questions at the entrance of courthouse or judicial building,
  - Observing all COVID-19 Safety Protocols including wearing double masks or face coverings and maintaining safe physical distancing of 6 feet or more, **and**
  - Going directly to a computer to fill out the Supreme Court ERT Google Form.
- **If a justice partner refuses the Supreme Court screening process they must be denied access to the courthouse, or building operated or occupied by the judiciary.**
- Management must ensure that screening protocols are properly conducted daily to prevent sick employees or judicial officers from entering the court, facility, or judicial property.
- All courts shall maintain a daily log of all persons entering a courtroom. The daily log shall include the name, telephone number, and date of entry for each person on the log and be retained for four (4) weeks.
- Employee and judicial officer security screening logs or responses shall not be retained beyond fourteen (14) days.
- The employee or judicial officer taking temperatures may elect to wear a face shield and protective eyewear in addition to their approved face covering, but face shields and protective eyewear are not a substitute for a mask or face covering.
- **Any employee or judicial officer who is denied access to a courthouse or other building because of the results of the screening or temperature check shall be required to do the following:**
  - Immediately notify the chief judge, administrative authority, or designee and contact the NMDOH to obtain a test for COVID-19 and disclose the results of the test to the chief judge, administrative authority, or designee.
  - Engage in a ten (10) day period of self-isolation from when the symptoms began unless **approved in writing by the chief judge, administrative authority, or designee of the judicial district (required written approval explained below).**
  - The coronavirus (COVID-19 test) must be taken by an approved NMDOH testing site, using appropriate and approved NMDOH tests, and should be taken while the employee is symptomatic. The judicial officer or employee may telework to the extent that their work can be

performed remotely with the permission of the chief judge, administrative authority, or designee.

- **Upon investigation into the employee or judicial officer's failure to pass the screening questions the chief judge, administrative authority, or designee of the judicial district may choose to allow entry under one of two possible situations:**
  - 1) The employee or judicial officer's travel falls under the authorized and allowed exemptions, or
  - 2) Where the employee or judicial officer has a negative test while symptomatic and provides medical verification that the symptoms relate to a chronic illness or condition.
    - The employee or judicial officer must report any new or changing symptoms immediately and follow the requirements of **COVID testing and symptoms**.
    - The chief judges, administrative authority, or designee should be very cautious about allowing entry based on a symptom being chronic.
    - Approval granted by the chief judge, administrative authority, or designee shall be communicated using the **NMJB ERT Screening Exception to Enter Courthouse or Judicial Building form**, with a copy of the approval sent to the ERT prior to entry.

## Identification Issues in Remote Criminal Proceedings

### Emergency Court Protocols

Under Emergency Court Protocol No. 3 (C), a party challenging the identification of a defendant at a hearing to be held by telephonic or audiovisual connection shall notify the court and opposing counsel at least forty-eight (48) hours before the hearing so that the court and opposing counsel have adequate time to prepare and make arrangements for conducting the hearing in a manner conducive to addressing and resolving a challenge to the identity of the defendant.

## Interpreters

1. **Are interpreters able to appear by phone or video if parties appear remotely?**
  - Yes. The interpreter can appear remotely regardless of the parties' location.
  - The interpreter, courtroom, jail, and/or parties connect to the same VMR (Video Meeting Room).
  - The courtroom, jail, and/or parties connect via video, and the interpreter connects by phone (the court must dial 5 before the country/area code. For example, 5 1 505 270 0206).



- All parties connect through Google Hangout Meet.
- 2. Is simultaneous interpreting possible if the interpreter appears remotely?**
- Yes.
  - However, unlike consecutive interpreting, two audio channels are needed for simultaneous interpreting to take place.
  - The LEP party and the interpreter will share the phone audio channel. This will be the line used to render the simultaneous interpretation of the non-English language to the LEP party. This phone line must NOT be connected through the Polycom system.
  - The interpreter will also share the Polycom audio line with the court. This line is used when the LEP party speaks, testimony, etc. The interpreter will communicate with the court using this line. Alternatively, Google Hangout or Meet can be used.

## Jury Trials

### Emergency Court Protocols

Under Emergency Court Protocol No. 2 (C):

- Civil and criminal jury trials scheduled to commence on or after November 16, 2020, are suspended until January 1, 2021, unless the suspension is extended by future order of the Supreme Court or unless the Chief Justice approves the commencement of a jury trial after November 16, 2020.
- The resumption of civil and criminal jury trials by July 15, 2020, shall occur pursuant to individualized court operation plans submitted by the chief judge in each judicial district for approval by the Supreme Court.
- Jury trials shall be held in a manner that allows the press and members of the public to observe in person or by audiovisual connection if necessary to comply with social distancing requirements.
- Plans submitted by the chief judge to conduct jury trials shall incorporate all of the precautionary measures in the Emergency Court Protocols, including maintaining a minimum distance of six (6) feet in each direction between every individual participating in the trial proceedings.
- Approved plans for conducting jury trials and other in-person proceedings shall not be revised without the approval of the Supreme Court. Courts should send any proposed plan revisions with redlined tracking to the Supreme Court's ERT.
- Jury duty will continue in a method that minimizes contact among groups of people within a courtroom or office setting.

Courts shall screen all jurors and deny access to any juror who:

- Is not wearing a double mask or protective face covering;
- Has a temperature equal to or greater than 100.4 degrees Fahrenheit; or,
- Answers “yes” to any of the required screening questions located on the [Coronavirus \(COVID-19\) Information web page](#).

## Masks or Face Coverings

### Emergency Court Protocols

### Supreme Court Order No. 20-8500-016

### NMDOH Guidance on Masks or Face Coverings

### CDC Poster: Important Information about your mask or face covering

**Mask Requirement: Effective February 15, 2021: All impaneled jurors must wear double masks or face coverings; and no later than February 22, 2021, all judicial employees, judicial officers, contractors, and volunteers must wear double masks or face coverings, meaning:**

- A surgical mask underneath a cloth mask;
- Two cloth masks, provided they fit against the face without gaps;
- A mask containing a PM2.5 filter between two layers of fabric;
- A KF94 mask; or
- A KN95 mask.
- **Warning: Please be aware, and cautious, of counterfeit respirators, counterfeit KN95 masks or misrepresentations on National Institute for Occupational Safety and Health (NIOSH) approval on the market. The following website provides additional guidance:**

<https://www.cdc.gov/niosh/npptl/usernotices/counterfeitResp.html>

- The use of double protective masks or face coverings for employees, judicial officers, and impaneled jurors, and a single layer of a protective mask or face covering for all others (including witnesses, attorneys, Voir Dire jurors, and the general public) that fully covers the nose and mouth and secures under the chin shall be required while entering and while in a courthouse, judicial building, or other physical space used, occupied, or operated by the New Mexico Judiciary. Protective face coverings must:
  - Be made with at least two (2) layers of breathable material,
  - Fit snugly but comfortably against the side of the face,
  - Not have holes including exhaust valves,
  - Not be made of lace, mesh, knitted material, or fleece, and
  - Be secured with ties or ear loops and allow the wearer to have their hands free.
- At this time, based on guidance from health authorities, the following are not

acceptable face coverings or masks:

- Neck gaiters,
  - Bandanas,
  - Clear masks,
  - Face shields, unless worn in addition to an approved face covering,
  - Masks with exhaust valves, mesh material, or holds of any kind, and
  - Any face-covering deemed inappropriate by the administrative authority of a court or judicial facility.
- Additionally, employees, judicial officers, contractors, and volunteers must wear double masks or face coverings while entering and exiting the building, while on court or judicial entity grounds including parking areas, and while on paid breaks.

\*Face coverings include all masks or other face coverings that cover the nose and mouth. Plastic face shields are not a substitute for masks or other face coverings but may be worn in addition. New Mexicans are required to use approved facemasks during the public health emergency and non-compliance by an individual may result in citations, fines, or if an employee or judicial officer corrective measures.

The Emergency Court Protocols exclude the following individuals from the mask or face covering requirement.

- Young children who are unable to remove the mask or face covering without assistance;
- Anyone who provides written proof from a health care provider not to wear a mask or face covering (If an employee or judicial officer has been advised by a health care provider not to wear a face covering, they should contact their Human Resources professional to discuss this situation);
- Anyone unconscious, incapacitated, or otherwise unable to remove a mask or face covering without assistance, or
- As mentioned below, a judicial officer or employee who is alone working in a private office when no one else is present is also not required to wear a mask.

**1. Can an employee or judicial officer take their mask or face covering off while working in a private office with the door open?**

- The use of protective masks or face coverings is not required by an employee or judicial officer when in that person's private office with no one else present.
- An employee or judicial officer may remove their mask or face covering while working in their private office, and may leave the door open provided the following conditions are met:
  - There is appropriate space between the employee or judicial officer's doorway and where they work or their desk is located (minimum six (6) feet); and,
  - The employee or judicial officer put on their mask or face covering as soon as someone comes to their doorway, and prior to anyone entering their

office.

- Employees working in cubicles, carrels, or similar spaces are not considered private offices.
- Double masks or face coverings are required of all employees and judicial officers at all times in all areas of the courthouses and judicial facilities.
- Employees, judicial officers, contractors, vendors, and volunteers **MUST** additionally follow all other protocols and safeguards such as:
  - Ensuring a social distance of a **minimum of six (6)** feet;
  - Disinfecting and sanitizing their mask or face covering at least daily;
  - Washing their hands regularly for a minimum of 20 seconds; and
  - Sanitizing their workspace, etc.

## **2. Are face masks or face coverings required during judicial proceedings?**

- Yes, during trials and hearings all participants including attorneys, witnesses, and jurors shall wear a face covering at all times, including while testifying and deliberating.
- Impaneled jurors must wear double masks.
- If the identification of a party or witness is required, they may remove the face covering for a very brief moment provided they do not speak while the face covering is removed.

## **Mass Gatherings / Social and Physical Distancing**

### **Emergency Court Protocols**

- All gathering of individuals, including judicial officers, employees, jurors, attorneys, litigants, the press, and the general public, in a single, connected location within a courthouse or other building must allow for the appropriate social and physical distancing of a minimum of six (6) feet in each direction.
- All employees, judicial officers, contractors, vendors, and volunteers must, in addition to wearing a face covering, must maintain an appropriate social and physical distance of a minimum of six (6) feet while entering, inside, and exiting a courthouse or judicial building.
- If a minimum of six (6) feet, distancing cannot be maintained then Plexiglass or other barriers must be installed.
- Under Emergency Court Protocol No. 2 (A), all trials that are not required to be suspended, all hearings, and other court-organized gatherings of any type and at any location shall be held in a manner that limits the number of individuals in a single, connected location within a courthouse or other building to allow for appropriate social distancing, as recommended by public health authorities. This includes judges, court personnel, jurors, attorneys, litigants, the press, and the general public.

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- In any such gathering, a minimum of six (6) feet in each direction must be maintained between every individual while entering, inside, and exiting the courthouse.
- All individuals must wear a protective mask or face covering at all times while participating in a judicial proceeding, including witnesses and jurors. While entering and while in a courthouse, judicial building, or other physical space used, occupied, or operated by the New Mexico Judiciary, judicial officers, employees, jurors, contractors and volunteers must wear a double masks or face coverings, and all others (including witnesses, attorneys, and the general public) are strongly encouraged to wear double masks or face coverings and must wear at least one protective mask or face covering, that fully covers the nose and mouth and secures under the chin,.
- In-person work-related social gatherings, such as potlucks, birthday parties, farewells, etc., both on judiciary property and off judiciary property are not permitted. Avoiding social gatherings during this public health emergency not only aids in preventing the spread of the virus within the workforce and the workplace but also in the community.

## Judicial Proceedings – Format of Court Proceedings

Under Emergency Court Protocol No. 2 (A), judicial officers, court personnel, attorneys, all witnesses, and jurors shall wear a masks or face coverings at all times during trials and other hearings, including while testifying or deliberating.

1. **Can a party or witness take off their mask or face covering during a proceeding?**
  - A mask or face covering may be removed for a very brief moment to allow for the identification of a party or witness provided that the party or witness does not speak while the mask or face covering is removed.
  - At the discretion of the judge, any party may request that a witness be allowed to testify without a mask or face covering, subject to the requirements in the Supreme Court Order:
    - The witness shall be required to appear by two-way audiovisual connection outside of the courtroom;
    - The audiovisual connection must enable simultaneous audiovisual communication;
    - No other person shall be present in the room with the witness while the witness is unmasked.
    - The judge, court monitor or court reporter, the litigants, and their counsel, and all jurors shall be able to see, hear, and observe the demeanor of the witness while testifying;
    - The ability for confidential communication between all parties shall be made

available;

- The judge shall make a factual finding on the record of the necessity for allowing audiovisual testimony. May include finding that the witness is unavailable for testimony in the courtroom because of the need to protect public health during the current public health emergency.

**2. What type of hearings can use the telephonic or audiovisual connection for court appearances by attorneys, litigants, and witnesses?**

- Under Emergency Court Protocol No. 2 (B), all hearings except for jury trials, unless the judge makes an oral written finding of fact and conclusions of law supporting a compelling need for an in-person appearance.
- The judge shall confer with the parties and obtain approval from the chief judge before proceeding with an in-person appearance.
- A judge can grant continuances upon motion of any party in appropriate cases when remote appearances are not feasible but a compelling need for an in-person appearance does not exist.
- The press and members of the public shall be able to observe any telephonic or audiovisual hearings.

**3. Can defendants who are required to be present under criminal procedure rules appear remotely?**

- At the discretion of the judge, defendants may appear through remote, audiovisual provided that confidential communication between the defendant and defense counsel is made available.

## **Motions to Reduce Sentences**

- Under Emergency Court Protocol No. 3 (H), the deadline to file a motion to reduce a sentence under Rule 5-801 (A) NMRA may be waived by the court upon a showing of an extraordinary change in circumstances caused by the current public health emergency.

## **Municipal Court and Probate Court Closures**

### **Emergency Court Protocols**

Municipal and probate courts may close if the building in which a court operates is closed by county or municipal authorities or if the presiding judge in the court chooses to do so. A notice must be posted at the closed courthouse with the locations and phone numbers of the nearest magistrate and district courts and provided that the public and the chief district judge in the judicial district is given advance notice of any such closure.

# Operation Plans

## Supreme Court Order No. 20-8500-016

### 1. NMJB OPERATIONAL PLANNING FOR THE CORONAVIRUS (COVID-19):

- The New Mexico Judicial Branch has implemented three levels or tiers of operations to respond to the coronavirus public health emergency to balance public health and safety with court access and openness in accordance with the New Mexico Supreme Court's Orders.
- Each level or tier outlines protocols and procedures to be followed should a court or judicial entity need to reduce access to the public or reduce its staffing levels.

### 2. NMJB OPERATIONAL PLANNING: What are the Operational Planning Tiers?

- Level 1 or Tier 1 is a Scaled Back Plan.
- Level 2 or Tier 2 is the Core Operations Plan.
- Level 3 or Tier 3 is the Minimal Operations Plan.

### 3. NMJB OPERATIONAL PLANNING: How will a judicial entity know when to move from Level 1 to Level 2 or Level 3? Can the chief judge decide when to implement a different plan?

- The Supreme Court will inform judicial entities when they may implement either their Core or Minimal Operations Plan.
- If the chief judge believes, he or she needs to implement the court's Core or Minimal Operations Plan they should contact the Supreme Court ERT immediately.
- Implementation of Core and Minimal Operation Plans may be approved on a case-by-case basis, or statewide depending upon the circumstances.

### 4. CHIEF JUDGE DESIGNEE: As chief judge, should I designate someone as my backup, especially in light of the coronavirus emergency? And if so, should I inform the Supreme Court of who that person is?

- Yes.
- A chief judge must have a designee selected and report who that person is and their contact information to the Chief Justice.

## Peremptory Excusals

### Emergency Court Protocols

- To facilitate case management processes in the metropolitan and magistrate courts during the current public health emergency, the temporary suspension of the exercise of peremptory excusals under Rules 1-088.1, 2-106, 3-106, 5-106, 6-106, 7-106, and 10-162 shall remain in place for cases filed on or before December 31, 2020, and shall be lifted for all cases filed on or after January 1, 2021.
- The provisions of the Emergency Court Protocols shall not apply to the plea deadline provisions in local Rule LR2-308 NMRA or to non-attorney prosecutions in the metropolitan and magistrate courts.

## Posters

[NMJB Help Keep Courts Safe screening poster in English](#)

[NMJB Help Keep Courts Safe screening poster in Spanish](#)

[Centers for Disease Control \(CDC\) COVID-19 Posters](#)

## Precautionary Measures for Operating Judicial Buildings

[Emergency Court Protocols](#)

## Precautionary Measures for Conducting Judicial Proceedings

[Emergency Court Protocols](#)

## Temporary Procedural Requirements for Judicial Proceedings

[Emergency Court Protocols](#)

## Probate Court and Municipal Court Closures

[Emergency Court Protocols](#)

Under Emergency Court Protocol No. 1 (A), probate and municipals courts may close if the building in which a court operates is closed by county or municipal authorities or if the



presiding judge in the court chooses to do so, provided notice is posted at the closed courthouse with the locations and phone numbers of the nearest magistrate and district courts and provided that the public and the chief judge in the judicial district is given advance notice of any such closure.

## Remote Proceedings

### Emergency Court Protocols

Standard operating procedures for teleconferences, Google Hangouts/Meet, and Polycom are available [here](#).

- Under Emergency Court Protocol No. 2 (B), all judges shall use telephonic or audiovisual attendance for court appearances by attorneys, litigants, witnesses, and for attendance by the press and public unless there is an emergency need for an in-person appearance upon motion of a party.
- A judge may also require an in-person appearance on the judge's initiative, without a motion by a party, provided that the judge shall confer with the parties and the chief judge of the district before proceeding with an in-person appearance.
- Judges may continue to take other protective measures, including the granting of continuances upon motion of any party or the judge's motion, in appropriate cases when remote appearances are not feasible but an emergency need for an in-person appearance does not exist. Any criminal procedure rules requiring the presence of the defendant may be accomplished through remote, audiovisual appearance at the discretion of the judge, provided that confidential communication between the defendant and defense counsel is made available.

## Sentencing

### Emergency Court Protocols

The deadline for filing a motion to reduce a sentence under Rule 5-801(A) NMRA may be waived by the court upon a showing of an extraordinary change in circumstances caused by the current public health emergency.

**“Screening” – see “Health Screening”**

## Self-Isolation and Quarantine

Please refer back to the “Confirmed Positive” section here or to “Travel” here.

## **Standard Operating Procedures (Remote Proceedings)**

[Google Hangouts/Meet Standard Operating Procedure](#)

[PolyCom Operating Procedures for Court Hearings](#)

[Telephonic and Video Conferencing Technology Directions](#)

## **Supreme Court Orders**

[NMJB Supreme Court Orders related to the Coronavirus](#) [note the link goes to the top of the page – you will need to scroll down to the ‘Orders of the Court’]

## **Supplies**

[Coronavirus \(COVID-19\) Potential or Confirmed Case - Initial Report Checklist](#)

NMDOH Directives on Cleaning and Disinfection of Public Facilities in Response to Novel Coronavirus

## **Telework**

NMJB Telework Training Opportunities for employees

### **Emergency Court Protocols**

Under Emergency Court Protocol No. 1 (D), the chief judge, administrative authority, or designee in each judicial district may continue to permit employees to work from home if they can effectively perform their designated functions remotely, provided that adequate personnel continues to remain on-site for court operations that must take place inside the courthouse.

## **Travel Including Court Ordered Travel**

### **Emergency Court Protocols**

#### **NMDOH Travel Recommendations**

- 1. Can employees and judicial officers travel out-of-state for work-related business?**
  - No, all out-of-state travel for work-related business by judicial officers and employees are suspended until further order of the New Mexico Supreme Court.

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- See: [Emergency Court Protocol No. 1](#), Precautionary Measures For Operating Courthouses and Other Judicial Buildings.

**2. Can employees or judicial officers travel out-of-state on personal business? If yes, what restrictions or self-isolation is required?**

- All employees and judicial officers are strongly discouraged from traveling out-of-state or internationally on personal business.
- The chief judge, administrative authority or designee may deny any leave request for out-of-state travel.
- Any employee or judicial officer who engages in out-of-state or international travel shall:
  - Request the travel, and report the nature, extent, and details of the travel to the chief judge, administrative authority, or designee of the judicial entity **prior to travel**, or if advance notice of the out-of-state travel is not possible due to unforeseen, emergency circumstances, must report **as soon as possible after the travel begins**; and
  - Any employee or judicial officer who engages in or returns from out-of- state or international travel shall **engage in a required ten (10) day period of self- isolation upon return to New Mexico before returning to the workplace (exceptions outlined below)**.
  - Any judicial officer or employee who engages in out-of-state or international travel shall comply with the self-isolation and self-quarantine requirements in: [Emergency Court Protocol No. 1](#), Precautionary Measures for Operating Courthouses and Other Judicial Buildings.

**3. Are there other exceptions in which an employee or judicial officer who travels or returns from out-of-state travel would not have to self-isolate for the ten (10) days prior to returning to the workplace?**

- An employee or judicial officer may return to work after a seven (7) day self-isolation if the judicial officer or employee takes a test for the coronavirus (COVID-19) five (5) days after returning to New Mexico, receives a negative test result, and can pass the daily screening questions.
- There is no required self-isolation period if the travel by the employee or judicial officer, or for the employee's or judicial officer's household member, is for commuting to and from the personal residence of the employee or judicial officer and if telework is not available, and provided there are no discretionary stops, the travel does not include mass gatherings with other persons, and the travel otherwise complies with other social distancing requirements and recommendations from New Mexico public health authorities.
- There is no required self-isolation period if the travel is required by the employee's or judicial officer's household member, and provided there are no discretionary stops, the travel does not include mass gatherings with other

- persons, and the travel otherwise complies with other social distancing requirements and recommendations from New Mexico public health authorities.
- There is no required self-isolation period if the employee or judicial officer left the state for 24-hours or less for matters attendant to non-discretionary parenting responsibilities, such as travel for custody or visitation exchanges, or to transport a child to or from school or college, and provided the employees or judicial officers do not engage in leisure or vacation activities, the travel is not to an international destination, there are no discretionary stops, the travel does not include a mass gathering with other persons, and the travel otherwise complies with other social distancing requirements and recommendations from New Mexico public health authorities.
  - For **essential medical treatment** for the employee or judicial officer or that person's immediate family member, provided that the travel is not to an international destination, the travel is not for vacation purposes, there are no discretionary stops, the travel does not include a mass gathering with other persons, and the travel otherwise complies with other social distancing requirements and recommendations from New Mexico public health authorities.
  - **Emergency Court Protocols**

**4. If I have contact with a household member or visitor who travels back into the state, am I required to self-isolate?**

- Yes, **unless provided for in the below exception.**
- If an employee or judicial officer has contact with any person, including a household member, who arrives in New Mexico from out-of-state or international location, the employee or judicial officer shall engage in a ten (10) day period of self-isolation from the date of contact with the person before returning to the workplace except as provided in the exception below.
- An employee or judicial officer may return to work after a seven (7) day self-isolation if the judicial officer or employee takes a test for the coronavirus (COVID-19) five (5) days after contact with the person who traveled into New Mexico, receives a negative test results, and can pass the daily screening questions. The employee or judicial officer must inform their supervisor, CEO, **and chief judge, administrative authority or designee prior** to the household member's out-of-state travel.
- Any employee engaged in a period of self-isolation required under these FAQs or Supreme Court Orders due to out-of-state travel (unless provided for in an exception), should be allowed to telework for the required ten (10) day self-isolation, or may take accrued leave.
- **Exception - there is no required self-isolation period if the travel for the**

employee's or judicial officer's household member is employment required due to their employment.

5. **Is there a specific form the court should use to submit employee travel notifications?**
  - No.
  - There is not a specific form, however, it is recommended the court create and use a form for consistency.
  
6. **Can individuals, who engage in out-of-state air travel, enter a courthouse?**
  - Under the Emergency Court Protocols, any person, other than a judicial officer or employee, who engages in or returns from out-of-state travel may enter a courthouse to appear pursuant to a court order, provided that the person successfully passes all other safety and public health screenings required by the court and otherwise complies with all other applicable directives from public health authorities. See Emergency Court Protocol No. 1, Section B(4).
  - If not pursuant to a lawful court order, then the individual would be required to self-isolate as outlined in the Supreme Court Order and Protocol or these FAQs.

## Vaccination for Coronavirus (COVID-19)

1. **What guidance does the ERT have to judicial entities on the coronavirus (COVID-19) vaccination distribution?**
  - The following website allows judicial officers and employees to pre-register for the vaccination: <https://cvvaccine.nmhealth.org/>.
  - Contractors who work inside a court or judicial facility may select "court personnel" when pre-registering for the vaccine.
  - Family members may pre-register as well, though dependents under the age of 18 may encounter difficulties pre-registering.
  - Chief judges, administrative authority or designee are encouraged to be in touch with local health officials responsible for vaccine distribution.
  - However, please **do not try to "jump the line"** or get in front of those in other phases or groups eligible for vaccination, e.g., health care providers. When vaccinations are available for the court personnel category, the ERT recommends that judicial entities **prioritize frontline court personnel**.
  - Judicial officers and employees who receive the vaccination during working hours may use the COVID-Activities time reporting code in SHARE.
  
2. **Are vaccinations mandatory for judicial officers or employees?**

- There is currently no policy mandating vaccinations, but chief judges, administrative authority or designee will be informed if this changes.
3. **Do I need to report judicial officers and employees who receive the vaccination?**
    - Yes.
    - Please report any judicial officers or employees who receive the vaccination to AOCHRD at [aochrd-grp@nmcourts.gov](mailto:aochrd-grp@nmcourts.gov). The ERT will be tracking and monitoring the judiciary's vaccination progress.
    - The identity of those vaccinated or not vaccinated will be confidential.
  4. **What if someone who gets the vaccination becomes symptomatic?**
    - Judicial officers and employees should continue to follow the Supreme Court Emergency Court Protocols and FAQs, and test and self-isolate if they experience the identified COVID-19 symptoms even if they have received a vaccine.
  5. **Will I need the coronavirus (COVID-19) vaccine even if I'm not in a high-risk group?**
    - The NMDOH website states: Yes. While many people with the COVID-19 have only a mild illness, others may get a severe case. There is no way to know in advance how COVID-19 will affect you, even if you are not at an increased risk of severe complication. The COVID-19 vaccination helps protect you by creating an antibody response without having to experience sickness. The sooner most people are vaccinated and protected against COVID-19 disease, the sooner New Mexicans and all Americans can get back to normal life. [<https://cv.nmhealth.org/covid-vaccine/>]

**Questions on pre-registration or vaccinations may be directed to the NMDOH at 1-833-551-0518.**

## **Vendors & Essential Business Services**

1. **The court has vendors who reside out-of-state, or who provide supplies from out-of-state. Is this still acceptable?**
  - Unless the vendor provides “essential business” services, a vendor who travels to New Mexico from another state to provide you supplies are not allowed in the court or judicial facility until they have been self-isolated for ten (10) days upon entry into New Mexico.
  - If the vendor provides “essential business services” as defined by the applicable public health order, then a self-isolation period is not required.

## Visitation

**Supreme Court Order No. 20-8500-009**

**Supreme Court Order No. 20-8500-014**

- The Supreme Court has suspended visitation between children in the Children Youth and Family Division's (CYFD) care and their parents.
- The district court may exercise its discretion to allow in-person visitation between children and respondents upon the recommendation of CYFD and a showing by clear and convincing evidence that measures are taken with respect to the in-person visitation to ensure the safety and well-being of the children during the current public health emergency.

## Volunteers

- Volunteers should not be allowed in court facilities during this public health emergency.

## **RESOURCES:**

### **SUPREME COURT ORDERS**

1. Supreme Court Order No. 20-8500-002 Precautionary Measures for Court Operations in the New Mexico Judiciary during the COVID-19 Public Health Emergency.
2. Supreme Court Order No. 20-8500-003 Out-of-State Travel by Judicial Officers and Employees of the New Mexico Judiciary during the COVID-19 Public Health Emergency.
3. Supreme Court Order No. 20-8500-004 Temporary Case Management protocols for Children's Court Cases in the New Mexico Judiciary during the COVID-19 Public Health Emergency.
4. Supreme Court Order No. 20-8500-005 Additional Time to Pay Fines and Fees during the COVID-19 Public Health Emergency.
5. Supreme Court Order No. 20-8500-006 Additional Precautionary Measures for Court Operations in the New Mexico Judiciary During the COVID-19 Public Health Emergency.
6. Supreme Court Order No. 20-8500-007 Stay of Writs of Restitution Issued Under the Uniform Owner-Resident Relations Act During the COVID-19 Public Health Emergency.
7. Supreme Court Order No. 20-8500-008 Stay of Writs of Restitution Issued Under the Mobile Home Park Act During the COVID-19 Public Health Emergency.
8. Supreme Court Order No. 20-8500-009 Stay of All Court Orders Requiring In-Person Visits Between Children in Custody of the New Mexico Children, Youth and Families Department and Respondents under the Abuse and Neglect Act.
9. Supreme Court Order No. 20-8500-010 Amended Deadlines Under Rules 24-101 and 18-301 NMRA For the New Mexico Bar Dues and MCLE Delinquency and Administrative Suspension Processes During the COVID-19 Public Health Emergency.
10. Supreme Court Order No. 20-8500-014 - Extension of the Stay of All Court Orders Requiring In-Person Visits Between Children in Custody of the New Mexico Children, Youth and Families Department and Respondents Under the Abuse and Neglect Act



11. Supreme Court Order No. 20-8500-015 – The Administration of the Bar Examination by the New Mexico Board of Bar Examiners During the COVID-19 Public Health Emergency
12. Supreme Court Order 20-8500-016 - Continuity of Court Operations During the COVID-19 Public Health Emergency
13. Supreme Court Order 20-8500-018 – Requiring Visitation Between Children in Custody of the New Mexico Children, Youth and Families Department and Respondents Under the Abuse and Neglect Act During the COVID-19 Public Health Emergency
14. Supreme Court Order 20-8500-019 – Extending the Time to Pay Certain Fines and Fees During the COVID-19 Public Health Emergency
15. Supreme Court Order 20-8500-021 – The Stay of Issuance of Writs of Garnishment and Writs of Execution in Consumer Debt Collection Cases During the COVID-19 Public Health Emergency
16. Supreme Court Order 20-8500-024 - Continuity of Court Operations During the COVID-19 Public Health Emergency
17. Supreme Court Order 20-8500-034 - Continuity of Court Operations During the COVID-19 Public Health Emergency
18. Supreme Court Order 20-8500-037 – Amendment of the New Mexico Judiciary Public Health Emergency Protocols
19. Supreme Court Order 20-8500-038 – Amendment of the New Mexico Judiciary Public Health Emergency Protocols
20. Supreme Court Order 20-8500-039 – Amendment of the New Mexico Judiciary Public Health Emergency Protocols
21. Supreme Court Order 20-8500-040 – Amendment of the New Mexico Judiciary Public Health Emergency Protocols
22. Supreme Court Order 20-8500-042 – Amendment of the New Mexico Judiciary Public Health Emergency Protocols

# APPENDIX A

## Definitions

### **Approved DOH COVID-19 Test:**

DOH approved tests include home test kits mailed to a judicial officer or employee from an approved provider sponsored or in coordination with the DOH. Approved site locations in this context include the judicial officer or employee's residence. We have been told the home test kits have a shelf life of approximately 12-months.

### **Contact:**

Contact is defined as an exposure of three minutes or longer within six (6) feet, with a mask. The NMJB does not distinguish between "contact" and "close contact".

### **Essential Medical Treatment:**

Essential medical treatment includes:

- Routine medical services in response to a complaint or condition identified by the employee or their health care provider,
- Preventative care, including the coronavirus (COVID-19) vaccine, and screening services, and
- Does not include elective treatment or procedures.
- Non-essential health care services, procedures, and surgeries include those, which can be delayed for three months without undue risk to patient health.

### **Face Coverings:**

Face Coverings includes all masks or other face coverings that cover the nose and mouth. Plastic face shields are not a substitute for a mask or other face-coverings but may be worn in addition to the face covering.

### **Self-Isolation:**

A person self-isolating may only leave a residence or place of lodging to receive medical care and should not allow others into the residence or place of lodging except for those providing medical care, emergency response, or other individuals designated by the NMDOH.