

**FILED**

JUN 10 2020

*Judith L. Johnson*

Civ. 20-1

Yankton County Clerk of Courts  
1st Judicial Circuit Court of South Dakota

IN RE THE ADMINISTRATION OF  
THE FIRST JUDICIAL CIRCUIT

\*  
\*  
\*

ADMINISTRATIVE ORDER #5  
RE: COVID-19 PANDEMIC RESPONSE

Pursuant to the March 13, 2020 South Dakota Supreme Court Order Declaring Judicial Emergency, as well as applicable provisions of SDCL 16-2-21, in dealing with the COVID-19 Pandemic, the Honorable Cheryle Gering, Presiding Judge of the First Judicial Circuit, enters the following administrative order.

**IT IS HEREBY ORDERED** that this order supersedes all previous First Circuit COVID-19 Orders (#1 through #4) and is effective immediately.

**IT IS HEREBY ORDERED** that the 2020 assignment order is modified in that all First Circuit magistrate and circuit judges in the First Circuit are authorized to hear cases in all fourteen (14) counties of the First Circuit that are within their respective statutory jurisdictions. If a regularly assigned judge is not able or available to hold court in their county, any available First Circuit judge of competent jurisdiction will be directed by the presiding judge to cover that county;

**IT IS FURTHER ORDERED** that if no judge is available, regular motion days and other hearings or trials scheduled to be heard in any county in the First Circuit are subject to being cancelled by the presiding judge;

**IT IS FURTHER ORDERED** that in any First Circuit county, whenever the commissioners of a county determine it is necessary to limit or exclude the public from accessing other offices in the courthouse and/or public safety center where the court, court administration, clerk of court, and court services has its offices, chambers, and courtrooms, no judge or UJS employee shall be denied access to any court office or courtroom. In addition, public access to the courthouse for persons that have court related business may not be limited or excluded. If the courthouse should be locked to the public the county commission shall post written notice on all entrances to the courthouse, as well as on any public websites or other public postings utilized by the county, that advises persons that public access to the court system will be maintained and that they can call the county clerk of court for all cases, and, in criminal cases, the county state's attorney's office.

**IT IS FURTHER ORDERED** that the First Circuit has approved the posting of signs that ask all persons entering for court business to self-screen for health concerns. The judges may also request that county sheriff offices assist with screening during court days. If the county commission wishes to physically screen any person who enters the courthouse or public safety building for health concerns, the county commission is responsible for providing the persons and equipment to do that screening.

**IT IS FURTHER ORDERED** that each county in the First Circuit (with the exception of Buffalo County) shall continue to provide staff to regularly clean and disinfect all courtrooms, court chambers, offices, and adjacent areas.

**IT IS FURTHER ORDERED** that in addition to being mindful of any restrictive policies that are put in place by county commissions that control their respective county buildings, all judges, court services officers, clerks of court, and other court staff in each county shall adopt practices to encourage social distancing in all interactions and shall adopt schedules which will result in smaller groups of participants and spectators in courtrooms.

**IT IS FURTHER ORDERED** that whenever SDCL 15-5A permits a hearing to be conducted by ITV, with the permission of the judge hearing the case, parties and/or counsel are permitted and encouraged to appear by telephone, Zoom, or other electronic means. All parties, attorneys, media, and persons who want to be present for or participate in a court hearing or trial should contact the county clerk of court's office to determine if they can appear telephonically or by electronic means. Requests for such appearances must be made as far in advance of the hearing as possible.

**IT IS FURTHER ORDERED** that the circuit judge assigned to the criminal court docket in each county in the First Circuit, with input from any assigned magistrate judge or clerk magistrate in that county, has the authority to alter the First Circuit Arrest & Bond Procedures and the Fine and Bond Schedule for Use by Clerk Magistrates to provide for unsecured bonds in lieu of secured bonds;

**IT IS FURTHER ORDERED** that any documents that need to be obtained from, or filed with, a clerk of court shall be filed via Odyssey, mailed, or emailed to the clerk of court's office whenever possible;

**IT IS FURTHER ORDERED** that if law enforcement testing is not available to perform any HOPE probation testing in any First Circuit county, court services will perform periodic testing of the probationer in lieu of the normal HOPE probation testing;

**IT IS FURTHER ORDERED** that if any 24/7 testing center in the First Circuit determines it cannot continue to provide 24/7 testing in whole or in part, the circuit court judge assigned to the criminal docket in that county, as well as the presiding judge, shall work with that 24/7 testing center to discuss the length and extent of the cessation of testing, with the goal of making any cessations as short and limited as possible;

**IT IS FURTHER ORDERED** that if 24/7 testing becomes unavailable in any county in which it was available when a permit was issued, any driving permit that has been issued pursuant to SDCL 32-23-23 or other law is subject to being continued or revoked by the issuing judge as that judge determines appropriate based upon the circumstances of the individual case;

**IT IS FURTHER ORDERED** that any mandatory sanction required pursuant to the Application of Supervisory Responses (ASR) established by SDCL 23A-48-7 and SDCL 23A-48-9, may be deferred, so long as such deferral has been staffed by the court services officer with the deputy or chief court services officer of the First Circuit;

**IT IS FURTHER ORDERED** that with consultation between the judge, parties, and counsel, jury trials may be scheduled, held, or continued based on the ability of the trial to be held in keeping with CDC guidelines and recommendations;

**IT IS FURTHER ORDERED** that weddings may be scheduled and performed by clerk magistrates, magistrates, and circuit judges in the First Circuit. Weddings held in the courtroom or other court facilities are limited to 10 attendees in addition to the bride, groom, and officiant. Social distancing and other CDC recommendations should be followed. If there are local COVID19 outbreaks or other related concerns, the officiant may postpone the wedding, exclude any attendee, and/or require the bride, groom, and attendees to wear masks.

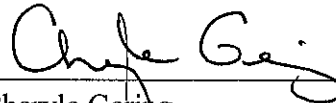
**IT IS FURTHER ORDERED** that whenever a First Circuit clerk of court's office is closed by the presiding judge for any period of time due to a COVID-19 necessitated closure, the presiding judge and court administrator shall assign the work of that clerk of court's office to another clerk's office during the closure. Staff who are able will assist remotely or at an alternate location.

**IT IS FURTHER ORDERED** that courtrooms and/or jury rooms may be used for depositions, arbitrations, and mediations by scheduling through a clerk of court's office, but this use is subject to be cancelled at any time by the presiding judge if circumstances warrant such cancellation.

**IT IS FURTHER ORDERED** that this Order shall continue in effect until modified or terminated by the Presiding Judge.

Dated this 10th day of June, 2020.

BY THE COURT:



Cheryle Gering  
Presiding Circuit Judge

ATTEST:

Jody Johnson

Yankton County Clerk of Courts

