

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

25TH JUDICIAL DISTRICT

DISTRICT COURT DIVISION

ADMINISTRATIVE ORDER

FOR THE DISTRICT COURT DIVISION AND MAGISTRATES COURT

IN THE 25TH JUDICIAL DISTRICT -

DECEMBER 2020 UPDATED RESPONSE TO THE JUDICIAL BRANCH RESPONSE TO THE JUDICIAL BRANCH
RESPONSE TO COVID-19

NOW COMES the undersigned Chief District Court Judge of the 25th Judicial District, and it appearing that in response to the order of the Chief Justice on March 13, 2020 regarding COVID-19 the undersigned entered a temporary order based upon the conditions existing at that time; Later in the same day after the entry of the temporary order, a memorandum regarding temporary Audio Video policy was sent out by NCAOC Director, McKinley Wooten, Jr.; On Saturday, March 14, 2020 Governor Roy Cooper entered an executive order prohibiting the congregation of 100 persons or more and canceled school for two weeks in the state of North Carolina; On Sunday, March 15, 2020 the Honorable Cheri Beasley issued a memorandum that reiterated and clarified her March 13, 2020 order; and an order to order was issued and filed by this office on March 16, 2020 to abide by the order of the Chief Justice of the North Carolina Supreme Court, and the additional circumstances recited herein. On March 27, 2020 Governor Roy Cooper entered Executive Order 121 and enacted a "Stay at Home" order. On Friday, April 3, 2020 the Honorable Cheri Beasley issued a new order with new Emergency Directives necessary to reduce the spread of infection while ensuring the continuation of essential court functions though January 15, 2021. On May 20, 2020 Governor Roy Cooper entered Executive Order 141 easing restrictions on Travel, Business Operations and Mass Gatherings. On May 21, 2020 the Honorable Cheri Beasley issued a new order an additional Emergency Directives expanding court operations effective June 1, 2020.

In response to the growing number of Coronavirus cases, on November 10, 2020 Governor Roy Cooper entered Executive Order 176 reducing the number of people who can gather. On December 8, 2020 Governor Roy Cooper entered Executive Order 181 which is a modified Stay-At-Home order. On December 11, 2020 the Honorable Cheri Beasley notified us that she will be re-establishing Emergency Order 1 beginning December 14, 2020 for 30 days that follow:

Emergency Directive 1

All superior court and district court proceedings be scheduled or rescheduled for a date no sooner than 30 days from the issuance of this order, unless:

1. the proceeding will be conducted remotely;
2. the proceeding is necessary to preserve the right to due process of law (e.g., a first appearance or bond hearing, the appointment of counsel for an indigent defendant, a probation hearing, a probable cause hearing, etc.);
3. the proceeding is for the purpose of obtaining emergency relief (e.g., a domestic violence protection order, temporary restraining order, juvenile custody order, judicial consent to juvenile medical treatment order, civil commitment order, etc.); or

4. the senior resident superior court judge, chief business court judge, or chief district court judge determines that the proceeding can be conducted under conditions that protect the health and safety of all participants.

This emergency directive does not apply to any proceeding in which a jury has already been empaneled. This emergency directive does not apply to grand juries which have already been empaneled.

This emergency directive does not prohibit a judge or other judicial officer from exercising any in chambers or ex parte jurisdiction conferred by law upon that judge or judicial officer, as provided by law.

2 Additionally, the Chief Justice encourages the superior courts and district courts to liberally grant additional accommodations to parties, witnesses, attorneys, and others with business before the courts who are at a high risk of severe illness from COVID-19.

Therefore, to abide by the most recent order of the Chief Justice of the North Carolina Supreme Court, and the additional circumstances recited herein, the following procedures will be implemented in criminal and civil court through January 15, 2021. This order shall apply to District Court and Magistrates Court in Burke, Caldwell and Catawba counties.

Civil Domestic Violence Court

- Will be in operation on the assigned day on the schedule in the respective county for the purpose of hearing *ex parte* Domestic Violence Protective Order (DVPO) requests and ten-day return hearings pursuant to G.S. 50B.
- A judge will be assigned in each county from 9:00am to 11:00 am for the purpose of hearing requests for emergency relief pursuant to G.S. 50C and to hear emergency and time sensitive *ex parte* matters including, but not limited to: Motions for DVPO, TRO, Motions to Stay Eviction, Renewal Motions of a DVPO and requests for temporary No Contact Orders pursuant to the Workplace Violence Prevention Act. This will be for the weeks of December 14, 2020 and January 4, 2021 and January 11, 2021. The Administrative Order for Emergency Relief Hearings for the weeks of December 21, 2020 and December 28, 2020 shall stay in effect.
- DVPOs with no *Ex Parte* Order, Motions to Show Cause, Motions to Modify or Set Aside, and Motions for Return of Weapons may be continued after January 15, 2021.
- Contact the Clerk of Superior Court in the county where the case is filed. Parties may also find the new court date on www.nccourts.gov.

Civil District Court

- No Jurys will be available for civil trials for any term of District Court until after January 15, 2021.
- Civil non-domestic terms, including motions and magistrate appeals will be rescheduled after January 15, 2021.
- All District Court Arbitrations will be rescheduled after January 15, 2021.
- Only divorces that have a motion for summary judgments will be heard on the assigned day on the schedule in the respective county. All other divorces will be rescheduled after January 15, 2021. Contact the Clerk of Court in the county where the case is filed. Parties may also find the new court date on www.nccourts.gov.

Hospital Hearings

- Will be in operation on the assigned day on the schedule in the respective county for the purpose of hearing IVC matters. The Administrative Order for Emergency Relief Hearings for the weeks of December 21, 2020 and December 28, 2020 shall stay in effect.

Child Support Enforcement Court

- Child Support Enforcement Cases will be in operation on the assigned day on the schedule in the respective county to handle assignment of counsel in new cases and for those where the defendant is in custody.

Domestic Court / Family Court

- All domestic courts will be closed, and cases will be rescheduled after January 15, 2021 unless a hearing is conducted remotely as provided in the latest order from the Chief Justice or the presiding judge determines that the proceeding can be conducted under conditions that protect the health and safety of all participants.
- Contact the appropriate Family Court Case Coordinator in the respective County for family court and domestic court dates.

Criminal District Court

- Will be in operation on the assigned day on the schedule in the respective county for the disposition of first appearances or bond hearings, the appointment of counsel for indigent defendants, probable cause hearings, and any other inmate custody matters, or any other due process issues required by law. If the defendant is in custody due to a probation violation, that matter will be heard, but the defendant will need to be brought to court. If the defendant is close to being held past his/her potential maximum sentence date then that matter should be heard, but the defendant will have to be brought to court. Video First Appearances will be held for any defendant in custody. The Administrative Order for Emergency Relief Hearings for the weeks of December 21, 2020 and December 28, 2020 shall stay in effect.
- First Appearance Court in Catawba County will be heard on the assigned day Video First Appearances will be held for any defendant in custody.
- Traffic Court will not be in operation on the assigned day on the schedule in the respective county during this 30 day period. Cases shall be rescheduled after January 15, 2021.
- All other cases with defendants not in custody will be continued.

Juvenile Abuse, Neglect & Dependency Court

- Will be in operation on the assigned day on the schedule in the respective county for the purpose of holding first appearances, hearings for motions for non-secure custody reviews, pretrial hearings with attorneys only and any other matters required by law. Any and all hearings may be conducted remotely or in-person pursuant to the order of the Chief Justice and the Chief District Court Judge, provided that all the COVID-19 protocols are followed. The purpose of this directive is to protect the rights of parents and juveniles pursuant to NCGS 7B-100. All other juvenile abuse, neglect and dependency matters will be rescheduled after January 15, 2021. The Administrative Order for Emergency Relief Hearings for the weeks of December 21, 2020 and December 28, 2020 shall stay in effect.

Juvenile Delinquency & Undisciplined Court

- Will be in operation on the assigned day on the schedule in the respective county for the purpose of holding first appearances, hearings for secured custody reviews, cases with juveniles in secured custody, and any other emergency matters required by law. All other juvenile delinquency and undisciplined matters will be rescheduled after January 15, 2021. The Administrative Order for Emergency Relief Hearings for the weeks of December 21, 2020 and December 28, 2020 shall stay in effect.

Drug Treatment Court

- Will be in operation on the assigned day on the schedule in the respective county as scheduled as long as the presiding Judge determines that the proceedings can be conducted under conditions that protect the health and safety of all participants.

Small Claims Court (Magistrates' Court)

- All Small Claims Court (Magistrates' Court) will be closed and cases will be rescheduled after January 15, 2021.

Parties should contact either their attorney or the Clerk of Superior Court in the county where the case is filed for the next court date. Parties may also find the new court date on www.nccourts.gov.

Each presiding Judge shall have the authority to conduct proceedings in addition to those herein described, provided that express consent is given by all parties, their attorneys, and any witnesses involved. All of those parties, attorneys, and witnesses shall confirm on the record that the COVID-19 warning attached hereto.

The use of Video or Tele-conferencing shall be pursuant to the terms of Chief Justice Beasley's April 3, 2020 order under Emergency Directive 3 which follows:

"Judicial officials throughout the state are hereby authorized to conduct proceedings by remote audio and visual transmissions, notwithstanding any other North Carolina statutory and or regulatory provision.

Judicial officials who conduct a remote proceeding pursuant to this directive must safeguard the constitutional rights of those persons involved in the proceeding and preserve the integrity of the judicial process. To this end:

- a. A remote proceeding may not be conducted without the consent of each party.*
- b. If a criminal defendant's right to confront witnesses or to be present is implicated by the proceeding that it is to be conducted, then the defendant must waive any right to in-person confrontation or presence before that proceeding may be conducted remotely.*
- c. If the proceeding is required by law to be conducted in a way that maintains confidentiality, then confidentiality must be maintained in the remote proceeding.*
- d. If the proceeding is required by law to be recorded, then the remote proceeding must be recorded.*
- e. Each party to a remote proceeding must be able to communicate fully and confidentially with his or her attorney if the party is represented by an attorney.*

The authorization in this emergency directive prevents judicial officials from conducting in-person proceedings consistent with Emergency Directive 1.”

The Court encourages each County Maintenance Department to provide to those working in the courthouse additional cleaning and sanitation resources, including, but not limited to, hand sanitizer and/or Clorox wipes for use at the front door, and the Court encourages the janitorial staff working at the courthouse to provide extra cleaning and sanitation services in high traffic and high touch areas throughout the courthouse.

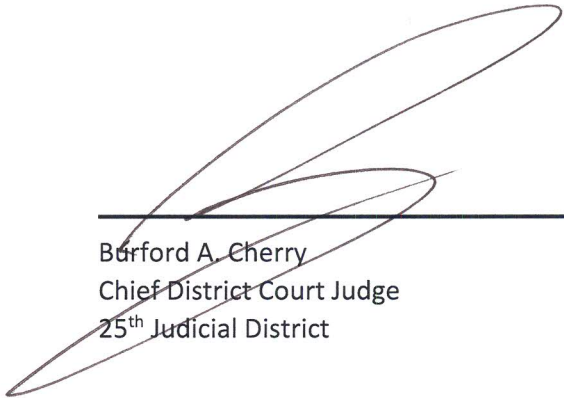
This order supersedes the order signed on May 27, 2020.

To the extent that this order is in conflict with the order of the Chief Justice of the North Carolina Supreme Court on March 13, 2020, April 3, 2020, and May 27, 2020 the orders of the Chief Justice shall apply.

This order may be modified at any time to accommodate further Executive Orders, Orders of the Chief Justice of the North Carolina Supreme Court, and/or directives of the North Carolina Administrative Office of the Courts.

This order shall be effective until and terminate at 5pm, January 15, 2021.

This is the 14th day of December 2020.



Burford A. Cherry
Chief District Court Judge
25th Judicial District