



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-141

For business meeting on: April 6, 2020

Title	Agenda Item Type
Judicial Branch Administration Emergency Rules in Response to the COVID-19 Pandemic	Action Required
	Effective Date April 6, 2020
Rules, Forms, Standards, or Statutes Affected	Date of Report April 4, 2020
Adopt Cal. Rules of Court, emergency rules 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11	
Recommended by	
Hon. Marsha G. Slough, Chair, Executive and Planning Committee	
Hon. David M. Rubin, Chair, Judicial Branch Budget Committee and Litigation Management Committee	
Hon. Kyle S. Brodie, Chair, Technology Committee	
Hon. Marla O. Anderson, Chair, Legislation Committee	
Hon. Harry E. Hull, Jr., Chair, Rules Committee	

Executive Summary

Due to the immediate and ongoing impact the COVID-19 pandemic is having on California's judicial branch, and at the request of Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, the chairs of the Judicial Council's six internal committees recommend that the Judicial Council adopt rules of court to: suspend the entry of defaults in unlawful detainer actions; suspend judicial foreclosures; provide for remote appearance via technology; adopt a statewide emergency bail schedule that sets bail at \$0 for most misdemeanor and lower-level felony

offenses; provide for personal appearance through counsel for defendants in pretrial criminal proceedings; prioritize for juvenile dependency and juvenile delinquency proceedings various hearing and orders and set a structure for remote hearings and continuances; extend the timeframes for specified temporary restraining orders; and adopt miscellaneous civil proposals, including suspending the statutes of limitations governing civil actions. The Judicial Council should take these temporary actions in order to protect the health and safety of the public, court employees, attorneys, litigants, and judicial officers, as well as staff and inmates in detention facilities, and law enforcement during the state of emergency related to the COVID-19 pandemic.

On March 20, 2020 Governor Newsom issued a statewide shelter in place order¹ with limited exceptions for emergency services. Adults over the age of 65 and persons of any age who have serious underlying medical conditions are at higher risk and required to stay home. In addition, several counties have issued local shelter in place orders that are more restrictive than the statewide order issued by the Governor. Courts are currently operating with greatly reduced numbers of staff and judicial officers. The courts' workforce continues to diminish weekly as staff and judicial officers are overtaxed and risking their health. As a result, the courts must responsibly, carefully, stringently and strategically determine which urgent court services take priority. Thus far, the efforts of the judicial branch have been to balance the access to justice for critical and vulnerable populations of people, while ensuring the health and safety of the public we serve and those in the courts. During this time, it is critical to balance the demands on the courts and concerns for the public, including the need to extend time to permit the courts to establish remote technology for those who wish to use it.

Recommendation

The chairs of the Judicial Council's six internal committees recommend that the Judicial Council adopt the following rules of court, to take effect immediately:

Unlawful Detainers and Foreclosures: Proposed Emergency Rules 1-2

1. Adopt emergency rule 1 to suspend the issuance of summons and entry of default and default judgments on unlawful detainer complaints, and to allow courts to set trials on any unlawful detainer actions in which a defendant has appeared more than 60 days after the request for such a trial, unless the court finds that earlier action is needed to protect public health and safety.
2. Adopt emergency rule 2 to stay all actions for judicial foreclosures on mortgages and deeds of trust and extend all deadlines related to such actions.

Use of Technology to Conduct Proceedings Remotely: Proposed Emergency Rule 3

¹ Executive Order N-33-20: <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>

3. Adopt emergency rule 3 to provide that courts may require that judicial proceedings and court operations be conducted remotely; however, in criminal proceedings, courts must receive the consent of the defendant to conduct the proceeding remotely. Conducting proceedings remotely includes, but is not limited to, the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; and the use of remote interpreting, remote reporting, and electronic recording to make the official record of an action or proceeding.

Criminal Proceedings: Proposed Emergency Rules 4-5

4. Adopt emergency rule 4 establishing a statewide Emergency Bail Schedule that sets bail at \$0 for most misdemeanor and lower-level felony offenses and includes other specified provisions.
5. Adopt emergency rule 5 to provide for appearance through counsel and remote appearance via technology for defendants in pretrial criminal proceedings.

Juvenile Dependency and Juvenile Delinquency Proceedings: Proposed Emergency Rules 6-7

6. Adopt emergency rule 6 for juvenile dependency proceedings that would prioritize specified hearings and orders and set a structure for remote hearings and continuances.
7. Adopt emergency rule 7 related to juvenile delinquency that would prioritize hearings and orders in juvenile delinquency proceedings and set a structure for remote hearings and continuances. Emergency rule 7 would also grant an extension of time under Welfare and Institutions Code section 709.

Temporary Restraining Orders: Proposed Emergency Rule 8

8. Adopt emergency rule 8 related to temporary restraining orders that, among other changes, would extend the timeframes for specified orders and allow courts to transmit an order in any format to the entering agency for transmission into the California Department of Justice database.²

Civil Proceedings: Proposed Emergency Rules 9-11

9. Adopt emergency rule 9 to toll the statutes of limitation for all civil causes of action from April 6, 2020, to 90 days after the state of emergency related to the COVID-19 pandemic is lifted.
10. Adopt emergency rule 10 to increase by six months, for all civil actions filed on or before April 6, 2020, the five years in which to bring the actions to trial under Code of Civil

² Family Code section 6380 requires that protective orders be entered into the California Restraining and Protective Order System (CARPOS) maintained by the Department of Justice.

Procedure section 583.310 and the three years in which to bring a new trial of the actions under Code of Civil Procedure section 583.320.

11. Adopt emergency rule 11 to allow a party or nonparty deponent, at their election or the election of the deposing party, to appear at a deposition remotely through electronic means.

Relevant Previous Council Action

This is the second action taken by the Judicial Council to address the impact of the COVID-19 pandemic as it affects California's residents and judicial branch.

- On March 28, 2020³, the Judicial Council met in an emergency session and approved recommendations authorizing and supporting the Chief Justice to, among other actions, issue statewide orders to extend certain statutory deadlines until 90 days after the state of emergency related to COVID-19 is lifted. Those orders include the following:
- Extending the 10-day court period provided in Penal Code section 859b for the holding of a preliminary examination and the defendant's right of release to 30 court days;
- Extending the time period provided in Penal Code section 825 within which a defendant charged with a felony offense shall be taken before a magistrate from 48 hours to not more than 7 days;
- Extending the time period provided in Penal Code section 1382 for the holding of a criminal trial by no more than 30 days; and
- Extending the time periods provided in Code of Civil Procedure sections 583.310 and 583.320 to bring an action to trial by no more than 30 days.

The Judicial Council also directed the superior courts to:

- Make use of available technology, when possible, to conduct judicial proceedings and court operations remotely in order to protect the health and safety of the public, court personnel, judicial officers, litigants, and witnesses. This includes the use of video, audio, and telephonic means for remote appearances, reporting, and interpreting in judicial proceedings; the electronic exchange and authentication of documentary evidence; and the use of e-filing and e-service; and
- For criminal and juvenile proceedings, including arraignments and preliminary examinations, prioritize the use of available technology to meet current statutory time requirements and ensure that defendants are not held in custody, and children are not held

³ Judicial Council of Cal., Judicial Branch Administration: Response to the COVID-19 Pandemic (Mar. 27, 2020), <https://jcc.legistar.com/LegislationDetail.aspx?ID=4408176&GUID=C64F8BB5-2C51-46DC-90FA-A51F1C56BF94>.

in custody or removed from the custody of their parents or guardians, without timely due process of law or in violation of constitutional rights.

The Chief Justice issued a statewide order⁴ on March 30 implementing the temporary emergency measures approved by the Judicial Council. The Chief Justice has also issued two advisories⁵ and one other statewide order,⁶ as well as approximately 100 individual emergency orders at the request of courts.⁷

Analysis/Rationale

Background

The United States continues to be the epicenter of the global pandemic caused by the COVID-19 virus. As of April 3, 2020, it was reported that there have been more than one million confirmed cases of COVID-19 in the world and more than 54,000 deaths.

On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency in California as a result of the threat of COVID-19.⁸ Despite sustained efforts by all levels of government, COVID-19 continues to spread rapidly and is impacting nearly all sectors of California.

As of this writing, the Governor's COVID-19 website reported that in California there are more than 10,000 positive cases and there have been 237 deaths. A surge of COVID-19 cases is expected in the next two weeks, and the Governor predicts that the state needs another 50,000 hospital beds to accommodate new cases. Californians have been directed to stay at home to slow the spread of the virus and to practice social distancing. Nearly all venues with public gatherings have been closed, including state parks and beaches.

The continuous operation of our courts to provide due process and protect the public is essential for our constitutional form of government; however, courts are clearly high-risk places during this pandemic because they require gatherings of judicial officers, court staff, litigants, attorneys, witnesses, defendants, law enforcement, and juries in numbers well in excess of what is allowed for gathering under current executive and health orders. Indeed, many court facilities in California are ill-equipped to implement social distancing and satisfy other public health

⁴ March 30 statewide order: <https://newsroom.courts.ca.gov/news/chief-justice-issues-order-implementing-temporary-court-emergency-measures>.

⁵ The two advisories may found at: <https://newsroom.courts.ca.gov/news/california-chief-justice-issues-guidance-to-expedite-court-emergency-orders>, and <https://newsroom.courts.ca.gov/news/california-chief-justice-issues-second-advisory-on-emergency-relief-measures>.

⁶ March 23 statewide order: <https://newsroom.courts.ca.gov/news/chief-justice-issues-statewide-order-suspending-jury-trials>.

⁷ Copies of the emergency orders may found at: <https://newsroom.courts.ca.gov/news/court-emergency-orders-6794321>.

⁸ State of emergency proclamation: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>.

requirements necessary to protect people involved in court proceedings and prevent the further spread of COVID-19.

Every state and territory in the country has now delayed jury trials. New York State Unified Court System has implemented temporary “virtual court” operations in New York City Criminal and Family Courts to reduce courtroom density and stem the spread of COVID-19. However, courts must provide due process for defendants who are currently in custody and are entitled to timely pretrial appearances.

On March 16, the California legislature voted unanimously to recess from March 20 to April 13 in response to the COVID-19 pandemic. On April 3, the legislature extended their recess to May 4.

On March 24, the Governor issued an order to suspend the intake of all incarcerated persons into adult state prisons and Division of Juvenile Justice facilities at the county level for a minimum of 30 days, which will impact county jail and juvenile detention facility populations.⁹ The spread of the virus has hit California’s inmate population as well as staff members in the prison system. Many inmates have ongoing court cases and courts cannot be assured that safe social distancing can be maintained with the transport of in-custody defendants and the holding cells adjacent to or within courthouses.

On March 25, the California Governor announced an agreement with multiple financial institutions allowing Californians economically impacted by the COVID-19 pandemic to receive 90-day grace periods to make mortgage payments and for at least 60 days, the financial institutions will not initiate foreclosure sales or evictions.¹⁰

On March 27, the Governor issued an executive order banning the enforcement of eviction orders for renters affected by the COVID-19 pandemic through May 31, 2020.¹¹ This was in addition to his previous order on March 16 authorizing local governments to halt evictions for renters impacted by the pandemic.¹²

The Governor, also on March 27, issued an order related to the emergency authority of the Chief Justice and the Judicial Council.¹³ Among other items, the order states:

In the event that the Judicial Council or its Chairperson, in the exercise of rulemaking authority consistent with Paragraph 2, wishes to consider a rule that would otherwise be

⁹ Executive Order N-36-20: www.gov.ca.gov/wp-content/uploads/2020/03/3.24.20-EO-N-36-20.pdf.

¹⁰ Governor’s financial relief package: www.gov.ca.gov/2020/03/25/governor-gavin-newsom-announces-major-financial-relief-package-90-day-mortgage-payment-relief-during-covid-19-crisis/.

¹¹ Executive Order N-37-20: www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-EO-N-37-20.pdf.

¹² Executive Order N-28-20: www.gov.ca.gov/wp-content/uploads/2020/03/3.16.20-Executive-Order.pdf.

¹³ Executive Order N-38-20: www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-N-38-20.pdf.

inconsistent with any statute concerning civil or criminal practice or procedure, the relevant statute is suspended, subject to the following conditions:

- a. The statute is suspended only to the extent it is inconsistent with the proposed rule;
- b. The statute is suspended only if the proposed rule is adopted; and
- c. The statute is suspended only when the adopted rule becomes effective.

Unlawful detainers and foreclosures: proposed emergency rules 1-2

At a time when people are being urged to stay at home to protect public health and safety, unlawful detainers are particularly problematic for two reasons: (1) they require very fast legal responses (within five days) from defendants who are often self-represented and at a time when court self-help centers and legal aid services are not readily available; (2) when involving residential property, they threaten to remove people from the very homes they have been instructed to remain in. In addition, the number of such actions for both commercial and residential properties is likely to explode in coming months—as a significant portion of the population faces severe economic losses due to the closing of businesses, loss of income, and inability to work due to illness or the need for childcare in light of stay-at-home orders—resulting in a surge of unlawful detainer filings and trials in the courts.

The Governor's executive order is intended to help address this crisis by providing an extended answer period to, and banning the enforcement of evictions for, residential tenants who have suffered COVID-19 pandemic-related income loss and meet certain other requirements. That order, however, cannot by itself provide sufficient assistance to tenants and courts to avert this crisis. Proposed emergency rule 1 would amend current court procedures throughout the pandemic to implement the goals of the executive order as well as protect litigants and court staff.

Proposed rule emergency rule 1 would preclude a court from issuing summonses on unlawful detainer complaints. Currently, the summons that must be issued on the filing of an unlawful detainer complaint instructs the defendant that a formal response must be made within five days—instructions that do not apply to those tenants who meet the conditions of the executive order and which, if defendants do follow them, will deprive the defendants of the rights provided in that order and force them to move forward in a fast-paced proceeding with little or no help available. (Because it is not possible to tell from the face of the complaint whether a tenant might be eligible for the extended answer period and protection from enforcement, it is not feasible to limit issuance of summonses to only certain cases.)

The economic hardships brought on by the COVID-19 pandemic mean that many homeowners will have difficulty making mortgage payments for the same reasons that tenants will have difficulties making rent payments. The Federal Housing Finance Agency has directed certain federal lenders to suspend foreclosures during this crisis, but there are many millions of home mortgages still subject to foreclosure. Although most foreclosures in California take place

without any court action, lenders may choose to file complaints for foreclosure and deficiency judgments with the courts, resulting in evictions of residents at a time when they are most in need of shelter and may find it difficult to afford legal defense. Such proceedings will also impact court staff.

Proposed emergency rule 2 would stay court proceedings on judicial foreclosure actions until 90 days after the state of emergency related to the COVID-19 pandemic is lifted, toll the statute of limitations for filing such actions for that same period, and continue the deadlines for exercising any claims of redemption on foreclosure sales.

Use of technology to conduct proceedings remotely: proposed emergency rule 3

On March 28, the Judicial Council directed superior courts to make use of available technology, when possible, to conduct judicial proceedings and court operations remotely, in order to protect the health and safety of the public, court personnel, judicial officers, litigants, and witnesses. On March 30¹⁴, the Chief Justice issued an order suspending any rule in the California Rules of Court to the extent such rule would prevent a court from using technology to conduct judicial proceedings and court operations remotely, consistent with Governor Newsom's Executive Order N-38-20, which also provides for the suspension of related statutes that impose limitations on the subject of these emergency orders.

This recommendation is intended to confirm and clarify those previous actions, and to support courts in conducting essential court functions, including arraignments, preliminary hearings, restraining orders, juvenile proceedings, and mental health hearings, while at the same time implementing the social-distancing measures necessary to limit the spread of COVID-19.

This proposal recommends that the council adopt a rule that would suspend any rule in the California Rules of Court and any statute to the extent that the rules and statutes are inconsistent with or limit a court's ability to require that judicial proceedings and court operations be conducted remotely. Specifically, the proposed rule provides that courts may require that judicial proceedings and court operations be conducted remotely; however, in criminal proceedings, courts must receive the consent of the defendant to conduct the proceeding remotely and otherwise comply with proposed emergency rule 5. The proposed rule is intended to provide courts with broad authority to use technology to conduct proceedings remotely, including using video, audio, and telephonic means for remote appearances; requiring the electronic exchange and authentication of documentary evidence; requiring e-filing and e-service; and using remote interpreting, remote reporting, and electronic recording to make the official record of an action or proceeding.

¹⁴ March 30 statewide order, *supra*, note 4.

Criminal proceedings: proposed emergency rules 4-5

Statewide Emergency Bail Schedule

During the COVID-19 pandemic, trial courts have a vital role to play in balancing public safety and public health by assisting to safely reduce jail populations in a manner that protects the health of inmates, jail staff, those who transport defendants to courts, and others as individuals leave jail and return to their communities. The courts can assist by permitting more persons accused of misdemeanors and other lower-level offenses to be released from jail custody prior to arraignment, which in turn will reduce the immediate burden on the courts to conduct arraignments and preliminary examinations within compact timeframes.

After arrest, an accused person held in jail prior to arraignment must be brought before a magistrate for arraignment within 48 hours (a timeframe that has been extended to seven days under the Chief Justice's order of March 30). Alternatively, if the person has bailed out of custody, there is no specified timeframe within which the arraignment must occur. Whether an accused is in or out of custody, a preliminary hearing must occur within 10 court days after arraignment (a timeframe that has been extended to 30 days under the Chief Justice's order of March 30). If more individuals can bail out of custody, arraignments can be delayed and calendared to a later date, reducing the burden on courts to hold large numbers of arraignments and preliminary examinations within a short timeframe, especially at a time when many courtrooms are closed, and staff is limited.

On March 20, the Chief Justice issued an advisory that recommended the following:

Revise, on an emergency basis, the countywide bail schedule to lower bail amounts significantly for the duration of the coronavirus emergency, including lowering the bail amount to \$0 for many lower level offenses – for all misdemeanors except for those listed in Penal Code section 1270.1 and for lower-level felonies.

Following this advisory, some courts adopted emergency bail schedules, but during this time there is a need for greater uniformity throughout the state.

This proposal is for the Judicial Council to adopt an emergency rule of court that provides for a statewide Emergency Bail Schedule. Proposed emergency rule 4 would require:

- The Emergency Bail Schedule to set bail at \$0 for misdemeanors and certain felonies, with exceptions for serious felonies under Penal Code section 1192.7(c) and violent felonies under Penal Code sections 667.5(c), and other offenses such as those involving domestic violence or stalking, driving under the influence offenses, and offenses requiring sex offender registration.
- Pursuant to Penal Code section 1269b, the application of the statewide Emergency Bail Schedule to any accused currently held in county jail custody charged with an offense

covered by the schedule. The rule would provide that each superior court's current bail schedule would remain in effect for all offenses other than those addressed in the Emergency Bail Schedule and provide courts with authority to revise those remaining portions of their schedules, including setting bail for court-specific conduct enhancements and any status enhancements.

- Bail to be set at \$0 for violations of misdemeanor probation, whether the arrest is made with or without a bench warrant. For violations of felony probation, parole, post release community supervision, or mandatory supervision, bail must be set in the same amount as bail for the underlying substantive charge of conviction under the Emergency Bail Schedule.
- No later than 5 p.m. on April 10, 2020, requires courts to apply the statewide Emergency Bail Schedule to every accused person arrested and in pretrial custody and to every person held in pretrial jail custody.
- This rule will remain in effect until 90 days after the Governor declares that the state of emergency arising from the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

Remote Appearance via Technology and Appearance through Counsel for Defendants in Pretrial Criminal Proceedings

Article I, section 15 of the California Constitution provides, in part, "The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant." Consistent with the Constitution, Penal Code section 977 provides the accused with options regarding personal appearance, appearance through counsel, and appearances via technology for arraignment, plea, sentencing, and other phases of criminal proceedings, requires the defendant's presence under specified circumstances, and provides certain protections.

During the COVID-19 pandemic, trial courts must protect defendants' constitutional rights to have the assistance of counsel and to be personally present with counsel, and at the same time take steps to protect the health of defendants, judicial officers, court staff, counsel, and all those who are required to be present in court. This proposed rule of court, together with other protective efforts, enables courts to strike that balance.

Under the proposed rule, courts must, with the knowing and voluntary consent of the defendant, permit the defendant to appear through counsel at all pretrial portions of a criminal proceeding. Additionally or alternatively, and to the greatest extent possible, courts must provide for the remote appearance of defendants via audio/visual electronic communication or other technology. The technology must provide for private communications between the defendant and the attorney. The rule requires courts to accept defendants' waivers of appearance through oral representation of counsel or electronic communication by the defendant.

Juvenile dependency proceedings: proposed emergency rules 6-7

During the state of emergency related to the COVID-19 pandemic, critical juvenile dependency proceedings, also called child welfare proceedings, need to occur to ensure that a child is safe from child abuse and neglect. Judicial oversight is needed to ensure the safety, permanency, and well-being of children and youth who have been removed from their homes and placed into foster care or who may need to be removed from their homes. Prolonged or indefinite delays in delivering services and postponements of judicial oversight place children's safety and well-being in jeopardy, may lead to unnecessarily long stays in foster care, and are inconsistent with statutory and regulatory requirements. To ensure that courts can provide the critical oversight that is necessary to protect children and families during the state of emergency related to the pandemic, it is recommended that the council adopt an emergency rule of court for juvenile dependency proceedings to take effect immediately that would:

- Prioritize hearings and orders that need to be made in juvenile dependency proceedings. These include hearing detentions, psychotropic medication requests, emergency medical requests, temporary restraining orders, reentry petitions for nonminor dependents, and section 388 petitions that require immediate relief based on the state of emergency related to the pandemic.
- Provide a structure for remote hearings and continuances of hearings during the state of emergency related to the pandemic. Hearing requirements include provisions for remote appearances, service of notice, court reports, determinations of required findings and orders including the need for continuances in certain circumstances, and visitation orders.

Juvenile delinquency proceedings: During the state of emergency related to the COVID-19 pandemic, critical juvenile delinquency proceedings need to occur in order to protect the community and provide for the rehabilitation of the child. Delays in these hearings can cause prolonged and unnecessary detention in juvenile detention facilities that negatively impact the well-being of the child. While there are many parallels between juvenile delinquency and criminal proceedings, there are key differences including confidential proceedings and records, no access to juries, and opportunities to seal records, all of which are rooted in the objective of rehabilitating the child during a key period of development. To ensure that courts can provide the critical oversight and judicial determinations that are necessary to protect the community and provide services to the child during the state of emergency related to the COVID-19 pandemic, it is recommended that an emergency rule be adopted to take effect immediately that would:

- Prioritize hearings and orders that need to be made in juvenile delinquency proceedings. These include hearing detentions and other hearings for in-custody children, psychotropic medication requests, emergency medical requests, temporary restraining orders, reentry petitions for nonminor dependents, any request for a warrant for a child, probable-cause determinations, proceedings for children who are not detained, and hearings for children in foster care.

- Provide a structure for remote hearings and continuances of hearings during the state of emergency related to the pandemic. Hearing requirements include provisions for remote appearances, service of notice, and introduction of evidence.
- Grant an extension of time for requirements under Welfare and Institutions Code section 709 concerning a child who is not competent for juvenile adjudication.

Temporary restraining orders: proposed emergency rule 8

In times of crisis, many individuals, including victims of domestic violence, are more vulnerable as access to the court and social services become more limited. It is imperative that our courts continue to be open to Californians who seek restraining orders to stop abuse, harassment, or other harm. During this crisis, courts are also significantly impacted and are limiting operations to protect the public, court staff, and judicial officers. To ensure that litigants throughout California have access to court services statewide, and to ensure that individuals needing protection have valid and enforceable orders during court closures, it is recommended that the council adopt an emergency rule of court to take effect immediately that would do the following:

1. Provide that emergency protective orders issued pursuant to Family Code section 6250 be granted for up to 30 days;
2. Allow courts to issue temporary restraining orders and gun violence emergency protective orders for up to 90 days, to allow the matter to be heard by the court;
3. Allow courts to automatically extend any criminal protective order that is set to expire during state of emergency related to the COVID-19 pandemic period, for up to 90 days, to allow the matter to be heard by the court;
4. Require courts to provide a means for the filing of ex parte requests for any temporary restraining order. Courts may do so by providing a physical location, drop box, or, if feasible, through electronic means;
5. Allow e-signatures for restraining order requests;
6. If the proposed restrained party appears remotely, not require further service on the restrained party for enforcement purposes, provided that the court follows the requirements of Family Code section 6384; and
7. When extending a temporary restraining order, if completing the mandatory Judicial Council forms is impractical, allow courts to transmit an order in any format to the entering agency for transmission into the California Department of Justice database.¹⁵

¹⁵ Family Code section 6380 requires that protective orders be entered into CARPOS.

Civil proceedings: proposed emergency rules 9-11

The COVID-19 pandemic is having a severe impact on the lives and well-being of all Californians. The human crisis, in turn, has disrupted and delayed the operations of superior courts across the state. Given Constitutional imperatives, the superior courts have had to shift their resources to address the most urgent criminal actions and proceedings affecting the most vulnerable. The disruption to court operations will have long-term repercussions on the workload of the superior courts, and civil trials of less urgent matters are likely to be the last to be resolved in the courts' increasing backlog.

To protect the rights of litigants in civil proceedings and to address the long-term backlog of civil actions, the chairs of the internal committees recommend the following rule proposals:

Toll the running of statutes of limitation for civil causes of action

Proposed emergency rule 9 tolls the statutes of limitation for civil causes of action. Tolling stops or suspends the running of time in statutes of limitations; when the tolling period ends (90 days from the end of the state of emergency), the time to bring an action will begin to run again. This rule is necessary to allow parties and attorneys time to investigate, gather information and evidence, and determine whether to file an action. During the pendency of the state of emergency, the ability to do so is restricted. Proposed emergency rule 9 would, for all civil causes of action, toll the statutes of limitation from April 6, 2020, to 90 days after the Governor lifts the state of emergency related to the COVID-19 pandemic.

Extend the time in which to bring civil actions to trial

Proposed emergency rule 10 provides a six-month extension of the statutory limits on the time to bring a civil action to trial.

- Proposed rule 10(a) would, for all civil actions filed before April 6, 2020, increase by six months the time in which the actions would otherwise have to have been brought to trial in Code of Civil Procedure section 583.310 (for a total of five years and six months).
- Proposed rule 10(b) would, for all actions filed before April 6, 2020, if a new trial is granted in the action, increase by six months to three years within which the action would otherwise have to again be brought to trial in Code of Civil Procedure section 583.320 (for a total of three years and six months). Proposed subdivision (b) explicitly confirms that nothing in the subdivision requires that an action again be brought to trial before expiration of the time prescribed in subdivision (a) of the rule.

Remote Depositions

Proposed emergency rule 11 allows for the use of remote depositions. Under current law, a party deponent is required to attend a deposition in person, and a nonparty deponent may appear remotely only with the permission of the court upon a finding of good cause. (Code Civ. Proc., § 2025.310(b); Cal. Rules of Court, rule 3.1010(c) and (d).) At a time when people are being urged, if not required, to stay at home to protect public health and safety, and when courts are already struggling to address the most urgent matters, the chairs of the internal committees

recommend that litigants in civil proceedings be given broader authority to allow a deponent to appear at a deposition through electronic means, and without seeking approval of the court.

Under proposed emergency rule 11, a party or nonparty deponent, at their election or the election of the deposing party, is not required to be present with the deposition officer at the time of the deposition.

Policy implications

The COVID-19 pandemic presents an unprecedented crisis that threatens the lives, health, and safety of all Californians. California courts, however, provide critical services that also affect the lives of many Californians, including some of the most vulnerable. Given the length of time the pandemic may impact the state, the courts cannot delay all proceedings indefinitely and must find a way to continue to provide the most critical services.

Comments

This proposal has not been circulated for comment due to the incredible speed with which the COVID-19 pandemic has spread and the urgent need to provide courts with the tools required to keep providing necessary services while also protecting the health and safety of the public and those who interact with the courts.

Alternatives considered

The council could take no action. Over the past month, however, individual courts have been struggling to address the impact of COVID-19. Given the severity of the crisis, the chairs of the Judicial Council's six internal committees concluded that these recommendations were necessary to help give courts the tools they need to confront the impact of the pandemic.

Fiscal and Operational Impacts

It is anticipated that the proposal will facilitate court operations, allowing courts to continue critical functions while protecting the health and safety of all who would be attending court in person, by effecting compliance with social-distancing mandates. It is uncertain what fiscal impact these recommendations may have on the courts.

Attachments and Links

1. Cal. Rules of Court, Appendix, emergency rules 1–11, at pages 15-29

Emergency Rules 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 of the California Rules of Court are adopted effective April 6, 2020, to read:

1
2 **Emergency rule 1. Unlawful detainers**

3
4 **(a) Application**

5
6 Notwithstanding any other law, including Code of Civil Procedure sections 1166,
7 1167, 1169, and 1170.5, this rule applies to all actions for unlawful detainer.
8

9 **(b) Issuance of summons**

10
11 A court may not issue a summons on a complaint for unlawful detainer unless the
12 court finds, in its discretion and on the record, that the action is necessary to protect
13 public health and safety.
14

15 **(c) Entry of default**

16
17 A court may not enter a default or a default judgment for restitution in an unlawful
18 detainer action for failure of defendant to appear unless the court finds both of the
19 following:
20

21 (1) The action is necessary to protect public health and safety; and

22
23 (2) The defendant has not appeared in the action within the time provided by
24 law, including by any applicable executive order.
25

26 **(d) Time for trial**

27
28 If a defendant has appeared in the action, the court may not set a trial date earlier
29 than 60 days after a request for trial is made unless the court finds that an earlier
30 trial date is necessary to protect public health and safety. Any trial set in an
31 unlawful detainer proceeding as of April 1, 2020 must be continued at least 60 days
32 from the initial date of trial.
33

34 **(e) Sunset of rule**

35
36 This rule will remain in effect until 90 days after the Governor declares that the
37 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
38 repealed by the Judicial Council.
39
40
41

1 **Emergency rule 2. Judicial foreclosures—suspension of actions**

2
3 Notwithstanding any other law, this rule applies to any action for foreclosure on a
4 mortgage or deed of trust brought under chapter 1, title 10, of part 2 of the Code of Civil
5 Procedure, beginning at section 725a, including any action for a deficiency judgment, and
6 provides that, until 90 days after the Governor declares that the state of emergency
7 related to the COVID-19 pandemic is lifted, or until this rule is amended or repealed by
8 the Judicial Council:

- 9
10 (1) All such actions are stayed, and the court may take no action and issue no
11 decisions or judgments unless the court finds that action is required to further the
12 public health and safety.
13
14 (2) Any statute of limitations for filing such an action is tolled.
15
16 (3) The period for electing or exercising any rights under that chapter, including
17 exercising any right of redemption from a foreclosure sale or petitioning the court
18 in relation to such a right, is extended.
19
20

21 **Emergency rule 3. Use of technology for remote appearances**

22
23 **(a) Remote appearances**

24
25 Notwithstanding any other law, in order to protect the health and safety of the public,
26 including court users, both in custody and out of custody defendants, witnesses, court
27 personnel, judicial officers, and others, courts must conduct judicial proceedings and
28 court operations as follows:

- 29
30 (1) Courts may require that judicial proceedings and court operations be
31 conducted remotely.
32
33 (2) In criminal proceedings, courts must receive the consent of the defendant to
34 conduct the proceeding remotely and otherwise comply with emergency
35 rule 5.
36
37 (3) Conducting proceedings remotely includes, but is not limited to, the use of
38 video, audio, and telephonic means for remote appearances; the electronic
39 exchange and authentication of documentary evidence; e-filing and e-service;
40 the use of remote interpreting; and the use of remote reporting and electronic
41 recording to make the official record of an action or proceeding.
42
43

1 **(b) Sunset of rule**

2
3 This rule will remain in effect until 90 days after the Governor declares that the
4 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
5 repealed by the Judicial Council.
6

7
8 **Emergency rule 4. Emergency Bail Schedule**

9
10 **(a) Purpose**

11
12 Notwithstanding any other law, this rule establishes a statewide Emergency Bail
13 Schedule, which is intended to promulgate uniformity in the handling of certain
14 offenses during the state of emergency related to the COVID-19 pandemic.
15

16 **(b) Mandatory application**

17
18 No later than 5 p.m. on April 10, 2020, each superior court must apply the
19 statewide Emergency Bail Schedule:
20

- 21 (1) To every accused person arrested and in pretrial custody.
22
23 (2) To every accused person held in pretrial custody.
24

25 **(c) Setting of bail and exceptions**

26
27 Under the statewide Emergency Bail Schedule, bail for all misdemeanor and felony
28 offenses must be set at \$0, with the exception of only the offenses listed below:
29

- 30 (1) A serious felony, as defined in Penal Code section 1192.7(c), or a violent
31 felony, as defined in Penal Code section 667.5(c);
32
33 (2) A felony violation of Penal Code section 69;
34
35 (3) A violation of Penal Code section 166(c)(1);
36
37 (4) A violation of Penal Code section 136.1 when punishment is imposed under
38 section 136.1(c);
39
40 (5) A violation of Penal Code section 262;
41
42 (6) A violation of Penal Code sections 243(e)(1) or 273.5;
43

- 1 (7) A violation of Penal Code section 273.6 if the detained person made threats
2 to kill or harm, has engaged in violence against, or has gone to the residence
3 or workplace of, the protected party;
4
5 (8) A violation of Penal Code section 422 where the offense is punished as a
6 felony;
7
8 (9) A violation of Penal Code section 646.9;
9
10 (10) A violation of an offense listed in Penal Code section 290(c);
11
12 (11) A violation of Vehicle Code sections 23152 or 23153;
13
14 (12) A felony violation of Penal Code section 463; and
15
16 (13) A violation of Penal Code section 29800.

17
18 **(d) Ability to deny bail**

19
20 Nothing in the Emergency Bail Schedule restricts the ability of the court to deny
21 bail as authorized by article I, section 12, or 28(f)(3) of the California Constitution.
22

23 **(e) Application of countywide bail schedule**

- 24
25 (1) The current countywide bail schedule of each superior court must remain in
26 effect for all offenses listed in exceptions (1) through (13) of the Emergency
27 Bail Schedule, including any count-specific conduct enhancements and any
28 status enhancements.
29
30 (2) Each superior court retains the authority to reduce the amount of bail listed in
31 the court's current countywide bail schedule for offenses in exceptions (1)
32 through (13), or for any offenses not in conflict with the Emergency Bail
33 Schedule.
34

35 **(f) Bail for violations of post-conviction supervision**

- 36
37 (1) Under the statewide Emergency Bail Schedule, bail for all violations of
38 misdemeanor probation, whether the arrest is with or without a bench
39 warrant, must be set at \$0.
40
41 (2) Bail for all violations of felony probation, parole, post-release community
42 supervision, or mandatory supervision, must be set in accord with the
43 statewide Emergency Bail Schedule, or for the bail amount in the court's

1 countywide schedule of bail for charges of conviction listed in exceptions (1)
2 through (13), including any enhancements.

3
4 **(g) Sunset of rule**

5
6 This rule will remain in effect until 90 days after the Governor declares that the
7 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
8 repealed by the Judicial Council.

9
10
11 **Emergency rule 5. Personal appearance waivers of defendants during health**
12 **emergency**

13
14 **(a) Application**

15
16 Notwithstanding any other law, including Penal Code sections 865 and 977, this
17 rule applies to all criminal proceedings except cases alleging murder with special
18 circumstances.

19
20 **(b) Types of personal appearance waivers**

- 21
22 (1) With the consent of the defendant, the court must allow a defendant to waive
23 his or her personal appearance and to appear remotely, either through video
24 or telephonic appearance, when the technology is available.
25
26 (2) With the consent of the defendant, the court must allow a defendant to waive
27 his or her appearance and permit counsel to appear on the his or her behalf.
28 The court must accept a defendant’s waiver of appearance or personal
29 appearance when:
30
31 (A) Counsel for the defendant makes an on the record oral representation
32 that counsel has fully discussed the waiver and its implications with the
33 defendant and the defendant has authorized counsel to proceed as
34 counsel represents to the court;
35
36 (B) Electronic communication from the defendant as confirmed by
37 defendant’s counsel; or
38
39 (C) Any other means that ensures the validity of the defendant’s waiver.
40
41
42

1 **(c) Consent by the defendant**

- 2
- 3 (1) For purposes of arraignment and entry of a not guilty plea, consent means a
4 knowing, intelligent, and voluntary waiver of the right to appear personally in
5 court. Counsel for the defendant must state on the record at each applicable
6 hearing that counsel is proceeding with the defendant’s consent.
- 7
- 8 (2) For purposes of waiving time for a preliminary hearing, consent also means a
9 knowing, intelligent, and voluntary waiver of the right to hold a preliminary
10 hearing within required time limits specified either in Penal Code section
11 859b or under emergency orders issued by the Chief Justice and Chair of the
12 Judicial Council.
- 13
- 14 (3) The court must accept defense counsel’s representation that the defendant
15 understands and agrees with waiving any right to appear unless the court has
16 specific concerns in a particular matter about the validity of the waiver.

17

18 **(d) Appearance through counsel**

- 19
- 20 (1) When counsel appears on behalf of a defendant, courts must allow counsel to
21 do any of the following:
- 22
- 23 (A) Waive reading and advisement of rights for arraignment.
- 24
- 25 (B) Enter a plea of not guilty.
- 26
- 27 (C) Waive time for the preliminary hearing.
- 28
- 29 (2) For appearances by counsel, including where the defendant is either
30 appearing remotely or has waived his or her appearance and or counsel is
31 appearing by remote access, counsel must confirm to the court at each
32 hearing that the appearance by counsel is made with the consent of the
33 defendant.

34

35 **(e) Conduct of remote hearings**

- 36
- 37 (1) With the defendant’s consent, a defendant may appear remotely for any
38 pretrial criminal proceeding.
- 39
- 40 (2) Where a defendant appears remotely, counsel may not be required to be
41 personally present with the defendant for any portion of the criminal
42 proceeding provided that the audio and/or video conferencing system or other
43 technology allows for private communication between the defendant and his

1 or her counsel. Any private communication is confidential and privileged
2 under Evidence Code section 952.

3
4 **(f) Sunset of rule**

5
6 This rule will remain in effect until 90 days after the Governor declares that the
7 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
8 repealed by the Judicial Council.

9
10
11 **Emergency rule 6. Emergency orders: juvenile dependency proceedings**

12
13 **(a) Application**

14
15 This rule applies to all juvenile dependency proceedings filed or pending until the
16 state of emergency related to the COVID-19 pandemic is lifted.

17
18 **(b) Essential hearings and orders**

19
20 The following matters should be prioritized in accordance with existing statutory
21 time requirements.

- 22
23 (1) Protective custody warrants filed under Welfare and Institutions Code section
24 340.
- 25
26 (2) Detention hearings under Welfare and Institutions Code section 319. The
27 court is required to determine if it is contrary to the child’s welfare to remain
28 with the parent, whether reasonable efforts were made to prevent removal,
29 and whether to vest the placing agency with temporary placement and care.
- 30
31 (3) Psychotropic medication applications.
- 32
33 (4) Emergency medical requests.
- 34
35 (5) A petition for reentry of a nonminor dependent.
- 36
37 (6) Welfare and Institutions Code section 388 petitions that require an immediate
38 response based on the health and safety of the child, which should be
39 reviewed for a prima facie showing of change of circumstances sufficient to
40 grant the petition or to set a hearing. The court may extend the final ruling on
41 the petition beyond 30 days.
- 42

1 **(c) Foster care hearings and continuances during the state of emergency**

- 2
- 3 (1) A court may hold any proceeding under this rule via remote technology
- 4 consistent with rule 5.531 and emergency rule 3.
- 5
- 6 (2) At the beginning of any hearing at which one or more participants appears
- 7 remotely, the court must admonish all the participants that the proceeding is
- 8 confidential and of the possible sanctions for violating confidentiality.
- 9
- 10 (3) The child welfare agency is responsible for notice of remote hearings unless
- 11 other arrangements have been made with counsel for parents and children.
- 12 Notice is required for all parties and may include notice by telephone or other
- 13 electronic means. The notice must also include instructions on how to
- 14 participate in the court hearing remotely.
- 15
- 16 (4) Court reports
- 17
- 18 (A) Attorneys for parents and children must accept service of the court
- 19 report electronically.
- 20
- 21 (B) The child welfare agency must ensure that the parent and the child
- 22 receive a copy of the court report on time.
- 23
- 24 (C) If a parent or child cannot receive the report electronically, the child
- 25 welfare agency must deliver a hard copy of the report to the parent and
- 26 the child on time.
- 27
- 28 (5) Nothing in this subdivision prohibits the court from making statutorily
- 29 required findings and orders, by minute order only and without a court
- 30 reporter, by accepting written stipulations from counsel when appearances
- 31 are waived if the stipulations are confirmed on the applicable Judicial
- 32 Council forms or equivalent local court forms.
- 33
- 34 (6) If a court hearing cannot occur either in the courthouse or remotely, the
- 35 hearing may be continued up to 60 days, except as otherwise specified.
- 36
- 37 (A) A dispositional hearing under Welfare and Institutions Code section
- 38 360 should not be continued more than 6 months after the detention
- 39 hearing without review of the child's circumstances. In determining
- 40 exceptional circumstances that justify holding the dispositional hearing
- 41 more than 6 months after the child was taken into protective custody,
- 42 the impact of the state of emergency related to the COVID-19
- 43 pandemic must be considered.

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- i. If the dispositional hearing is continued more than 6 months after the start date of protective custody, a review of the child must be held at the 6-month date. At the review, the court must determine the continued necessity for and appropriateness of the placement; the extent of compliance with the case plan or available services that have been offered; the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement; and the projected likely date by which the child may return home or placed permanently.

- ii. The court may continue the matter for a full hearing on all dispositional findings and orders.

(B) A judicial determination of reasonable efforts must be made within 12 months of the date a child enters foster care to maintain a child’s federal title IV-E availability. If a permanency hearing is continued beyond the 12-month date, the court must review the case to determine if the agency has made reasonable efforts to return the child home or arrange for the child to be placed permanently. This finding can be made without prejudice and may be reconsidered at a full hearing.

(7) During the state of emergency related to the COVID-19 pandemic, previously authorized visitation must continue, but the child welfare agency is to determine the manner of visitation to ensure that the needs of the family are met. If the child welfare agency changes the manner of visitation for a child and a parent or legal guardian in reunification, or for the child and a sibling(s), or a hearing is pending under Welfare and Institutions Code section 366.26, the child welfare agency must notify the attorneys for the children and parents within 5 court days of the change. All changes in manner of visitation during this time period must be made on a case by case basis, balance the public health directives and best interest of the child, and take into consideration whether in-person visitation may continue to be held safely. Family time is important for child and parent well-being, as well as for efforts toward reunification. Family time is especially important during times of crisis. Visitation may only be suspended if a detriment finding is made in a particular case based on the facts unique to that case. A detriment finding must not be based solely on the existence of the impact of the state of emergency related to the COVID-19 pandemic or related public health directives.

(A) The attorney for the child or parent may ask the juvenile court to review the change in manner of visitation. The child or parent has the

1 burden of showing that the change is not in the best interest of the child
2 or is not based on current public health directives.

3
4 (B) A request for the court to review the change in visitation during this
5 time period must be made within 14 court days of the change. In
6 reviewing the change in visitation, the court should take into
7 consideration the factors in (c)(6).

8
9 **(d) Sunset of rule**

10
11 This rule will remain in effect until 90 days after the Governor declares that the
12 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
13 repealed by the Judicial Council.

14
15 **Advisory Committee Comment**

16
17 When courts are unable to hold regular proceedings because of an emergency that has resulted in
18 an order as authorized under Government Code section 68115, federal timelines do not stop.
19 Circumstances may arise where reunification services to the parent, including visitation, may not
20 occur or be provided. The court must consider the circumstances of the emergency when deciding
21 whether to extend or terminate reunification services and whether services were reasonable given
22 the state of the emergency. (Citations: 42 U.S.C. § 672(a)(1)–(2), (5); 45 CFR § 1355.20; 45 CFR
23 § 1356.21 (b) – (d); 45 C.F.R. § 1356.71(d)(1)(iii); Child Welfare Policy Manual, 8.3A.9 Title
24 IV-E, Foster Care Maintenance Payments Program, Reasonable efforts, Question 2
25 (www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=92)); Letter dated March 27, 2020, from Jerry Milner, Associate Commissioner, Children’s
26 Bureau, Administration for Children and Families, U.S. Department of Health and Human
27 Services.)

28
29
30
31 **Emergency rule 7. Emergency orders: juvenile delinquency proceedings**

32
33 **(a) Application**

34
35 This rule applies to all proceedings in which a petition has been filed under Welfare
36 and Institutions Code section 602 in which a hearing would be statutorily required
37 during the state of emergency related to the COVID-19 pandemic.

38
39 **(b) Juvenile delinquency hearings and orders during the state of emergency**

40
41 (1) A hearing on a petition for a child who is in custody under Welfare and
42 Institutions Code section 632 or 636 must be held within the statutory
43 timeframes as modified by an order of the court authorized by Government

1 Code section 68115. The court must determine if it is contrary to the welfare
2 of the child to remain in the home, whether reasonable services to prevent
3 removal occurred, and whether to place temporary placement with the
4 probation agency if the court will be keeping the child detained and out of the
5 home.

6
7 (2) If a child is detained in custody and an in-person appearance is not feasible
8 due to the state of emergency, courts must make reasonable efforts to hold
9 any statutorily required hearing for that case via remote appearance within
10 the required statutory time frame and as modified by an order of the court
11 authorized under Government Code section 68115 for that proceeding. If a
12 remote proceeding is not a feasible option for such a case during the state of
13 emergency, the court may continue the case as provided in (d) for the
14 minimum period of time necessary to hold the proceedings.

15
16 (3) Without regard to the custodial status of the child, the following hearings
17 should be prioritized during the state of emergency related to the COVID-19
18 pandemic:

19
20 (A) Psychotropic medication applications.

21
22 (B) All emergency medical requests.

23
24 (C) A petition for reentry of a nonminor dependent.

25
26 (D) A hearing on any request for a warrant for a child.

27
28 (E) A probable cause determination for a child who has been detained but
29 has not had a detention hearing within the statutory time limits.

30
31 (4) Notwithstanding any other law, and except as described in (5), during the
32 state of emergency related to the COVID-19 pandemic, the court may
33 continue for good cause any hearing for a child not detained in custody who
34 is subject to its juvenile delinquency jurisdiction until a date after the state of
35 emergency has been lifted considering the priority for continued hearings in
36 (d).

37
38 (5) For children placed in foster care under probation supervision, a judicial
39 determination of reasonable efforts must be made within 12 months of the
40 date the child enters foster care to maintain a child's federal title IV-E
41 availability. If a permanency hearing is continued beyond the 12-month date,
42 the court must nevertheless hold a review to determine if the agency has
43 made reasonable efforts to return the child home or place the child

1 permanently. This finding can be made without prejudice and may be
2 reconsidered at a full hearing.

3
4 **(c) Proceedings with remote appearances during the state of emergency.**

5
6 (1) A court may hold any proceeding under this rule via remote technology
7 consistent with rule 5.531 and emergency rule 3.

8
9 (2) At the beginning of any hearing conducted with one or more participants
10 appearing remotely, the court must admonish all the participants that the
11 proceeding is confidential and of the possible sanctions for violating
12 confidentiality.

13
14 (3) The court is responsible for giving notice of remote hearings, except for
15 notice to a victim, which is the responsibility of the prosecuting attorney or
16 the probation department. Notice is required for all parties and may include
17 notice by telephone or other electronic means. The notice must also include
18 instructions on how to participate in the hearing remotely.

19
20 (4) During the state of emergency, the court has broad discretion to take evidence
21 in the manner most compatible with the remote hearing process, including
22 but not limited to taking testimony by written declaration. If counsel for a
23 child or the prosecuting attorney objects to the court's evidentiary
24 procedures, that is a basis for issuing a continuance under (d).

25
26 **(d) Continuances of hearings during the state of emergency.**

27
28 Notwithstanding any other law, the court may for good cause continue any hearing
29 other than a detention hearing for a child who is detained in custody. In making this
30 determination, the court must consider the custody status of the child, whether there
31 are evidentiary issues that are contested, and, if so, the ability for those issues to be
32 fairly contested via a remote proceeding.

33
34 **(e) Extension of time limits under Welfare and Institutions Code section 709**

35
36 In any case in which a child has been found incompetent under Welfare and
37 Institutions Code section 709 and that child is eligible for remediation services or
38 has been found to require secure detention, any time limits imposed by section 709
39 for provision of services or for secure detention are tolled for the period of the state
40 of emergency if the court finds that remediation services could not be provided
41 because of the state of emergency.
42

1 **(f) Sunset of rule**

2
3 This rule will remain in effect until 90 days after the Governor declares that the
4 state of emergency related to the COVID-19 pandemic is lifted, or until amended or
5 repealed by the Judicial Council.
6

7
8 **Emergency Rule 8. Emergency orders: temporary restraining or protective orders**
9

10 **(a) Application**

11
12 Notwithstanding any other law, this rule applies to any emergency protective order,
13 temporary restraining order, or criminal protective order that was requested, issued,
14 or set to expire during the state of emergency related to the COVID-19 pandemic.
15 This includes requests and orders issued under Family Code sections 6250 or 6300,
16 Code of Civil Procedure sections 527.6 , 527.8, or 527.85, Penal Code sections
17 136.2, 18125 or 18150, or Welfare and Institutions Code sections 213.5, 304,
18 362.4, or 15657.03, and including any of the foregoing orders issued in connection
19 with an order for modification of a custody or visitation order issued pursuant to a
20 dissolution, legal separation, nullity, or parentage proceeding under Family Code
21 section 6221.
22

23 **(b) Duration of orders**

- 24
25 (1) Any emergency protective order made under Family Code section 6250 that
26 is issued or set to expire during the state of emergency, must remain in effect
27 for up to 30 days from the date of issuance.
28
29 (2) Any temporary restraining order or gun violence emergency protective order,
30 issued or set to expire during the state of emergency, must remain in effect
31 for a period of time that the court determines is sufficient to allow for a
32 hearing on the long-term order to occur, for up to 90 days from the date of
33 issuance.
34
35 (3) Any criminal protective order, subject to this rule, set to expire during the
36 state of emergency, must be automatically extended for a period of 90 days,
37 or until the matter can be heard, whichever occurs first.
38

39 **(c) Ex parte requests**

- 40
41 (1) Courts must provide a means for the filing of ex parte requests for temporary
42 restraining orders. Courts may do so by providing a physical location, drop
43 box, or, if feasible, through electronic means.

1
2 (2) Any ex parte request may be filed using an electronic signature by a party or
3 a party's attorney.

4
5 **(d) Service of Orders**

6
7 If a respondent appears at a hearing by video, audio, or telephonically, and the
8 court grants an order, in whole or in part, no further service is required upon the
9 respondent for enforcement of the order, provided that the court follows the
10 requirements of Family Code section 6384.

11
12 **(e) Entry of orders into California Law Enforcement Telecommunications System**

13
14 Any orders issued by a court modifying the duration or expiration date of orders
15 subject to this rule, must be transmitted to the Department of Justice through the
16 California Law Enforcement Telecommunications System (CLETS), as provided in
17 Family Code section 6380, without regard to whether they are issued on Judicial
18 Council forms, or in another format during the state of emergency.

19
20
21 **Emergency rule 9. Toll the statutes of limitations for civil causes of action**

22
23 Notwithstanding any other law, the statutes of limitation for civil causes of action are
24 tolled from April 6, 2020, until 90 days after the Governor declares that the state of
25 emergency related to the COVID-19 pandemic is lifted.

26
27
28 **Emergency Rule 10. Extensions of time in which to bring a civil action to trial**

29
30 **(a) Extension of five years in which to bring a civil action to trial**

31
32 Notwithstanding any other law, including Code of Civil Procedure section 583.310,
33 for all civil actions filed on or before April 6, 2020, the time in which to bring the
34 action to trial is extended by six months for a total time of five years and six
35 months.

36
37 **(b) Extension of three years in which to bring a new trial**

38
39 Notwithstanding any other law, including Code of Civil Procedure section 583.320,
40 for all civil actions filed on or before April 6, 2020, if a new trial is granted in the
41 action, the three years provided in section 583.320 in which the action must again
42 be brought to trial is extended by six months for a total time of three years and six

1 months. Nothing in this subdivision requires that an action must again be brought
2 to trial before expiration of the time prescribed in (a).

3

4 **Emergency Rule 11. Depositions through remote electronic means**

5

6 Notwithstanding any other law, including Code of Civil Procedure section 2025.310(a)
7 and (b), and rule 3.1010(c) and (d), a party or nonparty deponent, at their election or the
8 election of the deposing party, is not required to be present with the deposition officer at
9 the time of the deposition.