

VIRGINIA:

IN THE JUVENILE & DOMESTIC RELATIONS DISTRICT COURT OF FAUQUIER COUNTY

IN RE: CASE SCHEDULING in light of COVID-19 Pandemic

ORDER

It appearing to the Court that on July 8, 2020, in a Seventh Order Modifying and Extending Declaration of Judicial Emergency In Response to Covid-19 Emergency, the Chief Justice of the Supreme Court extended the Judicial Emergency until August 9, 2020, however, the Chief Justice in his Order has stated:

"....4) Courts should continue to conduct as much business as possible by means other than in-person court proceedings. In all civil and criminal matters, courts are encouraged to continue and even increase the use of video conferencing, teleconferencing, email, or other means that do not involve in-person contact. These methods are preferred over in-person court proceedings.

5) Notwithstanding the ongoing preference for conducting business by video conferencing or telephone, all courts may hear in-person non-emergency matters and non-jury cases if they determine it is safe to do so, and provided they comply with (i) the guidance for transitioning from emergency to routine operations provided by the Office of the Executive Secretary ("OES") and (ii) information from the Centers for Disease Control and Prevention ("CDC") in order to minimize the risk of the spread of COVID-19 from in-person court proceedings...."

Because of the extremely small square footage of the courtroom, careful planning is necessary to conduct in-person hearings. Prior to the entry of this order, the Court held in-person hearings during which face coverings and social distancing were required. Many people struggled to comply with these safety measures leading to potential exposure to COVID-19 of court staff and security. Changes in procedures are necessary. Court ORDERS as follows:

1. Civil Matters:

- a. All civil cases, including custody, visitation, child support, paternity, currently set for first return shall remain on the court's docket to be heard remotely

only, however, court clerks will contact all parties and attorneys to determine if the matter can be set directly onto the court's docket for trial. First returns for motions for rules to show cause (civil) will be heard remotely and will not be set directly for trial. No one will be allowed to physically appear in the courthouse for a civil first return without advance permission from the court for good cause. If any party wants a guardian ad litem appointed for a child, a written request should be made to the clerk. The court will appoint a GAL upon the request of one party. If the other party objects, a written objection should be filed and a hearing will be held on whether to release the GAL. If any party requests discovery, limited discovery will be authorized.

- b. All civil cases currently set for pre-trial conference, status hearing or review hearing shall remain on the court's docket to be heard remotely only. No one will be allowed to physically appear in the courthouse for a pre-trial conference, civil status hearing or civil review hearing without advance permission from the court for good cause.
- c. All civil trials shall remain on the court's docket to be heard remotely only. Civil trials include all custody, visitation, child support, and Division of Child Support matters. No one will be allowed to physically appear in the courthouse for a civil trial without advance permission from the court for good cause. All parties are encouraged to arrange for a brief pre-trial conference with the court in advance of the scheduled trial to ensure that a plan to effectively conduct the trial is in place and to test their WebEx if they are a first-time user. All exhibits and other evidence shall be pre-filed with the

court by email to [fauquierjdr@vacourts.gov](mailto:fauquierjdr@vacourts.gov), or delivered to the courthouse, no later than noon on the day before trial unless another date is set by the Court. If submitted electronically, the name of the exhibit should include identifiers such as "petitioner" or party name. Example: Petitioner Exhibit 1.

- d. All emergency child custody and emergency child protection cases may be set on the court's docket through the Clerk's Office.
- e. All cases in which the Fauquier County Department of Social Services is a party shall remain on the docket to be heard remotely only. No one will be allowed to physically appear in the courthouse for a hearing without advance permission from the court for good cause. All parties are encouraged to arrange for a brief pre-trial conference with the court in advance of the scheduled trial to ensure that a plan to effectively conduct the trial is in place and to test their WebEx if they are a first-time user. All exhibits and other evidence shall be pre-filed with the court by email to [fauquierjdr@vacourts.gov](mailto:fauquierjdr@vacourts.gov), or delivered to the courthouse, no later than noon on the day before trial unless another date is set by the court. If submitted electronically, the name of the exhibit should include identifiers such as "petitioner" or party name.

Example: Petitioner Exhibit 1 or Jane Doe Exhibit 1.

- 2. Protective Order hearings shall remain on the docket without change, unless the parties agree to continue the matter. No protective order hearing may be continued by agreement until appropriate arrangements for service of process have been made. Respondents to protective orders must appear at court in-person, unless they make

arrangements through the clerk's office to appear remotely and, in the event a protective order is entered, travel to the courthouse or sheriff's office to be served at the end of the hearing. Petitioners may appear remotely at protective order hearings.

3. Adult Criminal Matters:

- a. All criminal first appearances shall be conducted by telephone and WebEx beginning Monday, August 17, 2020. No one will be allowed to physically appear in the courthouse for a criminal first appearance without advance permission from the court for good cause. All defendants in a criminal case must ensure that the court has a telephone number at which they can be reached and shall be available to receive the court's phone call on their first court date at their court time and for 90 minutes thereafter. Attorneys who wish to appear with their client at the first appearance must make arrangements with the clerk in advance for a conference call or WebEx conference.
- b. Criminal bond hearings and status hearings will be conducted remotely beginning Monday, August 17, 2020. No one will be allowed to physically appear in the courthouse for a bond hearing or status hearing without advance permission from the court for good cause.
- c. Criminal trials will be conducted in-person. All defendants may waive their in-person appearance and request a remote hearing in advance. The court will not transport people from any jail to the courthouse unless a brief conference is held with the judge in advance to confirm that person's appearance is necessary. ACS personnel will appear via WebEx, except upon motion of the

defendant in advance. During in-person trials, social distancing rules will be strictly enforced. Any attorney who needs to confer with their client, or vice versa, must request a brief recess to speak privately so that social distance can be maintained. Close contact to confer during a trial is not safe and will not be allowed.

4. Juvenile Delinquency and Traffic Matters:

- a. Detention hearings and juvenile detention review hearings will be conducted remotely. No one will be allowed to physically appear in the courthouse for a detention hearing or detention review hearing without advance permission from the court for good cause.
- b. All juvenile first appearances in delinquency cases and traffic infractions will be conducted remotely. No one will be allowed to physically appear in the courthouse for a first appearance in delinquency cases and traffic infraction without advance permission from the court for good cause. If a juvenile is set for a first appearance on a 2:00 Wednesday docket, his or her case will be assigned a case specific time between 2:00 p.m. and 4:00 p.m. If there are more than 8 cases set on a 2:00 p.m. docket, the additional cases will be continued to another date.
- c. All juvenile delinquency trials will be conducted in-person. Any defendants, attorneys and witnesses may request a remote hearing in advance. CSU will appear via WebEx, except upon motion of the defendant in advance. During in-person trials, social distancing rules will be strictly enforced. Any attorney who needs to confer with their client, or vice versa, must request a brief recess

to speak privately so that social distance can be maintained. Close contact to confer during a trial is not safe and will not be allowed.

5. Child in Need of Supervision and Service Matters:

- a. All hearings involving a Child in Need of Supervision or Child in Need of Services shall be held remotely. No one will be allowed to physically appear in the courthouse for a CHINS case without advance permission from the court for good cause.
6. A liberal continuance policy is in place for all hearings. Continuance requests may be submitted to the court by phone, email or fax. The party sending the email or fax is responsible for confirming that the transmission is received by the Clerk's Office. The email or fax will be processed, and the original document does NOT need to be subsequently filed.
7. Courtroom and waiting room attendance shall be limited to attorneys, parties, necessary witnesses and members of the press (for open hearings). Please do not bring people with you to the courthouse that are not necessary to your case.
8. Individuals shall not enter the building if they have, within the previous 14 days:
- a. Travelled internationally;
  - b. Been directed to self-quarantine, isolate, or self-monitor;
  - c. Been diagnosed with, or have had contact with anyone who has been diagnosed with, COVID-19;
  - d. Experienced a fever, cough, or shortness of breath; or
  - e. Resided with or been within close contact with any person in the above-mentioned categories.

9. Individuals attempting to enter the building in violation of these protocols may be denied entrance by a court security officer and shall be directed to contact the Clerk's Office by telephone to inform the Clerk of their business before the court so as to receive further instruction regarding alternate arrangements for court access.

(540) 422-8040.

10. Within the courthouse, individuals and groups shall not congregate and social distancing shall be required, including inside the courtroom. No more than 12 individuals shall be allowed into the court waiting area simultaneously. Attorneys are encouraged to ask their witnesses to wait in their car and the Court will allow them to be called when needed.

11. In order to further minimize the risk of the spread of COVID-19 in addition to recommended social and physical distancing, all persons aged 10 or over entering the courthouse must wear a face covering that covers the nose and mouth. Individuals without a face mask will not be permitted to enter the courthouse without permission of the Judge or Clerk. This includes judges, attorneys, deputy sheriffs, court reporters, employees, members of the public, contractors, and all others who work in and visit the courthouse. The Court will make accommodations for individuals who cannot wear a mask because they have difficulty breathing or cannot remove a face mask without help or have other medical issues that make the wearing of a face covering unsafe. Individuals who cannot safely wear a face mask because of a health-related condition and individuals who have difficulty breathing or who cannot remove a face mask without help or have other medical issues that make the wearing of a face covering unsafe shall call the clerk at (540) 422-8040 to arrange accommodations.

The requirement to wear a facemask shall not apply to judges to the extent they determine it inhibits their ability to effectively communicate.


12. As a temporary measure, individuals will be permitted to bring their cellphones and electronic devices into the courthouse. Devices may be used in the courthouse but must be silenced before entering the courtroom. Audio or video recording inside the courthouse is prohibited without permission from the court. Use of a cellphone or electronic device in the courtroom is prohibited without express permission from the court.

13. A liberal policy of accepting documents for court filing by fax or email is in place. The party sending the email or fax is responsible for confirming that the transmission is received by the Clerk's Office. The email or fax will be processed, and the original document does NOT need to be subsequently filed. This change DOES NOT change any rule regarding ex parte communications. Judges are not permitted to read letters or emails from a party to a pending case.

14. All deadlines to complete the parent education seminar and to complete paternity testing are modified so that if the class or testing is not completed by the due date, proof of registration for a future class or proof of a future appointment may be filed instead.

This Order shall be in effect on July 27, 2020 and shall expire on December 31, 2020, unless extended, modified or vacated.

Entered this 28<sup>th</sup> day of July, 2020.

  
Melissa N. Cupp, Judge