

Corey R. Steel
State Court Administrator



Deborah A. Minardi
State Probation Administrator

March 19, 2020

Larry Dix, Executive Director
Nebraska Association of County Officials
1335 H Street
Lincoln, NE 68508

Dear Mr. Dix:

The Judicial Branch is carefully monitoring the evolving circumstances presented by the novel coronavirus and COVID-19 disease. The Chief Justice issued an administrative order asking local courts and probation offices to devise and implement emergency preparedness plans to carry out mission-essential functions to remain open while protecting against the spread of this disease (see attached order). The Order further ordered that no court shall close unless or until the Chief Justice of the Nebraska Supreme Court has issued an order declaring a non-judicial day.

At this time, no such non-judicial day has been declared. Therefore, in order to provide access to the courts, court offices must, at a minimum, be able to operate. We have asked local courts to postpone trials and hearings, limit participants in the courtrooms, and restrict those persons who may pose a health risk from our courtrooms and offices. However, we have not closed courts and there must remain some minimal access to the court offices in each county.

The Nebraska court system is an essential part of government and therefore we must provide access to the courts, even in a limited fashion. Nebraska counties are required by law to provide courthouses and office facilities for district, county, and separate juvenile courts, see, Neb. Rev. Stat. §§ 23-120 and 24-515 and 43-2,113. Nothing in these statutes gives any one official in county government the authority to close these facilities completely if the courts must remain open and accessible. Therefore, if a county building which houses a court office needs to be closed for some reason, it is the responsibility of the county to ensure that alternative accommodations and arrangements are made to provide access to the courts and court services. Local judges and court staff should work collaboratively with county officials to ensure that access to the courts is provided in some form, and a notice of change in court accessibility is adequately posted.

In short, no one except the Judicial Branch can control when the courts are open, except as otherwise provided by § 25-2221, and even under that statute the court has the discretion to be open if it so chooses. See, *Rhodes v. Star Herald Printing Co.*, 173 Neb. 496, 500-501 (1962).

If it is necessary to "close" the courthouse due to an emergency, arrangements must be made and notice must be posted to permit a user, whether that be law enforcement, the county attorney, or the public, to contact either a judge or court staff if essential business must be done on a day the courthouse is closed.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey R. Steel", written over a horizontal line.

Corey R. Steel
State Court Administrator

IN THE SUPREME COURT OF THE STATE OF NEBRASKA

IN RE NOVEL CORONAVIRUS)
AND COVID-19 DISEASE) ADMINISTRATIVE ORDER
) OF THE CHIEF JUSTICE OF
) THE NEBRASKA SUPREME COURT
)

The Court is carefully monitoring the evolving circumstances presented by the spread of the novel coronavirus and the COVID-19 disease. Pursuant to the authority vested in the Chief Justice of the Nebraska Supreme Court under Neb. Const. art. V, § 1 and Neb. Rev. Stat. § 25-2221, the following general administrative order regarding procedures of the judicial branch with respect to the novel Coronavirus and COVID-19 disease is required for the following reasons:

WHEREAS, a public health emergency has been declared in the United States, and guidance from public health officials suggests that one of the most effective ways to protect against the spread of this disease is to limit exposure, particularly to persons at higher risk of developing serious COVID-19 illness;

WHEREAS, conditions in the State of Nebraska at this time do not warrant limiting court or probation operations. However, this order may be updated as conditions change;

IT IS THEREFORE ORDERED, that persons who have an elevated risk of transmitting the novel coronavirus that causes COVID-19, includes anyone who:

- has traveled outside the United States within 14 days of this order, or lives or has close contact with someone who has;
- Persons who have been asked to self-quarantine by any health care provider or public official;
- Persons who have been diagnosed with, or have had contact with anyone who has been diagnosed with COVID-19; or,
- Persons who are presently exhibiting the symptoms of an infectious respiratory illness, which includes fever, cough, or shortness of breath.

IT IS FURTHER ORDERED that

1) any attorney or party shall promptly notify opposing counsel and the court if they reasonably suspect that a participant in any scheduled hearing, trial, conference, deposition, or other proceeding may come within any of the categories listed above;

2) any attorney or party shall notify the court and opposing counsel if any proceedings relating to the litigation of cases pending before the court would require travel or other actions contrary to guidance set forth by the Centers for Disease Control and Prevention or other foreign or domestic public health officials;

3) to the extent possible, counsel shall affirmatively inquire of their clients and witnesses whether they come within any of those categories;

4) no person who falls within any of those categories shall attend any hearing, trial, conference, deposition, or other proceeding without prior authorization from the court;

5) any probationer, problem solving court participant, or individual under presentence/predisposition investigation who falls within any of those categories shall notify the probation or supervision officer prior to having in-person contact and follow the officer's directives for the duration of the declared public health emergency and continue to comply with all conditions of probation or supervision unless otherwise directed.

IT IS FURTHER ORDERED that no court shall close unless or until the Chief Justice of the Nebraska Supreme Court has issued an order declaring a nonjudicial day. However, courts and probation offices shall devise and implement emergency preparedness plans to carry out mission essential functions.

Dated this 12th day of March, 2020.

BY THE COURT



Michael G. Heavican, Chief Justice