



## DECLARATION OF JUDICIAL EMERGENCY AND CHANGES TO COURT PROCEDURES

The Vermont Supreme Court issues this administrative order pursuant to its authority under the Vermont Constitution, Chapter II, § 30.

1. Due to the outbreak of the novel coronavirus, COVID-19, the Governor of Vermont has declared a state of emergency and has prohibited non-essential gatherings of more than fifty (50) people or 50% of a location's capacity. Public health officials recommend taking additional mitigation steps to minimize the risk to the public and limit the spread of the infection by practicing "social distancing."
2. For these reasons, the Court hereby declares a judicial emergency pursuant to Administrative Order 48. The emergency will go into effect immediately and will extend until April 15, 2020, unless extended by order of this Court. This Order supersedes any previously issued administrative directive or order, including orders issued in the Superior Court, related to COVID-19.
3. **Suspension of non-emergency Superior Court hearings:** Effective March 17, and notwithstanding any rule or timeline inconsistent with this guidance, all nonemergency Superior Court hearings, whether evidentiary or nonevidentiary, will be postponed. This includes jury trials and hearings that have already been scheduled, except as provided below.
  - a. The courts will schedule and hear only the following matters:
    - Vermont Rule of Criminal Procedure 5 hearings and arraignments of defendants in custody to be held by video where available
    - Arraignments for individuals cited for charges of domestic assault
    - Change-of-plea hearings in the discretion of the judge
    - Motions for review of bail for defendants in custody
    - Requests for search warrants when electronic means are not available
    - Criminal competency when the initial evaluation supports a finding of incompetence and related hospitalization hearings

- Juvenile temporary care hearings
  - Emergency motions to suspend parent-child contact in juvenile cases
  - Emergency motions to suspend parent-child contact in domestic cases
  - Mental-health hearings considering involuntary hospitalization and/or involuntary medication
  - Probate hearings concerning emergency guardianship or Do Not Resuscitate petitions
  - Habeas Corpus petitions
  - Final hearings in stalking and relief from abuse proceedings, and hearings seeking a final order after denial of an ex parte request
  - Temporary emergency hearings on injunctive relief at the discretion of the judge
  - Emergency landlord-tenant hearings in the discretion of the judge
  - Proceedings directly related to the COVID-19 public health emergency
  - Any other matter where the Chief Superior Judge concludes that the interests of justice require that the matter be heard during the course of this suspension. A party seeking an exception must file a motion in the court in which the case is pending, and any party who objects must file its written opposition within three days after the motion is filed. The court will refer the motion to the Chief Superior Judge for resolution.
- b. Notwithstanding the above, courts may, in their discretion, complete jury trials that are already in progress.
4. **Suspension of Judicial Bureau hearings:** Notwithstanding any rules or deadline inconsistent with this guidance, Judicial Bureau hearings will be postponed.
5. **Remote participation in hearings (in matters that are not suspended):**  
 Notwithstanding the provisions of V.R.C.P. 43.1 and V.R.P.P. 43.1, or any other rule inconsistent with this order, parties and counsel may participate in all nonevidentiary proceedings remotely by telephone without seeking permission by motion. The party participating by telephone is responsible for calling the court at the time of hearing. Where feasible, parties may participate by video appearance as approved by the judge. Parties or counsel must make advance arrangements to appear by video. Appearance by telephone or video for evidentiary hearings will continue to be governed by the provisions of V.R.C.P. 43.1 and V.R.P.P. 43.1.
6. **Email filings:**
- a. In Superior Court divisions and units where either the 2010 Vermont Rules for Electronic Filing or the 2020 Vermont Rules for Electronic Filing apply and

require electronic filing through another mechanism (eCabinet or Odyssey File and Serve), those rules must be followed.

- b. In Superior Court divisions and units where there is no electronic filing or for litigants that are not required to electronically file, notwithstanding the provisions of V.R.C.P. 5 (incorporated by reference in V.R.Cr.P. 49, V.R.F.P. 4.0(a)(2)(A), V.R.E.C.P. 3, 4(a), 5(a)(2)) and V.R.P.P. 5, or any other rule, parties may file documents with the court using email, subject to the following requirements. Filings must be sent as an attachment to the email account for the unit where the filing will be made. The subject line must indicate the division where it is being filed and the case docket number. Further details concerning the method of filing by email will be posted on the [vermontjudiciary.org](http://vermontjudiciary.org) website, and may change from time to time. Parties and lawyers should check the guidance on the website before filing by email.
  - c. In the Supreme Court, notwithstanding the provisions of V.R.A.P. 25 and V.R.C.P. 5, parties may file motions and other documents other than briefs by email. Filings must be sent as an attachment to [jud.supremecourt@vermont.gov](mailto:jud.supremecourt@vermont.gov) and the subject line should contain the Supreme Court docket number. Paper copies of appellate briefs and printed cases are still required as directed by the Vermont Rules for Appellate Procedure.
  - d. The rules regarding service of filed documents in the Superior Court and the Supreme Court remain in effect and are unaffected by this Order.
  - e. Filings sent by email will be considered filed on that date if the email is received before 4:30 p.m.
7. **Access to Court Buildings:** Access to Judiciary buildings will be managed as follows:
- a. From the date of this order until March 30, 2020, no person will be permitted to enter a courthouse except as follows:
    - Individuals seeking to file documents with the court in person may file them in the receptacles provided at the entryway to each courthouse. Individuals will not be permitted to enter the courthouse to file documents, and filings will not be accepted at the counter. These individuals will be provided with the appropriate court forms as necessary if requested.

- Individuals who seek to enter for the purpose of participating in or attending a hearing (that has not been suspended pursuant to this order) will be permitted to enter.
  - Where the Judiciary shares space with other state agencies, entry shall be permitted to such other agencies only in accord with policies mutually agreed to between the Commissioner of Buildings and General Services and the State Court Administrator. Where the Judiciary shares a common entrance to space occupied by county government offices in a county courthouse, entry shall be permitted to such county offices only in accord with policies mutually agreed to between Assistant Judges and the State Court Administrator for county buildings.
- b. Any individual for whom the answer to any question below is yes shall not enter a Vermont Judiciary courthouse. Individuals will be questioned by the screener at the courthouse door. In some cases, they may be asked to call the court docket clerk at the phone number posted on the court door.
- In the past few days, have you felt unwell, especially with respiratory symptoms (cough, high temperature, shortness of breath, difficulty breathing, and initial flu-like symptoms, such as fever, coughing, breathing difficulties, fatigue, and myalgia)?
  - In the past 14 days have you:
    - Been in contact with a person infected with novel coronavirus (COVID-19)?
    - Been to one of the affected countries or regions (listed at <https://www.healthvermont.gov/covid19>): China, Iran, South Korea, Europe, the United Kingdom, Ireland, and Japan
    - Been to a healthcare facility (hospital, walk-in clinic, emergency room) where people infected with COVID-19 are treated?

The Judiciary will modify these screening question as necessary to conform to evolving public health guidance.

8. **Public Access to Court Records:** For the duration of this Order, the Court directs Judiciary staff to make reasonable efforts to comply with the timelines set forth in Vermont Rules for Public Access to Court Records Rule § 6. However, for the duration of this Order, the Court suspends strict enforcement of these deadlines.
9. **Court Administration:** The Court Administrator will develop forward looking management strategies, and will continue to balance public-health considerations and

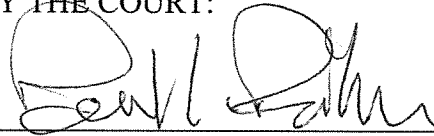
the Court's constitutional responsibilities to serve the public, in responding to evolving conditions.

10. **Deadlines:** Nothing in this Order extends statutes of limitations or other filing deadlines.

The Court will continue to monitor the situation and will amend this directive as necessary to respond to the evolving pandemic.

Done in Montpelier, Vermont this 16<sup>th</sup> day of March, 2020.

BY THE COURT:



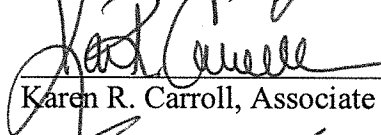
Paul L. Reiber, Chief Justice



Beth Robinson, Associate Justice



Harold E. Eaton, Jr., Associate Justice



Karen R. Carroll, Associate Justice



William D. Cohen, Associate Justice