

IN THE JUSTICE OF THE PEACE COURT FOR THE STATE OF DELAWARE STANDING
ORDER NO. 5 CONCERNING COVID-19 PRECAUTIONARY MEASURES AND
SCHEDULING OF CASES

This 8th day of July, 2020, it appears to the Delaware Justice of the Peace Court that:

WHEREAS, the Centers for Disease Control and Prevention has determined that a novel coronavirus (COVID-19) presents a serious public health threat;

WHEREAS, the President of the United States has issued Proclamations prohibiting travel to the United States by foreign nationals who recently visited areas acutely impacted by COVID-19; the Department of State has issued Level 3 and Level 4 Travel Advisories for certain affected countries; and domestic and foreign health authorities have issued guidance to citizens within their respective jurisdictions, both recommending and mandating precautionary measures to defend against the spread of COVID-19;

WHEREAS, the Delaware Department of Health and Social Services, Division of Public Health, has issued an advisement that individuals should follow the Center for Disease Control's recommendation to avoid crowds as much as possible;

WHEREAS, under his authority set forth in 20 *Del. C.* ch. 31, Governor John C. Carney, on March 12, 2020, declared a State of Emergency for the State of Delaware due to the public health threat caused by COVID-19, and extended the State of Emergency on April 10, 2020, May 8, 2020, and June 6, 2020;

WHEREAS, under 10 *Del. C.* § 2004, the Chief Justice, in consultation with other members of the Supreme Court, declared a judicial emergency that went into effect on March 16, 2020 at 8:00 a.m., and extended the judicial emergency on April 14, 2020 and May 14, 2020;

WHEREAS, on June 1, 2020, non-essential businesses were permitted, subject to certain limitations, to reopen in Delaware under the Nineteenth Modification to Governor Carney's order declaring a State of Emergency;

WHEREAS, in an order dated June 5, 2020, the Chief Justice extended the judicial emergency effective June 8, 2020, extended certain deadlines that expired between March 23, 2020 and June 30, 2020 through July 1, 2020, and accepted the recommendations of the Courts Reopening Committee and the Justice of the Peace Court for reopening;

WHEREAS, the Chief Justice, in consultation with the other members of the Supreme Court, has determined that extension of the judicial emergency is necessary and that the courts should continue to comply with the Reopening Plan set forth in the June 5, 2020 order for an additional 30 days, effective July 8th;

WHEREAS, the Justice of the Peace Court serves in a continuous capacity during times of emergency in order to ensure that emergency and essential functions of the judicial system may continue;

WHEREAS, under his authority set forth in 20 *Del. C.* ch. 31, Governor John C. Carney, effective July 1st, issued the Twenty-Third Modification to the State of Emergency Declaration, which, in part, modified the Sixth Modification of the State of Emergency regarding evictions.

NOW, THEREFORE, IT IS ORDERED that:

1) All criminal locations resumed the scheduling of in-person proceedings beginning June 15, 2020. The available calendars for appearances will be reduced in accordance with social distancing and building capacity limitations as directed by the Governor, Chief Justice, and Chief Magistrate. Criminal locations will continue to employ alternatives to in-person appearances, such as appearances via video, whenever possible.

(a) All forthwith criminal proceedings should continue to be conducted by videophone unless the police or other detaining agency requests an in-person proceeding, can articulate a specific reason to bring the defendant in person and permission to do so is granted by the Court;

(b) Administrative Order 4, issued by the Delaware Supreme Court on April 14, 2020 and extended through Administrative Orders 5-8, provides that periods for bringing an arrested person before a magistrate pursuant to 11 *Del. C.* § 1909 and for bringing a prisoner before a judge pursuant to 10 *Del. C.* § 6907 are extended not more than 7 days under § 2007(c). The time for taking a juvenile charged with a delinquent act before a court is extended not more than 2 days under § 2007(c). Although these time frames have been extended, the Justice of the Peace Court shall continue to hear these matters forthwith unless exceptional circumstances exist and require otherwise.

(c) All proceedings involving individuals in custody for the scheduled proceedings, and emergency reviews of bail shall proceed as scheduled and be conducted virtually;

(d) Case-by-case exceptions may be ordered at the discretion of the Court and with proper notice to all parties;

2) All civil locations resumed the scheduling of in-person proceedings for non-landlord/tenant cases beginning June, 15, 2020. The available calendars for these proceedings will continue to be reduced in accordance with social distancing and building capacity

limitations as directed by the Governor, Chief Justice, and Chief Magistrate. Civil locations will continue to employ alternatives to in-person appearances, such as appearances via video, whenever possible.

3) Pursuant to the Governor's Twenty Third Modification of the Declaration of a State of Emergency, issued on June 30, 2020, all civil locations will resume the acceptance of filings related to landlord/tenant matters on July 1, 2020. In compliance with the Governor's Order, the Justice of the Peace Court shall:

- (a) Begin the acceptance of summary possession actions for residential units. Actions filed by landlords must include appropriate supporting documents, made available by the Court and attested to by the landlord, to indicate that the subject property is not covered by the federal moratorium on evictions through the CARES Act. Parties filing actions shall provide any available contact information for the defendant(s) to facilitate the scheduling of alternatives to in-person proceedings;
- (b) Schedule summary possession actions for residential units for trial dates based upon the order in which they were received prior to the health emergency and upon the resumption of filings on July 1, 2020;
- (c) Determine whether each summary possession action is suitable for a court-supervised alternative dispute resolution process (ADR);
- (d) Schedule appropriate cases for ADR. The Court may also direct parties to engage in attempted resolution through an Online Dispute Resolution (ODR) platform, as appropriate. The ADR or ODR process may include appropriate housing support services, as determined by the Delaware State Housing Authority, if requested by either party or the Court;
- (e) Stay any execution of eviction orders while the Governor's Order remains in effect, except in the instance of a forthwith summons properly sought and adjudicated, or otherwise in the interests of justice in accordance with the Governor's Order;
- (f) Conduct any properly ordered evictions in a manner that preserves the health and safety of Court Constables, the parties subject to eviction, and the public;
- (g) Award no late fees or interest with respect to any past due balance for a residential rental unit that would otherwise have accrued during the COVID-19 State of Emergency.

4) Access to any Justice of the Peace Court locations will continue to be limited based upon the social distancing requirements needed at each location. All individuals must wear face coverings and maintain 6-feet of social distance from individuals outside of their household.

- 5) All Justice of the Peace Court staff and any other person entering a court location through a non-public entrance shall engage in a health screening pursuant to guidelines established by the Delaware Division of Public Health. Access to the court location may be denied if an individual does not pass the health screening.
- 6) The Court has designated personnel who shall continue to report to their scheduled work locations. The remainder of the Court's personnel shall work remotely as directed by supervisory staff, and shall be subject to recall for on-site work at Court locations as necessary to continue essential services;
- 7) Any Court document generally requiring the signature of a person that is noted with the language "COVID-19 procedure" shall be presumed to have been signed or assented to by the appropriate party, and the Court shall make all reasonable efforts to create a record of that event;

To the extent that anything in this Order conflicts with previous orders, the content of this Order shall supersede.

The Court will reassess this order in 30 day increments. The Court will continue to explore alternative means of conducting court business utilizing available technology and best practices. As such, this order is subject to change if, and when, alternative means of conducting proceedings become available.



Alan G. Davis
Chief Magistrate