

IN THE SUPREME COURT  
OF THE  
STATE OF SOUTH DAKOTA

SUPREME COURT  
STATE OF SOUTH DAKOTA  
FILED

MAR 23 2020

*Shirley A. Johnson-Lopez*  
Clerk

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RE:

STATE OF SOUTH DAKOTA )  
COUNTY OF BROOKINGS ) SS

IN CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT

IN RE THE ADMINISTRATION OF )  
THE THIRD JUDICIAL CIRCUIT )  
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ORDER APPROVING  
ADMINISTRATIVE ORDER #3  
RE: COVID-19 PANDEMIC RESPONSE

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By the Court's Order of March 13, 2020, Declaring Judicial Emergency COVID-19 Disease the South Dakota Supreme Court declared the existence of a judicial emergency pursuant to SDCL 16-3- 11 through 15 and pursuant to the Court's authority to administer justice and to ensure the safety of court personnel, litigants and the public, it is

ORDERED that the attached Administrative Order #3 Re: Covid-19 Pandemic Response of the Third Judicial Circuit be and it is hereby approved in its entirety.

IT IS FURTHER ORDERED that this order shall remain in effect until further order of the Court.

DATED at Pierre, South Dakota this 23rd day of March, 2020.

BY THE COURT:

ATTEST:

*[Signature]*  
Clerk of the Supreme Court  
(SEAL)

*[Signature]*  
David Gilbertson, Chief Justice

STATE OF SOUTH DAKOTA

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IN CIRCUIT COURT

:SS

COUNTY OF BROOKINGS

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THIRD JUDICIAL CIRCUIT

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IN RE THE ADMINISTRATION OF  
THE THIRD JUDICIAL CIRCUIT

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ADMINISTRATIVE ORDER #3  
RE: COVID-19 PANDEMIC RESPONSE

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Pursuant to the March 13, 2020 South Dakota Supreme Court Order Declaring Judicial Emergency, as well as applicable provisions of SDCL 16-2-21, in dealing with the COVID-19 Pandemic, the Honorable Gregory J. Stoltenburg, Presiding Judge of the Third Judicial Circuit, enters the following administrative order, **IT IS HEREBY ORDERED:**

1. Citizens who need to conduct business at the county clerk of court, for matters not requiring a court appearance, should first utilize options available online and by mail. Many commonly requested forms for divorce, temporary protection orders, small claims, and criminal cases are available online at <https://ujslawhelp.sd.gov/>. If your trip to the courthouse is to pay a fine, online payment options are available. A list of clerk of court numbers can be found at <https://ujjs.sd.gov>.

2. The following persons are not allowed into the courtroom, jury room, or offices of the clerk of court, court services, judges, or administrative staff unless authorized by the Court:

- a. Anyone who has been diagnosed with COVID-19 or who has been within 10 feet of any other person diagnosed with COVID-19 within the previous fourteen-day period.
- b. Anyone with a fever over 100.4°F. Persons may be required to submit to a temperature check before admittance.
- c. Anyone with a cough or shortness of breath.
- d. Children aged 10 and under unless a witness or party to the proceeding.
- e. Anyone who has traveled to or lives with someone who has traveled to another country within the previous fourteen-day period.

The Court may require that any person submit to screening, including but not limited to a temperature check, to determine whether the person falls into any of these categories.

3. Most court proceedings are open to spectators. However, persons not directly involved in the proceeding as a party, witness, or victim are encouraged to stay away from the courthouse to

minimize the number of people gathering and potentially spreading COVID-19.

4. Persons within the following categories are at higher risk of complications from COVID-19:

- (1) Over 60 years of age;
- (2) Underlying conditions including heart disease, lung disease or diabetes;
- (3) Weakened immune systems; or
- (4) Pregnancy.

If a high-risk individual is a plaintiff, defendant, lawyer or witness in a case currently scheduled for trial or hearing, the court shall give due consideration to any request for continuance. Additionally, the court may authorize alternative methods of appearance.

5. If the presiding judge deems it necessary to cancel court or close court offices because of an increased threat from COVID-19, notice will be provided through the UJS notification system. Individuals may sign up for notifications at <https://ujnotifications.sd.gov/Register.aspx>

6. No deposition shall be conducted in any jury room or courtroom in the Third Circuit until further order of the Court.

7. Felony Court Arraignments may be held via sworn affidavit of the Defendant. Only not guilty and not guilty by reason of insanity pleas may be entered by affidavit of the Defendant. The affidavit must contain language acknowledging that the Defendant fully understands all his or her constitutional and statutory rights, the charge or charges in the information or indictment, has received or reviewed a copy of the information or indictment, including the elements of the charge or charges, the potential maximum penalties for each charge, including any mandatory minimum sentence(s), as well as the pleas available to him or her, and the plea to be entered.

8. Defendant's personal appearance in court is waived for all hearings in which no substantive action is taken, including status or scheduling hearings, as well as standard non-evidentiary motion hearing. Motions for continuance, and standard non-evidentiary motions may be submitted to and ruled on by the Court without the personal presence of the Defendant or Defendant's counsel, at the Court's discretion, through email or Odyssey, to the court in lieu of hearing.

9. At all hearings, other than trials, the Defendant and any necessary witnesses may appear by ITV or by telephonic or other electronic means. If a Defendant objects to a witness appearing via ITV, by telephonic or other electronic means, the court may grant a continuance to when the emergency order of the Supreme Court is no longer applicable.

10. Counsel for the Defendant may appear at all hearings without the Defendant being personally present in which the only charge is a misdemeanor.

11. Misdemeanor arraignments in which a Defendant is entering a guilty or no contest plea may be entered via affidavit without the personal presence of the Defendant. The affidavit must contain language acknowledging that the Defendant fully understands all his or her constitutional and statutory rights, the charge or charges in the complaint, information or indictment, has

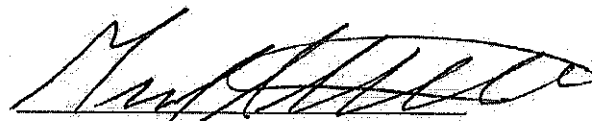
received or reviewed a copy of the complaint, information or indictment, including the elements of the charge or charges, and the potential maximum penalties for each charge, and specifically authorizes the attorney to enter a guilty or no-contest plea on his or her behalf.

12. Plea and sentencing by waiver and affidavit is expressly encouraged.

13. These policies shall be effective on the date below and remain in effect until modified or repealed by the presiding judge or South Dakota Supreme Court. The provisions of the Administrative Orders dated March 16, 2020 and March 19, 2020 remain in full force and effect.

Dated this 23rd day of March, 2020.

BY THE COURT:



Gregory J. Stoltenburg,  
Presiding Circuit Judge, Third Circuit

ATTEST:

