

**In re Indefinite Suspension of
Family Court Contempt Motions
During the COVID-19 Pandemic**

STANDING ORDER

WHEREAS, civil constructive contempt is a *discretionary* remedy to compel ongoing compliance with Court Orders by threat of incarceration, and is frequently used as a mechanism to compel payment of child support (*See Hopp v. Hopp*, 156 N.W.2d 212 (Minn. 1969); and

WHEREAS, civil constructive contempt must remain *remedial*, and not *punitive* in nature, or it becomes unlawful (*See State v. Tatum*, 556 N.W.2d 541 (Minn. 1996) (outlining the differences between remedial and punitive contempt); (*Hopp v. Hopp*, 156 N.W.2d 212 (Minn. 1969) (noting that “civil contempt power, by definition, cannot be used to punish a person for past misconduct[.]”); and

WHEREAS, the COVID-19 pandemic has affected – and continues to affect – the Court’s operations in historic ways. Specifically, the COVID-19 pandemic is so prevalent at the Hennepin County jail that the Hennepin County Sheriff’s Office no longer transports inmates for most Court hearings, in an effort to ensure the health and safety of the jail population and staff; and

WHEREAS, Minnesota Supreme Court Order ADM20-8001, filed November 20, 2020, has responded to the current spike in COVID-19 cases by suspending new jury trials and almost all in-person hearings for at least 60 days, effective November 30, 2020, in an effort to ensure the health and safety of litigants, attorneys, stakeholders, and staff; and

WHEREAS, incarceration of contemnors *at present* directly threatens their health and safety (because of the prevalence of COVID-19 in the jail) – which renders the effect of the contempt process more *punitive* than *remedial*; and

WHEREAS, incarceration of contemnors *at present* threatens the health and safety of jail staff and current inmates by bringing new people (who may be infected) into the existing population; and

WHEREAS, the COVID-19 pandemic’s alteration of the economy is not well-understood for many Minnesotans (particularly those working in the hospitality, customer service, and manufacturing industries). Many of the contemnors in Family Court are people working in these industries, leading the Court to question the effectiveness of contempt as a remedy for nonpayment of child support at present;

IT IS HEREBY ORDERED that, for all the reasons listed above, **effective November 30, 2020:**

1. *All* Family Court contempt motion hearings for unpaid child support (whether private or County Attorney initiated) at any stage are immediately **SUSPENDED** until further Order of this Court.

2. All Fourth Judicial District Family Court judicial officers are directed to place these cases on the pandemic hold roster and promptly notify the parties.
3. Nothing in this Standing Order precludes the use of other, non-contempt remedies to enforce nonpayment of child support.
4. In the interim, the Court will investigate and determine how, when, and on what terms contempt motions for nonpayment of child support may be resumed.

BY THE COURT:

DATED: November 30, 2020

The Honorable Charlene Hatcher
Presiding Judge
Hennepin County Family Court