

Second Amended Standing Order on Continuing Court Operations in Civil Commitment Cases

Chief Justice Lorie S. Gildea issued an Order (ADM20-8001) on Friday, March 13, 2020 as to the operations of the courts under the statewide peacetime declaration of emergency. In part, the Order states, “Effective immediately or as soon as can be implemented, proceedings in any case type . . . should be held through Interactive Video Conferencing (ITV) or other video or telephone conferencing to the extent practicable.” The Order also suspends Rule 14 of the Special Rules of Procedure Governing Proceedings Under the Minnesota Commitment and Treatment Act until further order, “in order to facilitate the use of ITV and video or telephone conferencing.” The Chief Justice has issued follow-up Orders, ~~including an Order on March 23, 2020 that provides in relevant part, “[H]earings shall be held in the courtroom on an emergency basis in the following case types: . . . civil commitment The parties and the attorneys may appear remotely.”~~ **including an Order on November 20, 2020 that provides in part, “Effective November 30, 2020...proceedings in the district court...shall be conducted remotely unless the chief judge of the district in which the proceeding is to be held, after consultation with the Chief Justice, grants an exception for an in-person proceeding.”**

By this **Second** ~~a~~**Amended** Standing Order, the Probate and Mental Health Court of the Fourth Judicial District will hereby implement the Chief Justice’s Orders as to civil commitment cases in this district. New language is shown in bold underlined text and deleted text is shown by strikethroughs.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Beginning ~~Wednesday, March 18, 2020~~ **December 1, 2020**, and continuing for as long as the Chief Justice’s Order or a follow-up order is in effect, civil commitment hearings will be held by ITV, **video**, telephone or other electronic means ~~to the extent practicable.~~ **unless the Chief Judge of the Fourth Judicial District, after consultation with the Chief Justice, grants an exception for an in-person proceeding.** Respondents will not be transported to the Government Center except by specific court order.
 - a. It is anticipated at this time that the ITV, telephonic or video hearings will be conducted by a judicial officer who will be in a courtroom at the Government Center, so that a record is kept of the proceedings. The parties, attorneys and witnesses ~~are strongly encouraged to~~ **shall** appear by remote means **unless the Chief Judge of the Fourth Judicial District, after consultation with the Chief**

Justice, grants an exception for an in-person proceeding. ~~but may appear in the courtroom.~~

- b. Pursuant to the suspension of Special Rule 14 as stated in the Chief Justice's Orders, the physical presence of the defense attorney with the Respondent during the hearing is not required. Instead the Respondent's attorney may be at a different location than the Respondent, such as appearing by ITV, telephone, **or** video ~~or by being present in the Courtroom.~~ The Respondent's attorney is responsible for making arrangements to appear by remote means. The facility will facilitate private communication between the Respondent and the Respondent's attorney if requested.
 - c. As to hearings with Respondents who are on community release, those hearings ~~are encouraged to~~ **shall** be conducted by telephone or other electronic means if feasible **unless the Chief Judge of the Fourth Judicial District, after consultation with the Chief Justice, grants an exception for an in-person proceeding.** **Unless such an exception is granted,** ~~The~~ parties, witnesses and attorneys ~~are strongly encouraged to~~ **shall** appear by remote means.
 - d. If an objection is raised as to a hearing being held by ITV, telephone or other electronic means, then that party will give notice of the objection to the Court, parties and attorneys, and the objection will be heard via ITV, telephone or other electronic means.
 - e. Evidentiary exhibits shall be exchanged between all parties and submitted to the Court, as appropriate, prior to the commencement of the hearing or proceeding. No recording shall be made of any ITV, video or audio hearing except for the recording made as the official court record, unless by Court order.
2. ~~Beginning~~ Monday March 23, 2020 **and continuing thereafter**~~if not before,~~ examinations of Respondents by court-appointed examiners will be conducted by ITV, **video,** telephone or Vidyo ~~to the extent practicable.~~ If the ITV, **video** telephone or Vidyo system is not functional in a particular case, then the examination may be by telephone or may be continued by agreement of the parties and the Court. The attorneys may attend the examinations **by remote means**~~in person, as long as allowed to be physically present by the patient's hospital or facility, or may attend by Vidyo, ITV or telephone,~~ unless their presence is waived; the attorneys are responsible for making their own arrangements to appear ~~in person,~~ by Vidyo, ITV, **video** or telephone. This policy will continue for as long as the Chief Justice's Order or a follow-up order is in effect.
 3. Use of ITV, video or telephone is conditioned on acceptable video and/or audio quality, as determined by the Court.

4. For *Price* or other hearings where Guardians ad Litem are appointed, the GALs in fulfilling their duties may communicate with the patient in person, by video or telephone, as appropriate in the judgment of the GAL.
5. This order may be updated as necessary based on changing circumstances.

BY THE COURT:

Dated: November 30, 2020

Philip C. Carruthers
Presiding Judge of Probate and Mental
Health Court