



Legislative Council Staff

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Memorandum

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TO: Interested Persons

FROM: Juliann Jenson, Research Analyst, 303-866-3264

SUBJECT: Colorado Courts' Response to COVID-19

Summary

Coronavirus (COVID-19) has impacted almost every aspect of society, including the criminal justice system, leaving crowded courts, prisons and jails especially susceptible to the outbreak. This memorandum provides an overview of how courts in Colorado are handling this public health emergency. Please note that the COVID-19 situation is rapidly changing, and staff will be monitoring changes and making updates.

Colorado State Courts

Courts in Colorado are scaling back services and taking measures, including technological ones, to lessen exposure to COVID-19.

Chief Justice Orders. The Chief Justice issued an order on March 16, 2020, that set general parameters for the operation of state courts during this public health crisis. The order suspends jury trials, but also specifies that courts must remain open for essential public safety matters, including, but not limited to, petitions for protective orders, bond hearings for detainees in jails, detention hearings for juvenile defendants, and emergency mental health proceedings.

The Supreme Court Order Regarding COVID-19 and Operation of Colorado State Courts, and the order extending the prohibition on jury calls until at least July 6, 2020, can be accessed at the following links.

- Original order:
[https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID19%20Order%2016Mar2020\(1\).pdf](https://www.courts.state.co.us/userfiles/file/Media/Opinion_Docs/COVID19%20Order%2016Mar2020(1).pdf)
- Extension order:
https://www.courts.state.co.us/userfiles/file/Court_Probation/01st_Judicial_District/Chief%20Justice%20Operations%20Order%20May%205.pdf

Orders from chief judges in judicial districts. Chief judges in each judicial district have entered administrative orders about court operations and COVID-19. The orders most commonly have addressed, among other things, court hours and closures, staffing, rescheduling, jury trials, probation service modifications, pretrial release, and enforcement of arrest and bench warrants. Select orders have also recognized issues particular to a region. For example, the 7th Judicial District issued an order regarding water court applications during court closures, and the 12th Judicial District issued one about shared parenting during stay-at-home orders.

The orders, along with information about court appearances for jurors, litigants, probationers, and other interested persons may be found at each judicial district's respective website, which are listed here: <https://www.courts.state.co.us/announcements/COVID-19.cfm>

Court procedure rule changes. The Colorado Supreme Court adopted a number of rule changes to the Colorado Criminal Rules of Procedure to keep pace with the changing legal landscape due to COVID-19.

- **Jury pools.** Juvenile and criminal rules (Rules 3.5 and 24, respectively) were amended to allow judges to declare a mistrial if a jury pool cannot be safely assembled due to a public health crisis.
- **Postconviction remedies.** Defendants have the right to file motions for reconsideration under Rule 35 in an attempt to reduce prison sentences. This rule was changed to allow a person to request a sentence reduction during the pendency of a direct appeal and takes into consideration court operations during the pandemic.
- **Presence of a defendant.** Multiple changes have been made to Rule 43 since March 19, 2020, regarding the presence of a defendant. The adopted rule changes create a public health crisis exception for the presence of a defendant in certain court proceedings that do not involve a jury, as well as outline audio and visual communication methods for the defendant and counsel. The rule changes also address consent issues related to the defendant appearing remotely for a court proceeding, and access for victims and other interested persons.
- **Bar exam.** An emergency rule (Rule 205.8) was adopted to allow new law school graduates to practice law before taking the bar examination if the July 2020 exam is postponed.
- **Probate.** Probate rules now allow for remote witnessing of testamentary and non-testamentary instruments in certain probate proceedings, as well as authorize returns of service to go without notarization.

The adopted rule changes may be found here:

https://www.courts.state.co.us/Courts/Supreme_Court/Rule_Changes/2020.cfm

Courthouse access. Colorado courts prohibit anyone who has tested positive or may have been exposed to coronavirus to enter a courthouse. Otherwise, no other courthouse restrictions are in place on a statewide basis, although individual judicial districts may impose their own limitations or closures.

Probation offices. The Chief Justice authorized chief judges in judicial districts to temporarily waive certain probation standards to limit in-person contacts. Individuals on probation are instead reporting to their assigned probation officers by phone or other virtual means in an effort to slow COVID-19 spread.

Information technology. The State Court Administrator's Office has set up audio-visual courtrooms that connect attorneys, parties, victims, and the public. This has allowed urgent criminal proceedings to take place remotely, and an increasing number of non-criminal cases will see the use of remote technology as well. Technology has also been implemented for court staff to work remotely, and new members of the bar who passed the exam in February will be sworn in using Webex.

Pro se parties. The Colorado Supreme Court is accepting case filings of pro se parties by fax or email until further notice.