

SIXTEENTH JUDICIAL CIRCUIT
ADMINISTRATIVE ORDER – FELONY DIVISION

Effective May 4, 2020



IN THE MATTER OF COVID-19)
TEMPORARY PROCEEDURES FOR)
FELONY DIVISION MATTERS)

WHEREAS in light of the Coronavirus pandemic, and in order to protect the health and safety of the general public, circuit court judges and circuit court employees, and after consultation with the offices of the Kane County State’s Attorney, Public Defender, Sheriff, Circuit Clerk, County Board, and representatives of the private bar, and pursuant to Illinois Supreme Court Rule 21(b) and the Court’s inherent authority, and

WHEREAS it is in the best interests of all of the above-named parties and individuals to limit the number of people in the Kane County Judicial Center and in each of the individual courtrooms to as few as needed to accomplish critical tasks,

IT IS HEREBY ORDERED that the following temporary procedures will apply to all cases assigned to the Felony Division:

- A) **AGREED ORDERS AND UNCONTESTED MOTIONS**
 - 1) **Agreed orders are required whenever feasible.** The Felony Division will continue to accept proposed agreed orders and uncontested motions, including, but not limited to the following:
 - a) Continuances;
 - b) Entry of Protective Orders pertaining to medical records and disclosures related to sex abuse/assault cases;
 - c) Appointment of the Public Defender upon presentation of an Affidavit of Assets and Liabilities
 - 2) All agreed orders or requests for rulings on uncontested matters shall be sent to the judge presiding over the case. The order or request for ruling should be clearly marked as “agreed” and contain language in the order indicating that opposing counsel have discussed the matter and are agreeing to the entry of the proposed order. No agreed order shall set any matter for hearing or trial without prior consultation, via email, telephonic conference or through use of the Zoom platform, with the judge presiding over the case and with his or her approval.

- 3) Even when the order is agreed or uncontested, the Court reserves the right to require additional information or to require a hearing, or to modify or deny the proposed agreed order.
- 4) In the event the judge does not approve the order, that judge will notify the parties via email.

B) PROTOCOL FOR REMOTE, HEARINGS AND PLEA AGREEMENTS IN CRIMINAL CASES – FELONY DIVISION

- 1) At the discretion of the assigned judge, arguments on contested criminal court hearings, status hearings, bond reduction motions, motions to increase or revoke bail, and any other motion or hearing (non-evidentiary) that any judge, in his or her discretion elects to hear, may be undertaken by way of remote hearing either telephonically or via the Zoom platform. Contested criminal evidentiary hearings may be undertaken via the Zoom platform.
- 2) Eligibility for a remote contested hearing is limited to cases wherein the defendant is represented by counsel, and all parties, including the defendant, consent to the hearing method and all parties, including the defendant (unless presence is waived), have access to the Zoom platform and/or telephonic conferencing abilities. These limits will be frequently reviewed and modified, if possible, in an ongoing effort to expand access to justice.
- 3) Each judge assigned to the felony division may, in his or her discretion, provide a period of time available for remote hearings. The remote hearing must be initiated by one or both of the parties by requesting the scheduling of the remote hearing with the judge presiding over the case via email to the judge. The judge will then schedule the remote hearing in an available time slot and will “host” the meeting. The parties will prepare a court order scheduling the remote hearing after obtaining the time and date from the Court. The Court will “invite” the prosecution, defense, the court reporter and the circuit clerk. A party intending to call a witness is responsible for providing the required information to that witness. Felony judges are encouraged to stagger the times available for remote hearings so as to ensure the availability of a court reporter.
- 4) Except as otherwise provided for in this order, hearings conducted pursuant to this order shall adhere to the same standards as hearings in a courtroom and in accordance with the Illinois Rules of Criminal Procedure, the Illinois Rules of Evidence, Illinois Supreme Court Rules and the Rules of Practice of the Circuit Court, Sixteenth Judicial Circuit. If any party does not appear at the time scheduled for the remote hearing, the hearing will be cancelled and will only be rescheduled upon presentation of a written motion requesting same.
- 5) The attorney for any party requiring the use of an interpreter is responsible for providing the Chief Judge’s Office with a court order specifying the hearing date and time, the language required, and for providing the information required by the interpreter to attend the remote hearing.
- 6) The precise method in which a remote hearing will be conducted remains with the sound discretion of the judge assigned to the case, within the bounds of applicable law, rules and practice procedures.

- 7) The court reporter is the only person authorized to record the remote hearing by electronic means, stenography of any other method. Any recording by a party or other person is forbidden and may subject an individual to contempt of court proceedings.
- 8) American courts are generally open to the public. Consideration must be given by the Court and parties of how best to allow the press and public access to remote hearings conducted in criminal cases. Individuals who desire to observe a hearing should contact the Chief Judge's Office for directions on how to attend.
- 9) All parties attending a remote hearing must ensure they have a good connection/signal to avoid disruption during the hearing.

C) MATTERS BROUGHT BEFORE THE COURT

- 1) Matters to be brought before the Court prior to June 1, 2020, are limited to
 - a) Emergencies, as approved by the Court;
 - b) Bond reduction motions that may result in a defendant being released from custody;
 - c) Plea agreements which will result in a defendant's release from custody;
 - d) Fitness issues, including restoration of fitness, which must be brought before the court due to time limitations;
 - e) Any other matter approved by the Court.
- 2) From the effective date of this Order through May 29, 2020, all felony matters that require a court appearance will be heard in courtroom 319. On June 1, 2020, and thereafter, all felony matters that require a court appearance shall be heard in the courtroom where the case is normally assigned.

Entered this 28th day of April, 2020


John Barsanti
Presiding Judge, Felony Division