

EMERGENCY LOCAL RULES: FAMILY
(Second Amended)

The Court adopts the following as Emergency Local Rules (“Rules”) intended to address the impact of the COVID-19 pandemic, under the authority granted the Court by the March 23, 2020, and March 30, 2020, Orders of the Chief Justice of the California Supreme Court, as Chair of the Judicial Council (“Orders”), and by the Emergency Rules in Response to the COVID-19 Pandemic issued by the Judicial Council on April 6, 2020 (“Judicial Council Emergency Rules”) and as amended thereafter. These Rules are effective April 27, 2020, and supersede any Emergency Local Rules – Family previously posted, subject to the limitations imposed by the Orders, and shall remain in effect until either rescinded by this Court or by withdrawal or change to the Orders or Judicial Council Emergency Rules.

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1. Application.

These rules shall apply only to Family cases. During the period of closure pursuant to the COVID-19 emergency, Family departments will conduct hearings for emergency requests only. During the period of closure all documents may be submitted for filing.

2. Filing of Papers.

The Court is not accepting in-person filings during the Court closure period. Whenever practical, attorneys and self-represented litigants are strongly encouraged to submit documents by mail and email as provided below. The Court encourages all parties and attorneys to avoid in-person travel to the courthouse when reasonably possible.

a. *Submission of documents other than requests for DVROs*

- i. Attorneys and self-represented litigants shall submit documents other than DVROs for filing either by US mail or drop box. The drop box will be located in front of the Peter Spinetta Family Law Building, 751 Pine Street, Martinez, CA, Monday through Friday from 9:00 a.m. – 3:00 p.m. Filings submitted by mail should be sent to: Family Law, 751 Pine Street, Martinez, CA 94553.
- ii. DCSS may submit filings by mail or through batch drop-offs to be coordinated with the clerk's office.
- iii. Filing fees, if required, must be enclosed with the paperwork via check or money order.
- iv. Requests for *ex parte* temporary emergency orders can be created by using the forms packet available at: <http://www.cc-courts.org/forms/packets/FamLaw007-RequestForOrderEmergencyPacket.pdf>. To ensure prompt

review of such requests, they should be submitted by drop box.

- v. All documents shall contain the filing party's mailing address, email address, and phone number.
- vi. Except for *ex parte* temporary orders attorneys or litigants requesting copies of filed documents must provide an extra copy and a self-addressed envelope with adequate postage with the paperwork. If an extra copy or self-addressed envelope with adequate postage is not provided, documents will not be returned. *Ex parte* temporary orders must be picked up by attorneys and litigants as described in section c.

b. *Filing Requests for DVROs.*

- i. Requests for DVROs and responses thereto may be submitted by mail, email or drop box. To ensure prompt review of such requests, they should be submitted by email or, if not feasible, drop box.
- ii. Requests for DVROs can be created either by an on-line tool, or by downloading and printing forms packets.

The on-line tool is available

at: https://california.tylerhost.net/SRL/SRL/Start?legalProcessKey=Domestic_Violence_Restraining_Order_Request .

When using this online tool, first create an account to save your documents. E-filing is not available, but completed documents can be attached to an email for submission or printed and submitted by mail or drop box.

DVRO forms packets can also be downloaded for printing.

- Packet A (<http://www.cc-courts.org/forms/packets/FamLaw19-DomesticViolencePacket-A.pdf>) is required to be completed.
- Packet B (<http://www.cc-courts.org/forms/packets/FamLaw22-DomesticViolencePacket-B.pdf>) must be completed only if the parties have minor children together.

DVRO forms packets are also available at Contra Costa Family Justice Centers, www.cocofamilyjustice.org. For hours of operation, please call the respective center:

- Richmond (510) 974-7200
- Concord (925) 521-6366
- Antioch (925) 281-0970

iii. Protocol for submitting DVRO documents by email. **Only Requests for DVROs and Responses to Requests for DVROs can be submitted by email at this time. All other filings submitted by email will not be accepted:**

- a. All DVRO email submissions must be submitted as a PDF file and emailed to familylawemergency@contracosta.courts.ca.gov.
- b. Any email submission must contain in the subject line the case name and case number, if one exists.
- c. Declarations will be strictly limited to 10 one-side pages. Typed declarations must be at least 12-point font.
- d. DVRO filings submitted by email will be filed despite voluminous exhibits being attached. However, a maximum of 10 total pages of exhibit(s) will be

printed and placed in file. For exhibit(s) totaling more than 10 pages to be placed in the file, attorneys or litigants must submit a hard copy (by mail or drop box) of the exhibits to the Court. All exhibits must be served on the other party.

- e. All email submissions shall contain the moving party's email address in the left corner of petition or request for order unless a protected party requests such email address remain private.
 - f. All responses emailed to the Court must be copied (cc'd) to the moving party. Copying the other party on a response submitted by email will satisfy proof of service requirements if 1) the moving party is represented by an attorney or 2) the self-represented moving party consents to e-service.
- iv. All documents regardless of manner of submission shall contain a return mailing address, email address, and phone number.
 - v. Temporary restraining orders will not be returned by mail or email and must be picked up by attorneys and litigants as described in section c, below. Attorneys or litigants requesting copies of filed responses to requests for DVROs must provide an extra copy and a self-addressed envelope with adequate postage with the paperwork. If an extra copy or self-addressed envelope with adequate postage is not provided, such documents will not be returned.

c. *Picking Up Emergency Orders (DVROS or Ex Parte Temporary Emergency Orders).*

DVROs and *Ex Parte* Temporary Orders will not be returned by mail or email; they must be picked up from the Peter Spinetta Family Law Building at 751 Pine Street from 1:00 pm to 2:30 pm. Family court staff will contact attorneys and litigants when their orders are ready for pick up. When picking up documents, attorneys and self-represented litigants shall not approach the Court personnel stationed outside the building and shall stay at least 6 feet away from the Court personnel. The attorney or self-represented litigant will give the Court personnel the case name and provide identification. The Court personnel will retrieve the documents and place them outside for the litigants to retrieve. DO NOT approach Court personnel.

d. *Judgments and Defaults.*

Judgments may be placed in the drop box or mailed to the Court only. The requirements for submitting judgments will remain the same. Judgments will be returned by mail only. Please submit one self-addressed stamped envelope of an appropriate size and with enough postage for the return of the judgment and two additional self-addressed stamped envelopes for the mailing of the notice of entry of judgment to each party.

The Court will not enter any stand-alone defaults (true defaults) until 90 days after the Court resumes normal operations.

e. *E-signature Accepted.*

The Court will accept an e-signature as an original signature on all documents submitted for filing.

f. *No Fax Filings; Email Filing for DVROs Only.*

The Court is no longer accepting filings of any kind by fax. The only documents that may be submitted by email are Requests for DVROs and Responses to Requests for DVROs.

3. Processing of Emergency Requests (DVROs and *Ex Parte* Temporary Emergency Orders)

- a. Requests for emergency orders will be reviewed by a legal technician.
- b. If all documents are in order documents will be promptly submitted to the assigned judge for review. If the moving party does not have access/possession of the prior order the Court will accept emergency requests without attachment of the prior order. Please note requests submitted without attachment of the prior order may delay processing the emergency request.
- c. If documents are not in order, a legal technician will contact the attorney or litigant to explain the issue. Once documents are in order, paperwork will be submitted to the assigned judge.

4. Service

- a. Required electronic service:
 - i. An attorney of record must accept electronic service of a notice or document that may otherwise be served by mail, express mail, overnight delivery, or facsimile transmission. Before first serving the attorney of record electronically, the serving party must confirm by telephone or email the appropriate electronic service address for counsel being served.

- ii. An attorney of record must serve the opposing party electronically if requested by the other party and an electronic address is provided.
- b. Permissive electronic service: Electronic service on a self-represented party is permitted only with consent of that party, confirmed in writing. The written consent to accept electronic service may be exchanged electronically.
- c. Confidential documents: Confidential or sealed records electronically served must be served through encrypted methods to ensure that the documents are not improperly disclosed.

5. Hearings

a. *Emergency Hearings*

- i. Hearings on requests for DVROs filed during the Court closure period will be calendared within 90 days of the filing of the request or within 90 days of any hearing date set to occur during the court closure. Hearings on DVROs will be held during the Court closure period only if a party demonstrates extraordinary circumstances necessitating the need for an earlier hearing in the moving papers or filed response. Also, a party that has already filed a DVRO may file an amended DVRO or a restrained party may file an (amended) response requesting the hearing occur at an earlier date. Hearings shall be heard via Zoom or any other video conferencing application designated by the Court.
- ii. Hearings on *ex parte* temporary emergency orders shall be calendared within the time periods required by law.

b. *Telephonic/Video Hearings.*

Hearings conducted during the Court closure will be conducted via video or telephone and will occur as follows:

- i. The Court has elected to utilize Zoom for its remote appearances. The reference to Zoom in these emergency rules also refers to any other video conferencing application or platform designated by the Court. **PARTIES ARE NOT PERMITTED TO AUDIO OR VIDEO RECORD ANY PROCEEDINGS.**
- ii. Once Zoom is ready for use all family law proceedings will occur through Zoom. All parties will receive information as to how to access Zoom prior to the hearing. Telephonic hearings will occur until and unless Zoom is ready for use.
- iii. Documents/exhibits shall be exchanged prior to the Zoom hearing. The Court shall receive a copy of the document/exhibits prior to the hearing. The document may be delivered to the department via email, fax, or mail. Please identify case name, case number and date and time of hearing on any documents/exhibits delivered to the Court prior to the Zoom hearing.
- iv. Documents may be shown and exchanged via Zoom at the judge's discretion.
- v. The judicial officer may or may not appear on camera.
- vi. All parties must be dressed appropriately for Court when appearing by Zoom. No hats or sunglasses shall be worn by litigants.
- vii. Parties appearing by Zoom should wear a headset to reduce background noise.
- viii. A court reporter may be provided for domestic violence restraining order hearings and AB 1058 cases, if available. The court reporter may appear remotely.

- ix. All family law proceedings will occur through Zoom unless a self-represented litigant does not have access to Zoom technology and timely requests, in advance, that the hearing be held telephonically.
 - x. All other family law proceedings may or may not be recorded by a court reporter until further order of Court.
- c. *Scheduling of Hearings During Court Closure Period.*
- i. On Mondays telephonic/video conferences will be scheduled in Department 29.
 - ii. On Tuesdays telephonic/video conferences will be scheduled in Department 32.
 - iii. On Wednesdays, Thursdays, and Fridays telephonic/video conferences will be scheduled in Departments 18.
 - iv. Each department will review submitted requests daily. Judicial officers shall review every submitted emergency request within 24 hours of being received by the judicial officer.
 - v. Department 52 will hear cases via telephonic/video conferences Monday through Thursday.
 - vi. The Court will initiate all video hearings. Telephonic hearings will be conducted through CourtCall except in Department 52.
- d. *Orders*
- i. Attorneys will promptly prepare orders after hearing. Orders may be submitted by fax, mail, or email directly to the assigned department. Orders submitted by email shall be sent as an attached PDF document.

- ii. Cases involving self-represented litigants will be routed to the family law facilitators for preparation of order.
- iii. In cases heard by Department 52, orders will be prepared through usual procedures.
- iv. For purposes of a signature, a judicial officer's signature done via fax or scan shall be deemed an original for purposes of filing.

e. *Non-Emergency Hearings and Other Scheduling Matters*

- i. Non-emergency hearings on matters filed during the Court closure period generally will be set for hearing on a date at least 90 days from the date of filing.
- ii. All matters that were scheduled to be heard during the Court closure period will be reset by the assigned department after the Court resumes normal operations.

6. Child Custody Orders.

Due to the COVID-19 pandemic, a “Shelter-In-Place” order has been issued by Contra Costa Health Services for the protection of the health and safety of all Contra Costa County residents. This order impacts custody and visitation orders currently in effect. While the Court is open for limited, essential services, including emergency ex parte requests regarding the health, safety and welfare of children, these services must be strictly limited for the protection of the public and Court personnel.

Therefore, parties with custody/visitation orders shall follow the guidelines below prior to filing an ex parte motion to modify an existing custody order. These guidelines are not an exclusive remedy to all issues that might arise during the COVID-19 crisis. However, before any ex parte request is brought to the Court, compliance with these guidelines shall be considered. **These provisions may be modified by any judge on a showing of good cause.**

a. Principles Applicable to Custody Modifications.

- i. Specific facts in addition to the COVID-19 crisis are required to modify a custody order. The existence of the COVID-19 crisis is not a sufficient basis for the modification of an existing custody / visitation order without specific persuasive facts supporting the request for the modification. Any request based on fear, concern, or belief on the part of the requesting party, without supporting facts, shall not constitute a basis for a modification of a custody order. Unreasonable denial of a parent's custodial time during the COVID-19 crisis will be considered in any subsequent custody and visitation requests.
- ii. The COVID-19 crisis is not a reason to deny parenting time or refuse to comply with court-ordered custody exchanges. Unless otherwise ordered by the Court, parents are considered fit to care for their children and make decisions regarding the day-to-day aspects of parenting while the children are in his or her care. The day-to-day care includes complying with all the directives from the public health department of each parents' respective county of residence and all federal, state and local government directives regarding the current COVID-19 crisis.

b. School-Time Custody Orders.

- i. Existing School-Time Custody Orders Remain in Effect. During the school closures in response to the COVID-19 crisis, the existing school-time custody orders remain in effect. The closure of any school for public health purposes will not be considered an extension of any break/vacation/holiday/non-school day or weekend. The beginning of the Summer Break and/or other school breaks shall be determined by the 2019-2020 academic calendar for the child's school.
- ii. Modification of Exchange Locations Due to School Closure. If an existing order states a custodial period is to start at

school pick-up from school or extra-curricular activity, the receiving parent shall pick up from the relinquishing parent's home. If possible, based on the age of the child and ability to observe the child, the pick-up shall be curbside. The child shall go to the receiving parent's vehicle unassisted. If a restraining order is in effect, the pick-up location shall be the parking lot of the police station nearest to the home of the relinquishing parent. If possible, the child shall transfer between vehicles unassisted. The parties shall not attempt to engage in any conversation or make any comments to one another during exchanges. The parties may mutually agree in writing (email or text is acceptable) to any other exchange location.

c. *Modification of Exchange Locations – Public Places*

If a current order requires the parties to exchange the children inside a public location, i.e. coffee shop, fast food restaurant, etc., the exchange shall be in the parking lot of the location. If possible, based on the age of the child, the child shall transfer between vehicles unassisted. The parties shall not attempt to engage in any conversation or make any comments to one another during exchanges.

d. *Parenting Time in Public Places*

If a current order requires the visitation to occur in a public location, visitation may continue at a location that is in compliance with public health directives. The parties shall work cooperatively to find a suitable alternative location if necessary. The parties are to document this cooperation through email, text or online co-parenting tool when possible. If such a location cannot be found, visits shall be by video or telephone, for a reasonable amount of time relative to the age and developmental characteristics of the child.

e. *Supervised Visitation*

- i. Supervised Visitation – Non-Professional. If a current order requires a parent’s custodial time to be supervised by a non-professional family member, the supervised visits may continue as ordered so long as the supervisor is willing to serve and the visits can be in a location that is in compliance with the public health directives such as the home of the supervised parent.
 - ii. Supervised Visitation – Professional. If the current order requires the visits to be supervised by a professional supervisor, these in-person visits are suspended. The parties may stipulate to alternative methods of visitation that can occur in a location that complies with public health directives.
 - iii. Video Visitation. For parents whose visits are currently ordered to be supervised, and supervision cannot go forward due to the COVID-19 crisis, visits shall take place via video such as Facetime or Skype or by telephone calls, for a reasonable amount of time relative to the age and developmental characteristics of the child. If parents are unable to agree on video visitation, a professional supervisor may be utilized to ensure appropriate video visitation occurs.
- f. *Custody Exchanges/Visitation Requiring Travel by Air, Train, or Bus*

Absent specific facts in addition to the COVID-19 crisis showing that travel in the not the best interest of the child(ren) these visits shall not require modification if the carrier being utilized has written information or information posted online confirming the carrier is in compliance with public health directives and is available to provide travel service to the minor. If a previously utilized carrier is not currently available, parties shall work cooperatively to find a suitable alternative carrier.

g. Return to Current Custodial Order

Upon removal of the public health restrictions due to the COVID-19 crisis, the parties shall immediately return to following the current custodial order if that order has been affected by the COVID-19 crisis

7. Stipulations.

Stipulations may be submitted to the assigned judicial officer by email, fax, or mail to the department. Stipulations submitted via email shall be submitted as an attached PDF document. If required the \$20 filing fee for stipulations or fee waiver request shall be mailed separately.

8. Family Court Services.

Mediators/Child Custody Recommending Counselors will be available to provide video/telephonic appointments for *ex parte* temporary emergency orders involving child custody issues, DVROs involving children, and submitted stipulated requests for orders involving child custody issues. Mediators/Child Custody Recommending Counselors may provide recommendations when such video/telephonic mediations occur as a result of *ex parte* temporary emergency orders, DVRO (temporary or permanent), or submitted stipulated requests for orders.

All mediation appointments scheduled between March 16, 2020, and through court closure, to take place at 751 Pine Street, Martinez, CA have been or will be **canceled**. Family Court Services will contact parents and attorneys when previously-scheduled appointments are rescheduled or new appointments are scheduled as video/telephonic appointments.

9. Information for parents sharing custody or parenting time of children during the Covid-19 pandemic.

This information is available at: <http://www.cc-courts.org/family/docs/ParentsSharingCustodyDuringCOVID-19Pandemic.pdf>

10. Family Law Facilitators.

Facilitators will be available to assist self-represented litigants via telephone or email. The Facilitators can be reached at: selfhelpfamilylaw@contracosta.courts.ca.gov or (925) 608-2067. The Facilitators do not have information about court hearing dates or mediation dates. Please do not contact the Facilitators to inquire about hearing or mediation dates. Litigants and attorneys will be contacted by the court when court hearing and mediation dates are rescheduled or new dates are set.

11. Informal Case Management Conferences/Settlement Conferences

The Court will conduct informal case management conferences and settlement conferences regarding Requests for Orders, Long Cause Hearings, and Trials that were calendared for hearing during the court closure. Cases will only be set for an informal case management conference or settlement conference upon stipulation of both parties. Requests can be made directly to the email account of the department to which the matter is assigned.

Informal Case Management Conferences and Settlement conferences conducted pursuant to this rule are subject to the following conditions:

- a. An informal case management conference or settlement conference will be conducted remotely, via videoconference or telephone for parties who do not have access to videoconferencing. The informal case management conference or settlement conference will not involve a courtroom clerk or court reporter.

- b. Requests for an informal case management conference or settlement conferences shall:
 - i. identify case name, case number and the substance of issues to be discussed during the informal settlement conference;
 - ii. include a stipulation by the parties to have the assigned department preside over the informal settlement conference;
 - iii. provide email and telephone contact information for each party (or counsel, if applicable);
 - iv. state if a party wishes to proceed telephonically;
 - v. identify any party or parties requesting language interpretation and specify the language.
- c. The Court assigned to the matter will notify parties and counsel of the scheduled informal case management conference or settlement conference.
- d. In matters where the parties reach agreement and one or more counsel are involved, the Court will direct counsel to prepare a Stipulation and Order. Where both parties are unrepresented, the Court will request staff from the Family Law Facilitator's Office prepare a Stipulation and Order.
- e. In matters where the parties are unable to reach agreement, the Court will re-calendar the matter for hearing in the future.
- f. Matters involving custody and visitation are not eligible for an informal case management conference or settlement conference unless the parties have previously participated in Tier I mediation.
- g. Parties and counsel should understand that informal case management conferences and settlement conferences are intended to assist parties in reaching resolution of disputed issues. Cases being heard in these conferences will remain in the department to which they are assigned.

12. Submitting Stipulated Requests for Orders on the Pleadings (i.e., Without a Hearing)

During the court closure period, parties wishing to submit Requests for Orders (RFOs) on the pleadings, i.e., without a hearing, may submit a stipulated request directly to the email account of the department in which the RFO is calendared.

- a. This rule applies to all Requests for Orders, except for Domestic Violence Restraining Orders and Elder Abuse Restraining Orders calendared to be heard during the court closure period and for 30 calendar days after the end of the court closure period.
- b. The requesting parties or their counsel must submit a stipulation form (Stipulation and Waiver of Right to Hearing on Request for Order) by email with signatures of both parties and attorneys of record, if any. Contact the assigned department for a copy of the form.
- c. Parties wishing to submit an RFO without a hearing must:
 - i. waive their right pursuant to Family Code 217 to present live, competent testimony that is relevant and within the scope of the RFO;
 - ii. stipulate that the pleadings were timely and properly served and/or waive any defects in service;
 - iii. waive all evidentiary objections except those specifically raised in written submissions;
 - iv. provide telephone and email contact information and consent to receive notices from the Court via email;
 - v. identify on the form all documents that have been previously filed and being requested to be considered by the Court, as well as any additional documents submitted in accord with Rule 12(d) and 12(e) to be considered by the Court.

- d. Each party may submit up to 10 additional pages of pleadings (including declarations and exhibits) relating to the request. Any such additional documents must be attached to the stipulation and must have been shared with the opposing party prior to submission to the Court. The Court will consider those additional pleadings in making its decision.
- e. If the Request for Order seeks child support or spousal support, each side must file and serve a current income and expense declaration (Judicial Council form number FL-150), with evidence of income attached, consistent with rules 5.92(b)(2) and (3) and 5.260(a)(3) of the California Rules of Court. The income and expense declaration and supporting evidence do not count toward the 10 page limit for additional pleadings referenced in Rule 12(d).
- f. All supporting declarations filed shall be consistent with rule 5.111(b)(2) of the California Rules of Court.
- g. RFOs pertaining to custody and visitation remain subject to mandatory mediation, pursuant to Family Code 3170 and Contra Costa Local Rule 5.17. RFOs pertaining to custody and visitation will be referred to Tier I mediation by the court after submission of the pleadings. If after attending mediation no agreement or partial agreement is reached, the court will make a decision on the unresolved matters based upon the pleadings.
- h. The Court will render a minute order after the matter is submitted. The Court may, in its discretion, instruct counsel, in matters where at least one party is represented, to prepare the Findings and Order after Hearing.

*(Emergency Local Rules – Family, adopted 4/6/2020; amended 4/13/2020;
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