

1 **SUPERIOR COURT**
2 **COUNTY OF SAN BERNARDINO**
3 247 West Third Street, Eleventh Floor
4 San Bernardino, CA 92415-0302

5
6 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF SAN BERNARDINO**

8
9 IN RE:

10 THIRD AMENDMENT TO
11 IMPLEMENTATION OF EMERGENCY
12 RELIEF AUTHORIZED PURSUANT TO
13 GOVERNMENT CODE SECTION 68115,
14 STATEWIDE ORDERS DATED MARCH
15 23, 2020 AND MARCH 30, 2020 BY
16 CHAIR OF JUDICIAL COUNCIL
17 EFFECTIVE APRIL 8, 2020, AND
18 EMERGENCY RULES AND/OR
19 AMENDED EMERGENCY RULES OF THE
20 CALIFORNIA RULES OF COURT
21 ADOPTED BY THE JUDICIAL COUNCIL
22 OF CALIFORNIA ON APRIL 6, 17,
23 AND 19, 2020

GENERAL ORDER OF THE
PRESIDING JUDGE

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Due to Governor Gavin Newsom proclaiming a State of Emergency in California as a result of COVID-19; Governor Newsom issuing a statewide shelter in place order with limited exceptions for essential services; state Public Health Officers announcing that gatherings should be postponed or canceled across the State until at least the end of May 2020; Governor Newsom declaring that persons gathered in connection with essential services must implement social distancing of 6 feet per person; the County of San Bernardino Public Health Department declaring a local health emergency and issuing an order consistent with the guidelines of Governor Newsom and the State Public Health Officers; President Donald Trump declaring a national emergency and

1 issuing directives targeted at reducing social contact to reduce the spread of COVID-19;
2 in accordance with the March 17, 2020, emergency order of Chief Justice Tani G.
3 Cantil-Sakauye (Chief Justice), Chair of the Judicial Council of California, under the
4 authority granted pursuant to Government Code Section 68115, and issued in response
5 to the March 16, 2020, request for an emergency order made by the Superior Court of
6 San Bernardino County, and subsequent request for extension of the emergency order
7 made on March 23, 2020, and granted by order of the Chief Justice on April 1, 2020;
8 Governor Newsom, on March 27, 2020, issuing Executive Order N-38-20, which among
9 other things, suspended Government Code section 68115 and any other provision of
10 law to the extent that those laws impose or imply a limitation on the Chief Justice's
11 authority to authorize via emergency order or statewide rule, any court to take any
12 action deemed necessary to maintain the safe and orderly operation of the courts;
13 pursuant to the Statewide Orders executed by the Chief Justice on March 23, 2020,
14 and March 30, 2020; pursuant to the amendments to the California Rules of Court
15 adopted by the Judicial Council of California on April 6, 17, and 19, 2020; and under the
16 authority granted pursuant to Government Code Section 68115 to protect the health
17 and safety of the public, court personnel, and criminal litigants brought before the court,
18 the court HEREBY ORDERS AS FOLLOWS:

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- 20 1. The court shall, effective immediately, use its best efforts within available
21 resources to implement where appropriate Emergency rules 1 through 13 of
22 the California Rules of Court as adopted by the Judicial Council of California
23 effective April 6, 2020, April 17, 2020 and April 19, 2020 concerning the
24 following matters and processes:
- 25 a. Unlawful detainers (Emergency Rule 1)
 - 26 b. Judicial foreclosures – suspension of actions (Emergency Rule 2)
 - 27 c. Use of technology for remote appearances (Emergency Rule 3)
 - 28 d. Emergency Bail Schedule (Emergency Rule 4)

- e. Personal appearance waivers of defendants during health emergency (Emergency Rule 5)
- f. Emergency orders: juvenile dependency proceedings (Emergency Rule 6)
- g. Emergency orders: juvenile delinquency proceedings (Emergency Rule 7)
- h. Emergency orders: temporary restraining or protective orders (Amended Emergency Rule 8)
- i. Toll the statutes of limitations for civil causes of action (Emergency Rule 9)
- j. Extensions of time in which to bring a civil action to trial (Emergency Rule 10)
- k. Depositions through remote electronic means (Emergency Rule 11)
- l. Electronic service (Emergency Rule 12)
- m. Effective date for requests to modify support (Emergency Rule 13)

2. From March 17, 2020 through April 30, 2020, the court may hold sessions anywhere in the county, including in correctional and juvenile detention facilities.

3. For purposes of computing time for filing papers with the court under Code of Civil Procedure sections 12 and 12a, March 17, 2020 through April 30, 2020 are deemed holidays.

4. Notwithstanding any other law, the statutes of limitation for civil causes of action are tolled from April 6, 2020, until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted.

5. March 17, 2020 through April 30, 2020 are deemed holidays for purposes of accepting filings as necessary to satisfy the deadlines or for computing time under:

- 1 a. Penal Code section 825 (time to bring a criminal defendant before
- 2 magistrate after arrest)
- 3 b. Welfare and Institutions Code section 313 (time to release minor taken
- 4 into custody pending dependency proceedings)
- 5 c. Welfare and Institutions Code section 315 (time to hold detention
- 6 hearing for minor taken into custody pending dependency
- 7 proceedings)
- 8 d. Welfare and Institutions Code section 334 (time to hold hearing on
- 9 dependency petition)
- 10 e. Welfare and Institutions Code section 631 (time to release minor taken
- 11 into custody pending wardship proceedings)
- 12 f. Welfare and Institutions Code section 632 (time to hold detention
- 13 hearing for minor taken into custody pending wardship proceedings)
- 14 g. Welfare and Institutions Code section 637 (time to hold detention
- 15 rehearing in wardship proceedings if parent/guardian files affidavit
- 16 asserting lack of notice of hearing or minor requests evidence of prima
- 17 facie case)
- 18 h. Welfare and Institutions Code section 657 (time to hold hearing on
- 19 wardship petition)
- 20 6. From April 3, 2020 through April 30, 2020, all courtrooms except for limited
- 21 courtrooms in San Bernardino Justice Center, Victorville, Joshua Tree, San
- 22 Bernardino Historic and Juvenile Court will be closed for judicial business,
- 23 except for the following time-sensitive, essential functions:
- 24 a. Civil temporary restraining orders involving violent conduct;
- 25 b. Family ex parte matters including domestic violence proceedings and
- 26 other safety issues;
- 27 c. Civil ex parte matters (when parties can appear remotely)
- 28 d. Hague Convention (international kidnapping);

- 1 e. Probate ex parte hearings concerning elder abuse;
- 2 f. Probate emergency petitions for temporary guardianship;
- 3 g. Probate emergency petitions for temporary conservatorship;
- 4 h. Riese hearings;
- 5 i. Electronically submitted day and nighttime warrants including the
- 6 following:
- 7 i. Search;
- 8 ii. Arrest;
- 9 iii. Juvenile detention;
- 10 iv. Juvenile interview;
- 11 v. Bail enhancement;
- 12 vi. Emergency protective orders;
- 13 vii. PEN register;
- 14 viii. GPS;
- 15 ix. Parole;
- 16 x. DUI;
- 17 xi. Gun violence RO
- 18 j. Criminal, in-custody and/or other time-sensitive or critical matters,
- 19 including, but not limited to, pre-preliminary and preliminary hearings;
- 20 k. Emergency writs challenging COVID-19 emergency measures;
- 21 l. In-custody arraignments for new filings, warrants of arrest, and parole
- 22 revocations;
- 23 m. In-custody juvenile dependency and delinquency proceedings;
- 24 however, in accordance with Emergency Rules 6 and 7, the following
- 25 proceedings should be prioritized in accordance with existing statutory
- 26 time requirements until the state of emergency related to the COVID-
- 27 19 pandemic is lifted:
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- i. Protective custody warrants filed under Welfare and Institutions Code section 340;
- ii. Detention hearings under Welfare and Institutions Code section 319;
- iii. Psychotropic medication applications;
- iv. Emergency medical requests;
- v. Petitions for reentry of a nonminor dependent;
- vi. Petitions filed under Welfare and Institutions Code section 388 that require an immediate response based on the health and safety of the child;
- vii. Hearing on any request for a warrant for a child; and
- viii. Probable cause determinations for children who have been detained but have not had detention hearings within the statutory time limits.

These matters will be conducted with strict distancing protocols of at least 6 feet of social distance between persons being followed.

7. To the extent the court accepts and/or processes filings associated with the time-sensitive and/or essential functions described in paragraph 6, or performs preliminary administrative work on files to prepare for the resumption of services, such acceptance and/or processing shall not alter the designation and application of the court holidays and extensions provided by this Order.

8. In accordance with the statewide orders issued by the Chief Justice on March 23, 2020 and March 30, 2020:

- a. All jury trials are suspended and continued for a period of sixty **60** days from March 23, 2020. The court may conduct a trial at an earlier date, upon a finding of good cause shown or through the uses of remote technology, when appropriate.

1 b. The time period provided in section 1382 of the Penal Code for the
2 holding of a criminal trial is extended by no more than **60** days from
3 the last date on which the statutory deadline would otherwise have
4 expired. The court may conduct such a trial at an earlier date, upon a
5 finding of good cause shown or through the use of remote technology,
6 when appropriate.

7 c. The **60**-day continuance of jury trials as provided in section 8b is to be
8 calculated from the date for which the trial was set or extended,
9 whichever is longer.

10 9. In accordance with Emergency Rule 10:

11 a. Notwithstanding any other law, including Code of Civil Procedure
12 section 583.310, for all civil actions filed on or before April 6, 2020, the
13 time in which to bring the action to trial is extended by six months for a
14 total time of five years and six months.

15 b. Notwithstanding any other law, including Code of Civil Procedure
16 section 583.320, for all civil actions filed on or before April 6, 2020, if a
17 new trial is granted in the action, the three years provided in section
18 583.320 in which the action must again be brought to trial is extended
19 by six months for a total time of three years and six months. Nothing in
20 this subdivision requires that an action must again be brought to trial
21 before expiration of the time prescribed in (a).

22 10. All other matters are hereby continued by the court. The parties shall receive
23 notice stating the specific time and date of the continuance in their cases.

24 11. The court extends the following deadlines for the period beginning April 3,
25 2020 through April 30, 2020:

26 a. The time provided in section 825 of the Penal Code within which a
27 defendant charged with a felony offense must be taken before a
28 magistrate is extended from 48 hours to not more than **7** days.

- 1 b. The time period provided in section 859b of the Penal Code for the
2 holding of a preliminary examination is extended from 10 court days to
3 not more than **30** court days.
- 4 c. The time period provided in section 313 of the Welfare and Institutions
5 Code within which a minor taken into custody pending dependency
6 proceedings must be released from custody is extended to not more
7 than **7** days.
- 8 d. The time period provided in section 315 of the Welfare and Institutions
9 Code within which a minor taken into custody pending dependency
10 proceedings must be given a detention hearing is extended to not
11 more than **7** days.
- 12 e. The time periods provided in sections 632 and 637 of the Welfare and
13 Institutions Code within which a minor taken into custody pending
14 wardship proceedings and charged with a felony must be given a
15 detention hearing or rehearing is extended to not more than **7** days.
- 16 f. The time period provided in section 334 of the Welfare and Institutions
17 Code within which a hearing on a juvenile dependency petition must
18 be held is extended by not more than **15** days.
- 19 g. The time period provided in section 657 of the Welfare and Institutions
20 Code within which a hearing on a wardship petition for a minor
21 charged with a felony offense must be held is extended by not more
22 than **15** days.

23 12. In accordance with Amended Emergency Rule 8, the court will apply the
24 protocols set forth in (a)-(d) below for any emergency protective order,
25 temporary restraining order, or criminal protective order that was requested,
26 issued, or set to expire during the state of emergency related to the COVID-
27 19 pandemic. This includes requests and orders issued under Family Code
28 sections 6250 or 6300, Code of Civil Procedure sections 527.6, 527.8, or

1 527.85, Penal Code sections 136.2, 18125 or 18150, or Welfare and
2 Institutions Code sections 213.5, 304, 362.4, or 15657.03, and including any
3 of the foregoing orders issued in connection with an order for modification of
4 a custody or visitation order issued pursuant to a dissolution, legal
5 separation, nullity, or parentage proceeding under Family Code section 6221:

6 a. Any emergency protective order made under Family Code section
7 6250 that is issued during the state of emergency must remain in
8 effect for up to 30 days from the date of issuance.

9 b. Any temporary restraining order or gun violence emergency protective
10 order issued or set to expire during the state of emergency related to
11 the COVID-19 pandemic must remain in effect for a period of time that
12 the court determines is sufficient to allow for a hearing on the long-
13 term order to occur, for up to 90 days.

14 c. Any criminal protective order, subject to this rule, set to expire during
15 the state of emergency, must be automatically extended for a period of
16 90 days, or until the matter can be heard, whichever occurs first.

17 d. Upon the filing of a request to renew a restraining order after hearing
18 that is set to expire during the state of emergency related to the
19 COVID-19 pandemic, the current restraining order after hearing must
20 remain in effect until a hearing on the renewal can occur, for up to 90
21 days from the date of expiration.

22 13. The San Bernardino County Probation Department may review and authorize
23 the release of in-custody inmates that meet the pretrial services release
24 requirements pending further hearing.

25 14. Upon assessment by the San Bernardino County Probation Department, the
26 San Bernardino County Sheriff is authorized to release those identified by the
27 San Bernardino County Probation Department as low risk through the pretrial
28


1 13. The San Bernardino County Probation Department may review and authorize
2 the release of in-custody inmates that meet the pretrial services release
3 requirements pending further hearing.

4 14. Upon assessment by the San Bernardino County Probation Department, the
5 San Bernardino County Sheriff is authorized to release those identified by the
6 San Bernardino County Probation Department as low risk through the pretrial
7 program. The Probation Department may develop terms of release, which, if
8 violated may result in a criminal defendant's return to custody.

9 15. The court is authorized under rule 10.613(i) of the California Rules of Court to
10 adopt any proposed rules or rule amendment that is intended to address the
11 impact of the COVID-19 pandemic to take effect immediately, without
12 advance circulation for 45 days of public comment. A copy of any such rule
13 change, if adopted, must be provided to Judicial Council staff and the court
14 must post notice of the change prominently on the court's website, along with
15 the effective date of the new or amended rule. Additionally, the court must
16 immediately distribute the new or amended rule as set forth in rule
17 10.613(g)(2). No litigant's substantive rights shall be prejudiced for failing to
18 comply with the requirements of a new or amended rule until at least 20 days
19 after the rule change has been distributed.

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21 THIS ORDER IS EFFECTIVE IMMEDIATELY.

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23 Dated: April 21, 2020

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27 MICHAEL A. SACHS
28 Presiding Judge of the Superior Court