

1 **SUPERIOR COURT**
2 **COUNTY OF SAN BERNARDINO**
3 247 West Third Street, Eleventh Floor
4 San Bernardino, CA 92415-0302
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7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF SAN BERNARDINO**
9

10 **IN RE:**

11 **SIXTH AMENDMENT TO**
12 **IMPLEMENTATION OF EMERGENCY**
13 **RELIEF AUTHORIZED PURSUANT TO**
14 **GOVERNMENT CODE SECTION 68115,**
15 **STATEWIDE ORDERS DATED MARCH**
16 **23, 2020, MARCH 30, 2020 AND APRIL**
17 **29, 2020 BY CHAIR OF JUDICIAL**
18 **COUNCIL, AND EMERGENCY RULES**
19 **AND/OR AMENDED EMERGENCY**
20 **RULES OF THE CALIFORNIA RULES OF**
COURT ADOPTED BY THE JUDICIAL
COUNCIL OF CALIFORNIA ON APRIL 6,
17, AND 19, 2020

GENERAL ORDER OF THE
PRESIDING JUDGE

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

GENERAL ORDER: IMPLEMENTATION OF EMERGENCY RELIEF

1 Public Health Officers; President Donald Trump declaring a national emergency and
2 issuing directives targeted at reducing social contact to reduce the spread of COVID-19;
3 in accordance with the March 17, 2020 emergency order of Chief Justice Tani G. Cantil-
4 Sakauye (Chief Justice), Chair of the Judicial Council of California, under the authority
5 granted pursuant to Government Code Section 68115, and issued in response to the
6 March 16, 2020 request for an emergency order made by the Superior Court of San
7 Bernardino County, and subsequent requests for extensions of the emergency orders
8 made on March 23, 2020 and April 28, 2020 and granted by order of the Chief Justice
9 on April 1, 2020 and April 29, 2020, respectively; Governor Newsom, on March 27,
10 2020, issuing Executive Order N-38-20, which among other things, suspended
11 Government Code section 68115 and any other provision of law to the extent that those
12 laws impose or imply a limitation on the Chief Justice's authority to authorize via
13 emergency order or statewide rule, any court to take any action deemed necessary to
14 maintain the safe and orderly operation of the courts; pursuant to the Statewide Orders
15 executed by the Chief Justice on March 23, 2020, March 30, 2020, and April 29, 2020;
16 pursuant to the amendments to the California Rules of Court adopted by the Judicial
17 Council of California on April 6, 17, and 19, 2020; and under the authority granted
18 pursuant to Government Code Section 68115 to protect the health and safety of the
19 public, court personnel, and criminal litigants brought before the court, the court
20 **HEREBY ORDERS AS FOLLOWS:**

21 1. The court shall, effective immediately, use its best efforts within available
22 resources to implement where appropriate Emergency rules 1 through 13 of
23 the California Rules of Court as adopted by the Judicial Council of California
24 effective April 6, 2020, April 17, 2020 and April 19, 2020 concerning the
25 following matters and processes:

- 26 a. Unlawful detainers (Emergency Rule 1)
- 27 b. Judicial foreclosures – suspension of actions (Emergency Rule 2)
- 28 c. Use of technology for remote appearances (Emergency Rule 3)

- 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 May 28, 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 May 28, 2020, inclusive, 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 May 28, 2020 are deemed holidays for purposes of accepting filings as necessary to satisfy the deadlines or for computing time under:

- 1 a. Welfare and Institutions Code section 313 (time to release minor taken
2 into custody pending dependency proceedings)
 - 3 b. Welfare and Institutions Code section 315 (time to hold detention
4 hearing for minor taken into custody pending dependency
5 proceedings)
 - 6 c. Welfare and Institutions Code section 334 (time to hold hearing on
7 dependency petition)
 - 8 d. Welfare and Institutions Code section 631 (time to release minor taken
9 into custody pending wardship proceedings)
 - 10 e. Welfare and Institutions Code section 632 (time to hold detention
11 hearing for minor taken into custody pending wardship proceedings)
 - 12 f. Welfare and Institutions Code section 637 (time to hold detention
13 rehearing in wardship proceedings if parent/guardian files affidavit
14 asserting lack of notice of hearing or minor requests evidence of prima
15 facie case)
 - 16 g. Welfare and Institutions Code section 657 (time to hold hearing on
17 wardship petition)
- 18 6. From April 29, 2020 through May 28, 2020, all courtrooms except for limited
19 courtrooms in San Bernardino Justice Center, Victorville, Joshua Tree, San
20 Bernardino Historic and Juvenile Court will be closed for judicial business,
21 except for the following time-sensitive, essential functions:
- 22 a. Civil temporary restraining orders involving violent conduct;
 - 23 b. Family ex parte matters including domestic violence proceedings and
24 other safety issues;
 - 25 c. Civil ex parte matters (when parties can appear remotely)
 - 26 d. Hague Convention (international kidnapping);
 - 27 e. Probate ex parte hearings concerning elder abuse;
 - 28 f. Probate emergency petitions for temporary guardianship;

- 1 g. Probate emergency petitions for temporary conservatorship;
- 2 h. Riese hearings;
- 3 i. Electronically submitted day and nighttime warrants including the
- 4 following:
- 5 i. Search;
- 6 ii. Arrest;
- 7 iii. Juvenile detention;
- 8 iv. Juvenile interview;
- 9 v. Bail enhancement;
- 10 vi. Emergency protective orders;
- 11 vii. PEN register;
- 12 viii. GPS;
- 13 ix. Parole;
- 14 x. DUI;
- 15 xi. Gun violence RO
- 16 xii. Locate a missing child and/or party who has violated a
- 17 custody or visitation order
- 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;
- 22 m. In-custody juvenile dependency and delinquency proceedings;
- 23 however, in accordance with Emergency Rules 6 and 7, the following
- 24 proceedings should be prioritized in accordance with existing statutory
- 25 time requirements until the state of emergency related to the COVID-
- 26 19 pandemic is lifted:
- 27 i. Protective custody warrants filed under Welfare and
- 28 Institutions Code section 340;

- 1 ii. Detention hearings under Welfare and Institutions Code
- 2 section 319;
- 3 iii. Psychotropic medication applications;
- 4 iv. Emergency medical requests;
- 5 v. Petitions for reentry of a nonminor dependent;
- 6 vi. Petitions filed under Welfare and Institutions Code section
- 7 388 that require an immediate response based on the
- 8 health and safety of the child;
- 9 vii. Hearing on any request for a warrant for a child; and
- 10 viii. Probable cause determinations for children who have been
- 11 detained but have not had detention hearings within the
- 12 statutory time limits.

13 These matters will be conducted with strict distancing protocols of at least 6 feet

14 of social distance between persons being followed.

15 7. To the extent the court accepts and/or processes filings associated with the

16 time-sensitive and/or essential functions described in paragraph 6, or

17 performs preliminary administrative work on files to prepare for the

18 resumption of services, such acceptance and/or processing shall not alter the

19 designation and application of the court holidays and extensions provided by

20 this Order.

21 8. The time for conducting civil and criminal jury trials is extended as follows:

- 22 a. In accordance with the statewide orders issued by the Chief Justice
- 23 on March 23, 2020 and March 30, 2020, all civil jury trials are
- 24 suspended and continued for a period of sixty **60** days from March
- 25 23, 2020 (until May 22, 2020). However, the court finds good
- 26 cause to suspend and continue civil jury trials up to an **additional**
- 27 **90 days** from May 22, 2020 (until August 24, 2020). The court may
- 28 conduct a trial at an earlier date, upon a finding of good cause

1 shown or through the uses of remote technology, when
2 appropriate. Good cause to suspend and continue civil jury trials up
3 to an additional 90 days is based on the following circumstances:

4 i. Governor Newsom and state public health officials
5 announcing that gatherings should be postponed or
6 canceled across the state until at least the end of May
7 2020 and that persons gathered in connection with
8 essential services must implement social distancing of 6
9 feet per person. Consequently, the Court is experiencing
10 and/or has reasonable cause to expect to experience:
11 inadequate facility space to maintain the State and County
12 recommended social distance of at least six feet between
13 persons, inadequate staff to enforce the State and County
14 recommended social distance of at least six feet between
15 persons, inadequate staff to support normal court
16 operations as staff are calling out for work due to self-
17 quarantine, caregiving needs for children who out of
18 school, or other reasons associated with this pandemic,
19 and adverse impacts to court operations and proceedings
20 as justice partners are also impacted by reduced staff and
21 compromised levels of service, and

22 ii. Constitutional considerations arising from the court's need
23 to conduct criminal trials within the timeframes specified in
24 section 1382 of the Penal Code and the Chief Justice's
25 April 29, 2020 statewide order regarding criminal trials as
26 proscribed in section (b) below.

27 b. In accordance with the Chief Justice's April 29, 2020 statewide order,
28 the time period provided in section 1382 of the Penal Code for the

1 holding of a criminal trial is extended by no more than **90** days from
2 the last date on which the statutory deadline would otherwise have
3 expired. The court may conduct such a trial at an earlier date, upon a
4 finding of good cause shown or through the use of remote technology,
5 when appropriate. This **90** day extension applies only to those matters
6 for which the last date on which the trial could be conducted under
7 Penal Code section 1382 occurred or will occur between March 16,
8 2020 and June 15, 2020.

9 **9. In accordance with Emergency Rule 10:**

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

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

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

23 **11. The court extends the following deadlines for the period beginning April 29,**
24 **2020 through May 28, 2020:**

25 a. The time provided in section 825 of the Penal Code within which a
26 defendant charged with a felony offense must be taken before a
27 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
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1 program. The Probation Department may develop terms of release, which, if
2 violated may result in a criminal defendant's return to custody.

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

14
15 THIS ORDER IS EFFECTIVE IMMEDIATELY.

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17 Dated: May 1, 2020.

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21 MICHAEL A. SACHS
22 Presiding Judge of the Superior Court
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