

Supreme Court of Kentucky

2020-72

AMENDED ORDER

**IN RE: KENTUCKY COURT OF JUSTICE RESPONSE TO COVID-19
EMERGENCY: COURT PROCEEDINGS**

In addition to those rights provided by the U.S. Constitution, Section 14 of the Kentucky Constitution guarantees the citizens of this Commonwealth that “[a]ll courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.”

In light of the declared federal and state emergencies and considering the need to balance access to the courts and the constitutional rights guaranteed to the people of this Commonwealth with the health and safety of court employees, elected officials, and the public during the COVID-19 emergency, the Supreme Court, under Section 116 of the Constitution and Supreme Court Rule 1.010, hereby orders Administrative Order 2020-64 replaced in its entirety as follows:

A. JURIES

1. Jury Trials. All civil and criminal jury trials shall be postponed until after February 1, 2021, with in-custody criminal trials taking priority over all other matters.
2. Grand Jury Proceedings. Grand juries shall be conducted remotely via available telephonic or video technology, subject to applicable Rules of Criminal Procedure. The indictment may be returned to the circuit judge using available technology. If a grand juror is unable to participate remotely, the chief circuit judge shall excuse that grand juror either temporarily or permanently and swear another grand juror from the current jury panel in place of the one excused.
 - a. Access to view the return of indictments pursuant to RCr 5.20 must be provided to members of the public and media. Access may be provided by live audio or video or by digital recording.
 - b. If a jurisdiction determines that a grand jury cannot be conducted remotely, the 60-day period in RCr 5.22(3) shall be tolled during the effective dates of this Order. Any case where the 60-day period or an extension thereof is tolled by operation of this Order shall be presented to the grand jury within 60 days from the expiration of this Order.

- c. After the expiration of this order, courts are encouraged to give priority in setting hearing and trial dates to cases where the defendant is in custody and proceedings have been tolled by the Supreme Court's response to the COVID-19 emergency.
- d. Existing grand jury panels may be extended at the discretion of the court, subject to the 20-day limitation set out in AP Part II, Sec. 19(3).
- e. If an existing grand jury panel is unable to be extended, juror education shall be conducted by one of the following formats, as directed by the chief circuit judge:
 - i. Requiring grand jurors to read juror reporting information posted on each county's juror information page on the Kentucky Court of Justice website or requiring grand jurors to watch the statewide videos entitled "Jury service: A jury of your peers starts with you" (Video #2) and "Jury service: A fair trial starts with you" (Video #3) on the Jury Service page located on the Kentucky Court of Justice website; or
 - ii. Requiring grand jurors to participate in a remote video or audio orientation using telephonic or video technology such as Zoom, Skype, etc., which shall be conducted in the same manner as an in-person grand jury orientation.

B. CIVIL MATTERS

1. **Evictions.** All actions for residential and commercial eviction may proceed, subject to the following:
 - a. All eviction filings must be accompanied by form AOC-1027 ("Verification of Compliance with CARES Act"), verifying that the eviction is not prohibited under Public Law 116-135 (the "CARES Act"). The AOC-1027 shall be filed with every eviction filing, and the circuit court clerk shall reject any such filing unless it is accompanied by the AOC-1027. The fillable version of this form is available at kycourts.gov on the Legal Forms page under the Resources tab.
 - b. Residential evictions subject to the CARES Act must comply with the following requirements:
 - i. In accordance with Section 4024 of the CARES Act, the following provisions shall apply to actions for eviction from "covered dwellings," as defined in subsection (a) of Section 4024, for nonpayment of rent or fees, penalties, or other charges related to nonpayment of rent.

- a) Thirty days' notice to vacate is required prior to filing an action for eviction. The lessor of a "covered dwelling" shall not require the tenant to vacate until 30 days after the date on which the lessor provides the tenant with notice to vacate; and
 - b) Fees, penalties, or other charges are prohibited. The lessor of a "covered dwelling" shall not charge a tenant any fees, penalties, or other charges that accrued during the period between March 27, 2020, and July 25, 2020, when those fees, penalties, or other charges are related to nonpayment of rent.
- ii. In accordance with Section 4023 of the CARES Act, the following provisions shall apply to actions for eviction from "federally backed multi-family properties," as defined in subsection (f) of Section 4023, solely for nonpayment of rent or fees, penalties, or other charges related to nonpayment of rent:
- a) Evictions and notice to vacate are prohibited during the period of forbearance. Evictions from "federally backed multi-family properties" solely for nonpayment of rent or fees, penalties, or other charges related to nonpayment of rent are prohibited for the duration of the period during which the borrower has received forbearance of its mortgage loan payments, and notice to vacate shall not be issued until after the expiration of the forbearance.
 - b) Thirty days' notice to vacate is required prior to filing an action for eviction. The multi-family borrower shall not require the tenant to vacate until 30 days after the date on which the borrower provides the tenant with notice to vacate.
 - c) Fees, penalties, or other charges are prohibited. The multi-family borrower shall not charge a tenant any fees, penalties, or other charges that accrued during the period of forbearance when those fees, penalties, or other charges are related to nonpayment of rent.

- c. Actions for eviction that were filed prior to March 27, 2020, are not subject to the CARES Act and, therefore, are not subject to the provisions of subsection b above.
- d. In consideration of the creation of the Healthy at Home Eviction Relief Fund, and to ensure landlords and tenants have access to available rental assistance, the following procedures shall apply to evictions from residential premises in which only nonpayment of rent is alleged:
 - i. At the initial hearing noticed by the summons, the parties must be verbally informed that funding agencies may be able to assist tenants with payment for some or all of the rent that is owed and assist landlords with recouping missed or late rent payments. Parties should also be informed that a judgment is not necessary to receive assistance.
 - ii. Following the initial hearing, all eviction proceedings shall be held in abeyance for fourteen days and rescheduled for the next available court date unless the landlord dismisses the complaint, with or without prejudice; a tenant who was properly served under KRS 383.210 or KRS 383.540 fails to appear; or the parties reach an agreement and file an AOC-218, Forcible Detainer Settlement Agreement, before the fourteen days expire.
 - iii. A request for a jury trial must be made within fourteen days of the initial hearing.
 - iv. Proceedings must be held in accordance with Administrative Order 2020-71.
- e. Nothing in this Order shall be interpreted to suspend or otherwise excuse an individual's duty to pay rent or to comply with any other obligation under tenancy.

- 2. **Judicial Sales.** Master Commissioners are authorized to conduct judicial sales remotely. In-person judicial sales shall be postponed or rescheduled until after February 1, 2021, unless they can be conducted outdoors safely and in accordance with CDC guidelines.

D. CRIMINAL MATTERS

- 1. **Show Cause Dockets.** All show cause dockets for payment of fines and court costs shall be rescheduled no sooner than February 1, 2021.

2. **Bench Warrants.** Judges should continue to issue summonses or notices to appear in lieu of bench warrants, unless the judge has good cause to believe a defendant will not appear voluntarily upon a summons or notice to appear.

E. NIGHT TRAFFIC COURT

Due to health considerations and current staffing limitations, in-person night traffic courts in Jefferson County are suspended until further notice. Night traffic court may be conducted remotely using available telephonic and video technology.

F. LOCAL PROTOCOLS

1. Each chief district and chief circuit judge must develop a local protocol regarding any additional restrictions or changes in local procedure, consistent with this Order. Proposed local protocols shall be submitted electronically by the chief district or chief circuit judge to localrules@kycourts.net for posting to the Kentucky Court of Justice website. To the extent any local protocols are inconsistent or otherwise conflict with this Order, this Order prevails. Any local protocol that substantially deviates from this Order or other Administrative Orders of this Court may be subject to review and final approval by the Chief Justice under SCR 1.040(3).
2. Concerns regarding local application or implementation of this order may be submitted to COVIDcourtconcerns@kycourts.net.

This Order shall be effective November 30, 2020.

Entered this 20th day of November 2020.


CHIEF JUSTICE

All sitting; all concur.