



# Judicial Council Amended Agenda

## March 19, 2020

### Via WebEx

The Judicial Council met via WebEx on Thursday, March 19, 2020.

#### 1. Approval of Draft January 16, 2020, Meeting Minutes

Technical amendments were offered to the draft January 16, 2020, Meeting Minutes.

A motion was made and seconded to approve the minutes, as amended. The motion prevailed.

#### Council Action

The Judicial Council approved the January 16, 2020, Meeting Minutes, as amended

#### 2. Decision Item: MPA Remote with Documents Initiative

The MPA Remote with Documents decision items were reviewed:

- i. The MPA Remote with Documents project will move forward and use internal development to provide remote public access; and
- ii. The Chief Justice will appoint an executive steering committee to serve as the project leadership group.

A discussion ensued on the need to provide remote access to court customers. Jeff Shorba, State Court Administrator, reported that funding for the project is included in the current FY20-21 budget, at approximately \$150,000 per quarter.

A motion was made and seconded to approve the project, subject to quarterly reports to the Judicial Council.

A discussion ensued on the need to structure the project to enable the Judicial Council to suspend or end the project, if needed. It was agreed that a steering committee will be established and that the project plan will include a pilot phase, preferably with attorneys. It was also noted that the steering committee will be charged with developing mile posts for review by the Judicial Council.

The e-redaction initiative was discussed. It was noted that a RFP will be issued and that the project is separate from the remote access initiative.

It was also noted that court rules provide for remote access and that the issue before the Judicial Council is how to implement this policy decision.

There was unanimous consensus to amend the motion to approve the MPA Remote with Documents project as follows: The MPA Remote Access with Documents project is approved with the following requirements:

- i. The project will be guided by a steering committee appointed by the Chief Justice.
- ii. The first quarter funds, \$150,000, are approved for the project.
- iii. The steering committee will develop a project plan, with mile posts, subject to approval of the Judicial Council.
- iv. The project will include a pilot phase, preferably aimed at attorneys.
- v. The steering committee will report to the Judicial Council on a monthly basis.

The motion prevailed.

**Council Action**

The Judicial Council approved the MPA Remote Access with Documents project with the following requirements:

- i. The project will be guided by a steering committee appointed by the Chief Justice.
- ii. The first quarter funds, \$150,000, are approved for the project.
- iii. The steering committee will develop a project plan, with mile posts, subject to approval of the Judicial Council.
- iv. The project will include a pilot phase, preferably aimed at attorneys.
- v. The steering committee will report to the Judicial Council on a monthly basis.

**3. Discussion Item: Judicial Council Advisory Committees membership selection**

Chief Justice Gildea noted that appointment of members to Judicial Council advisory committees is handled in an inconsistent ways. The Judicial Council agreed to delegate responsibility for appointing membership to the Chief Justice. At present, the Advisory Committees include:

- The Committee for Equality and Justice;
- The Treatment Court Initiative Advisory Committee; and
- The Weighted Caseload Committee.

**4. Discussion Item: FY20 Quarterly Financial Report**

Dan Ost diek, Director, Finance Division, State Court Administration, presented the quarterly financial report.

**5. Discussion Item: Other Business**

- a. **Legislative Update** – It was noted that the Legislature is concentrating efforts on COVID-19 related legislation.
- b. **COVID-19** – A discussion ensued on the impact of the COVID-19 pandemic on the Judicial Branch. It was noted that legislation will be pursued to toll statutory

timelines and relax speedy trial requirements during the statewide peacetime emergency.

The Chief Justice's March 13, 2020, order addressing the continuing operations of the state's district and appellate courts was discussed. A discussion ensued only whether additional limitations on the on-going work of the courts is necessary. It was noted that decisions to impose additional limitations on the on-going work of the courts will be contained in an order to be issued by the Chief Justice.

A discussion ensued on which court business will continue. It was agreed that filing of court cases will continue, through eFiling and the use of other methods, e.g. drop boxes and email.

A motion was made and seconded to provide that all petit jury trials in progress will be completed and that no new jury trials will be commenced for 30 days following the date of the issuance of the Chief Justice's order.

The motion prevailed.

**Council Action**

The Judicial Council recommended that the Chief Justice's Order pertaining to the continuing operations of the courts under a statewide peacetime declaration of emergency be amended to provide that all petit jury trials in progress will be completed and that no new jury trials will be commenced for 30 days following the date of the issuance of the order.

A discussion ensued on which adult criminal matters need to continue to be handled through in-court hearings. A motion was made and seconded to provide that in adult criminal matters, in which the defendant is in custody, the following hearings will be held in the courtroom:

- i. Bail review hearings;
- ii. Hearings under Rule 8 of the Rules of Criminal Procedure;
- iii. Pre-trial omnibus hearings that do not require live testimony;
- iv. Sentencing hearings; and
- v. Plea hearings.

A discussion ensued on whether probation revocation hearings should be held in the courtroom. It was agreed to amend the motion to provide that probation revocation hearings, if necessary testimony can be provided remotely, will be held in the courtroom; that the defendant and the attorneys may appear remotely; and that victim impact information may be provided remotely.

The motion prevailed.

**Council Action**

The Judicial Council recommended that the Chief Justice's Order pertaining to the continuing operations of the courts under a statewide peacetime declaration of emergency provide that in adult criminal matters, in which the defendant is in custody, the following hearings will be held in the courtroom: bail review hearings; hearings under Rule 8 of the Rules of Criminal Procedure; pre-trial omnibus hearings that do not require live testimony; plea hearings; sentencing hearings; and probation revocation hearings, if necessary testimony can be provided remotely. In addition, victim impact information may be provided remotely.

A discussion ensued on which juvenile delinquency matters will continue to be held in the courtroom. A motion was made and seconded to provide that detention hearings will continue to be held in the courtroom using remote technology for the appearance of the juvenile and attorneys. A suggestion was made to amend the motion to mirror the hearings permitted in criminal matters, with the addition of certification and extended juvenile jurisdiction hearings.

The motion prevailed.

**Council Action**

The Judicial Council recommended that the Chief Justice's Order pertaining to the continuing operations of the courts under a statewide peacetime declaration of emergency provide that in juvenile proceedings governed by the Rules of Juvenile Delinquency Procedure and for which the juvenile is in custody, the following hearings shall be held in the courtroom: detention review; omnibus hearings that do not require live testimony; plea hearings; certification hearings; extended juvenile jurisdiction hearings; disposition hearings; and probation revocation hearings if any necessary testimony can be provided remotely. The juvenile and the attorneys may appear remotely.

A motion was made and seconded to provide that any grand jury that has been empaneled and is currently taking evidence on a case shall continue its proceedings and that no other grand jury proceedings shall commence for 30 days following the date of the issuance of the Chief Justice's order.

The motion prevailed.

**Council Action**

The Judicial Council recommended that the Chief Justice's Order pertaining to the continuing operations of the courts under a statewide peacetime declaration of emergency provide that any grand jury that has been empaneled and is currently taking evidence on a case shall continue its proceedings and that no other grand jury proceedings shall commence for 30 days following the date of the issuance of the Chief Justice's order.

A discussion ensued on which juvenile protection hearings will continue to be held in the courtroom. A motion was made and seconded to provide that the emergency protective care (EPC), Admit/Deny; Permanency Progress Review; Intermediate Disposition Review; and post permanency review continue to be held in the courtroom. It was suggested that, when possible, that the EPC and Admit/Deny hearings be combined.

The original motion was amended to provide that the EPC hearing will be held be held in the courtroom, and that the EPC and Admit/Deny hearing should be combined when possible. Parties and parent participants are permitted in the courtroom.

The motion prevailed.

**Council Action**

The Judicial Council recommended that the Chief Justice's Order pertaining to the continuing operations of the courts under a statewide peacetime declaration of emergency provide that the EPC hearing will be held be held in the courtroom, and that the EPC and Admit/Deny hearing should be combined when possible. Parties and parent participants are permitted in the courtroom.

A discussion ensued on emergency hearings to be held in the courtroom. A motion was made and seconded to provide that hearings will be held in the courtroom on an emergency basis in the following case types: housing/eviction matters when there is a showing of individual or public health or safety at risk; civil commitment; emergency change-of-custody requests; guardianship; and orders for protection. In all other housing/eviction matters, the presiding judge is authorized to conduct the proceeding remotely or based on the parties' written submissions.

The motion prevailed.

**Council Action**

The Judicial Council recommended that the Chief Justice's Order pertaining to the continuing operations of the courts under a statewide peacetime declaration of emergency provide that hearings will be held in the courtroom on an emergency basis in the following case types: housing/eviction matters when there is a showing of individual or public health or safety at risk; civil commitment; emergency change-of-custody requests; guardianship; and orders for protection. In all other housing/eviction matters, the presiding judge is authorized to conduct the proceeding remotely or based on the parties' written submissions.

A discussion ensued on the processes to be employed to continue operations. It was agreed that media inquiries about courthouse access will be coordinated through the Court Information Office.

A motion was made and seconded to go into Executive Session to discuss personnel matters. The motion prevailed.

Following discussion a motion was made and seconded to exit Executive Session. The motion prevailed.

There being no further business the meeting adjourned.