

Prioritization of Case Types

A Pandemic Resource from NCSC

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Maintaining continuity of operations during the COVID-19 Pandemic while protecting the health and safety of the public and court employees is proving to be a significant challenge for the courts. Many courts around the country have already taken aggressive steps to respond to the COVID-19 Pandemic, while many others are soon to follow. As response plans are implemented, courts are encouraged to focus their efforts on identifying and maintaining their most critical and mission essential functions. The following recommendations are offered as potential guidance to courts to ensure that constitutional and statutory obligations are met while at the same time ensuring the health and safety of the public and court staff during this time. Courts are encouraged to give serious consideration to implementing the following recommendations:

Prioritization of Critical Case Types

Although this will vary from state to state and from county to county, the following are examples of proceeding types that courts need to prioritize:

- Criminal proceedings required to ensure due process of law and continuity of the criminal justice system.
- Domestic and civil proceedings required to meet the needs of the most vulnerable, such as those seeking protective orders.
- Probate proceedings required to resolve custody and property matters during the Pandemic.
- Juvenile dependency and delinquency cases which safeguard our youth even in times of crisis.
- Pandemic related proceedings regarding quarantine and government continuity orders.

Suspension of All But the Most Critical Case Types

Courts should activate/implement their COOP plan supporting mission essential functions and prioritized case types as applicable from the list above. Upon activation of their COOP, courts may schedule and hear only those matters as “essential” or “critical” or otherwise designated. Examples include:

- Suspend scheduling of all new jury trials and postpone scheduled or ongoing trials to reduce in-person court appearances.
- Continue scheduled or ongoing trials and hearings in civil and criminal cases.
- Suspend or waive speedy trial requirements and reset out-of-custody cases. Accept continuance requests telephonically or online.
- Work with criminal justice system stakeholders to develop a plan to minimize the risk of virus spread among in-custody populations.

While the Pandemic situation may dictate the closure of physical courtroom proceedings it is critically important that courts remain open to sustain the ongoing administration of justice. With that in mind it is recommended that courts implement video conferencing to promote social distancing while maintaining access to justice. Courts should implement new mediums for conducting virtual court proceedings with mediums such as ZOOM, YouTube and Facebook Live as a way to keep courts open and maintain public access to court proceedings without requiring physical attendance.