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EMAIL TO: All Sheriffs

FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

SENT: July 20, 2020

SUBJECT: Chief Justice Issues Additional Emergency Directives to Prevent
Spread of COVID-19 in Court Facilities

On July 16, 2020, Chief Justice Cheri Beasley of the Supreme Court of North Carolina issued an Order that creates new Emergency Directives in order to prevent the spread of COVID-19 at court facilities. For your convenience, a copy of the Chief Justice's July 16, 2020 Order is attached to this email.

Of particular importance to sheriffs are the following two Emergency Directives:

Emergency Directive 21 Requires Face Coverings in Court Facilities

Emergency Directive 21 requires the wearing of a face covering while in common areas of a court facility (such as in hallways, elevators and courtrooms) and when interacting with others. Children under the age of 11 and people with medical conditions that prevent the wearing of a face covering are exempt from this provision. In addition, face coverings are not required while eating, drinking or speaking to a person that is hearing impaired.

The clerks of superior court are required to post a notice of the face covering requirements at every entrance to every court facility in their county.

Emergency Directive 22 Includes Sheriff in Approval of Jury Trial Resumption Plan

Emergency Directive 22 requires the senior resident superior court judge of each judicial district to create a "Jury Trial Resumption Plan" for the resumption of jury trials in that district. The Plan may not become effective until it is approved and signed by local officials, including the sheriff.

At a minimum, this Plan for the resumption of jury trials must contain:

- Confirmation that each court facility and any alternate facility to be used for court operations is in compliance with each of the Chief Justice's emergency orders in response to the COVID-19 outbreak.



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- A plan for summoning and excusing jurors, which allows for as much of the process to be handled remotely as possible.
- A plan for conducting voir dire (picking the jury) with social distancing.
- A plan for conducting trials with social distancing in the courtroom for all court participants, including the jury, and in the deliberation room.
- A plan for daily screening of jurors, court personnel, attorneys, witnesses, and parties for COVID-19 exposure or infection.
- A plan for making face coverings available to jurors, court personnel, attorneys, witnesses, and parties.
- A plan for responding in the event that a juror, defendant, attorney, witness, judge, or other courtroom personnel becomes symptomatic, tests positive for COVID-19, or has a known exposure to someone who has tested positive for COVID-19 during the trial.

As stated above, Emergency Directive 22 provides that the safety Plan may not become effective until the sheriff reviews it, and if in agreement, signs the Plan. Other officials who will be reviewing and signing the safety Plan, if they are in agreement, are the: (1) public health director; (2) chief district court judge; (3) district attorney; (4) public defender; and (5) clerk of superior court.

Sheriffs should pay particular attention to the duties that may be assigned to sheriffs' personnel under such a Plan. For example, while a bailiff's duties include opening court and announcing the judge, supervising the jury, and providing security in the courtroom, etc. there is no legal requirement that a bailiff disinfect the jury room or courtroom, or that the bailiff check the temperature of each person before they enter the courtroom. While a sheriff may agree to handle certain tasks in addition to those normally required of sheriffs' personnel, there is no legal authority that requires a sheriff to assume these additional tasks.

The Emergency Directives contained in the attached July 16, 2020 Order will expire on August 15, 2020 but may be extended.

If you have any questions or need any additional information, please do not hesitate to contact Matthew Boyatt, NCSA Deputy General Counsel, at mboyatt@ncsheriffs.net or 919-459-6467.

Thanks....Eddie C.



Edmond W. (Eddie) Caldwell, Jr.

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North Carolina Sheriffs' Association

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**ORDER OF THE CHIEF JUSTICE
OF THE SUPREME COURT OF NORTH CAROLINA**

On 24 June 2020, Governor Roy Cooper signed Executive Order 147, which requires people in our state to wear a face covering in certain settings in order to decrease the spread of COVID-19. Although courthouses are exempt from this requirement, the Governor’s order strongly encourages all state government agencies to adopt similar requirements.

Since the COVID-19 pandemic began, I have issued a number of emergency directives for the Judicial Branch in response to the public health threat posed by the outbreak. These directives have been calculated to decrease the spread of COVID-19 in our courthouses so that essential court functions may continue safely.

In June, courts began conducting a greater number of in-person proceedings following the expiration of the first emergency directive that I issued in response to the pandemic. Since that time, dozens of court personnel have contracted COVID-19 and numerous courts have been forced to temporarily close so that the facilities could be sanitized and employees with possible exposure could be tested. If we are to continue conducting a greater number of in-person proceedings, it is vital that we utilize all available tools to limit the transmission of the virus.

Consistent with the Governor’s recommendation and mounting evidence that face coverings decrease the spread of COVID-19, an additional emergency directive related to face coverings in courthouses is now necessary.

Accordingly, I hereby determine and declare under N.C.G.S. § 7A-39(b)(2) that catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state.

Emergency Directive 21

All persons who are in a court facility are required to wear a face covering while they are in common areas of the facility and when they are interacting with others.

For purposes of this emergency directive, a “face covering” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face.

This face-covering requirement does not apply to persons who cannot wear a face covering due to health or safety reasons, who are actively eating or drinking, who are communicating with someone who is hearing-impaired in a way that requires the mouth to be visible, who are temporarily removing their face covering to secure medical services or for identification purposes, or who are under eleven years of age.

The clerks of superior court shall post a notice of this requirement at the entrance to every court facility in their counties.

* * *

Pursuant to [Emergency Directive 10](#), all jury trials in the superior court and district court are postponed through 20 July 2020. It is my intention to extend [Emergency Directive 10](#) until at least the end of September. While face coverings will help decrease the spread of COVID-19 in our courthouses, more precautions and planning are necessary before jury trials may resume.

The Judicial Branch's COVID-19 Task Force has recently submitted [recommendations](#) related to the resumption of jury trials. The Task Force recommends, and I agree, that the approach for resuming jury trials should be left to the reasoned judgment of local judicial officials. An additional emergency directive is therefore necessary to charge local judicial officials to plan for the eventual resumption of jury trials in their districts.

Accordingly, I hereby determine and declare under N.C.G.S. § 7A-39(b)(2) that catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state.

Emergency Directive 22

Each senior resident superior court judge shall, in consultation with other local officials, craft a plan for the resumption of jury trials in his or her judicial district. In the event that the chief district court judge determines that a separate plan for the district court is warranted, the chief district court judge shall, in consultation with other local officials, craft a plan for the resumption of district court jury trials in his or her judicial district.

The Jury Trial Resumption Plan shall ensure that all court operations are in compliance with each of the Chief Justice's emergency directives and shall be informed by the Best Safety Practices distributed by the North Carolina Administrative Office of the Courts.

The plan shall, at a minimum, include the following:

- a. a confirmation that each court facility and any alternate facility to be used for court operations is in compliance with each of the Chief Justice's emergency orders in response to the COVID-19 outbreak;
- b. a plan for summoning and excusing jurors, which allows for as much of the process to be handled remotely as possible;
- c. a plan for conducting voir dire with social distancing;

- d. a plan for conducting trials with social distancing in the courtroom for all court participants, including the jury, and in the deliberation room;
- e. a plan for daily screening of jurors, court personnel, attorneys, witnesses, and parties for COVID-19 exposure or infection;
- f. a plan for making face coverings available to jurors, court personnel, attorneys, witnesses, and parties; and
- g. a plan for responding in the event that a juror, defendant, attorney, witness, judge, or other courtroom personnel becomes symptomatic, tests positive for COVID-19, or has a known exposure to someone who has tested positive for COVID-19 during the trial.

Before jury summonses are issued, and before promulgating the plan to the public, the senior resident superior court judge shall submit a copy of the Jury Trial Resumption Plan to the Chief Justice, which shall bear a signature indicating approval of the plan by each of the following officials in the county in which jury trials are to be conducted:

- a. the chief district court judge;
- b. the clerk of superior court;
- c. the district attorney;
- d. the public defender, or a criminal defense attorney chosen by the senior resident superior court judge in districts without a public defender;
- e. the sheriff; and
- f. the public health director.

The Jury Trial Resumption Plan shall be promulgated either by local rule or administrative order no later than 1 September 2020, and may become effective after the date on which Emergency Directive 10 expires. The local rule or administrative order shall be submitted to North Carolina Administrative Office of the Courts and thereafter posted to the [NCCourts.gov](https://www.nccourts.gov) website.

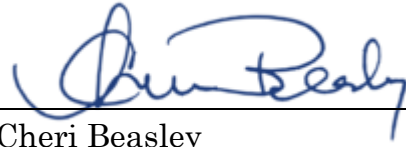
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Pursuant to N.C.G.S. § 7A-39(b)(2), the emergency directives contained in this order expire on 15 August 2020.

Additional emergency orders or directives under N.C.G.S. § 7A-39(b) may be entered as necessary to support the continuing operation of essential court functions.

Additional information about the Judicial Branch's response to the COVID-19 outbreak is available at <https://www.nccourts.gov/covid-19>.

Issued this the 16th day of July, 2020.



Cheri Beasley
Chief Justice
Supreme Court of North Carolina