

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA**

**IN THE MATTER OF**

**CHANGES TO COURT OPERATIONS  
DUE TO CORONAVIRUS DISEASE  
(COVID-19)**

**FIRST AMENDED  
STANDING ORDER 20-03**

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The ongoing spread of the coronavirus, and the resulting outbreak of the respiratory disease COVID-19 in South Dakota and bordering states, has created an emergency situation. Both the President of the United States and the Governor of South Dakota have made emergency declarations due to the COVID-19 pandemic. The Court, on March 17, 2020, entered Standing Order 20-03 at a time when the Centers for Disease Control had recommended no large gatherings and social distancing efforts be undertaken by all. Since that time, the COVID-19 virus has spread in the United States and within the State of South Dakota. The South Dakota Governor's Office has advised that the number of COVID-19 infections in South Dakota may not crest until sometime in June 2020. After considering current guidance from the Centers for Disease Control and after consulting with representatives of numerous agencies, including but not limited to the Federal Public Defender's Office, the United States Attorney's Office, the United States Probation Office, and the United States Marshals Service, the Court finds that certain changes to court operations must be extended beyond the April 24, 2020 date contained in Standing Order 20-03, to assist efforts to slow the transmission of the virus. Accordingly,

**IT IS ORDERED:**

1. All civil and criminal jury trials scheduled to commence on or before July 6, 2020, before any judge in the District of South Dakota will be **continued** pending further order of the Court. Because of the Court's inability to safely call and retain an adequate cross-section of jurors, and the impact of public health recommendations on the availability of clients, counsel, and court staff to be present in the courtroom, the Court specifically finds that the ends of justice served by continuing all criminal jury trials outweigh the best interests of the public and any defendant's right to a speedy trial, and the periods of delay occasioned by the continuances implemented by this Standing Order are therefore excluded under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A).

2. Non-jury proceedings, such as bench trials and hearings, may proceed as scheduled in the discretion of the presiding judge. The parties are encouraged to consider participation by telephone or video conferencing when that option is available. Standing Order 20-05 and the CARES Act authorize conduct of certain hearings in criminal cases by videoconference or by telephone if videoconference is unavailable.


3. All grand jury proceedings in the District of South Dakota involving more than ten people present in any one room and no less than six feet of distance between people are continued until July 6, 2020. The 30-day time period for filing an indictment or an information is hereby tolled as to each defendant during the time period between March 17, 2020, and July 6, 2020, pursuant to 18 U.S.C. §§ 3161(b) and 3161(h)(7)(A). For the same reasons discussed above, the Court finds that the ends of justice served by taking such action outweigh the best interests of the public and any defendant's right to a speedy trial. Therefore, the time period between March 17, 2020, and July 6, 2020, is excluded under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A), and will not be considered in determining if an Indictment or Information is filed within the time limits set forth in 18 U.S.C. § 3161(b).

4. All deadlines established in civil cases will remain in place, although the Court will be receptive to motions from the parties to enlarge deadlines in civil cases due to disruption caused by social distancing requirements and travel restrictions. Parties are encouraged to consider conducting discovery through means that avoid unnecessary travel or personal contact, such as by telephone or video conferencing, and to consult and seek to agree, if possible, on any enlargement of civil case deadlines. Any dispute over whether discovery can be effectively accomplished consistent with applicable public health guidelines may be submitted to the Court by motion.

5. Except as set forth herein, Court business will proceed as usual to the extent possible consistent with public health guidelines.

6. The Court will vacate, extend, or amend this Order no later than July 6, 2020.

**DATED** this 8<sup>th</sup> day of April, 2020.

  
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ROBERTO A. LANGE, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA