

**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)**

**THIRD AMENDED  
STANDING ORDER 20-03**

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In response to the outbreak of the respiratory disease COVID-19 in South Dakota and bordering states, the Court on March 17, 2020, entered Standing Order 20-03, cancelling jury and grand jury proceedings through April 24, 2020. The COVID-19 virus then spread in the United States and within the State of South Dakota, and the South Dakota Governor's Office projected that the number of COVID-19 infections in South Dakota would 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 entered a First Amended Standing Order 20-03 on April 8, 2020, that extended cancellation of jury trials and restrictions on grand jury proceedings through July 6, 2020. In late May, this Court entered a Second Amended Standing Order 20-03 permitting grand jury proceedings to resume in Pierre in June. Since July 6, 2020, this Court has successfully conducted jury trials in certain divisions of the District of South Dakota, as well as allowed grand juries to convene outside of Pierre. However, COVID-19 continues to spread in the state in a way making it hard to predict whether jury trials can be safely conducted in all divisions of the District of South Dakota or when or if the Court will again need to cancel jury trials. Accordingly,

**IT IS ORDERED:**

1. The District of South Dakota has resumed jury trials as of July 6, 2020. However, if a judge is convinced that, due to COVID-19 spread in a particular division, there is an inability to safely call and retain an adequate cross-section of jurors, the judge may make a finding that the ends of justice served by continuing criminal jury trials outweigh the best interests of the public and any defendant's right to a speedy trial, and may exclude the periods of delay occasioned by such a continuance 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. Grand jury proceedings in the District of South Dakota may resume. During grand jury proceedings, all people in the courtroom must wear masks until and unless behind a plexiglass enclosure. The 30-day time period for filing an indictment or an information is hereby tolled as to each defendant charged by criminal complaint during the time period between March 17, 2020, and the return of an indictment, which in no event shall be later than within 30 days of July 6, 2020, pursuant to 18 U.S.C. §§ 3161(b) and 3161(h)(7)(A). For reasons described on the Second Amended Standing Order 20-03, the Court finds that the ends of justice served by taking this action outweigh the best interests of the public and any defendant's right to a speedy trial, and therefore the Court excludes that time period under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A).

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.

DATED this 22<sup>nd</sup> day of July, 2020.

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