

Court Is Limited and Mass Gatherings Are Prohibited to Limit Spread of COVID-19

On Friday, Chief Justice Cheri Beasley entered two emergency directives to reduce the spread of infection from COVID-19. On Saturday, Governor Roy Cooper entered an executive order prohibiting mass gatherings and ordering the statewide closure of public schools.

[Emergency Directives from the Chief Justice.](#)

Legal authority. Upon determining and declaring that catastrophic conditions exist in one or more counties of the state, the Chief Justice of the North Carolina Supreme Court may issue emergency directives necessary to ensure the continuing operation of essential trial or appellate court functions. [G.S. 7A-39\(b\)\(2\)](#). An emergency order entered pursuant to this provision expires thirty days from the issuance of the order or at a sooner date specified in the order. Such an order may be extended for additional 30-day periods if the Chief Justice determines that the directives remain necessary.

The order. On Friday, March 13, 2020, Chief Justice Cheri Beasley determined and declared that catastrophic conditions resulting from the public health threat posed by COVID-19 existed in all counties of this state. While stating that superior and district courts remain open, the Chief Justice issued two emergency directives effective today, Monday, March 16, 2020, that she deemed necessary to reduce the spread of infection.

Court proceedings must be continued for at least 30 days unless an exception applies. First, the Chief Justice ordered that superior court and district court proceedings be scheduled or rescheduled for a date no sooner than 30 days from the issuance of the order, unless:

1. the proceeding will be conducted remotely;
2. the proceeding is necessary to preserve the right to due process of law (such as a first appearance or bond hearing, a proceeding to appoint counsel for an indigent defendant, a probation hearing, or a probable cause hearing);
3. the proceeding is to obtain emergency relief (such as a domestic violence protection order, temporary restraining order, juvenile custody order, judicial consent to juvenile medical treatment order, or civil commitment order); or
4. the senior resident superior court judge, chief business court judge, or chief district court judge determines that the proceeding can be conducted under conditions that protect the

health and safety of all participants.

The emergency directive does not apply to any proceeding in which a jury has already been empaneled or to grand juries that have already been empaneled. And the directive does not prohibit a judge or other judicial official from exercising lawful in chambers or ex parte jurisdiction.

Notices to direct persons exposed to COVID-19 not to enter courthouses. Second, the Chief Justice ordered clerks of superior court to post a notice at the entrance to every court facility in their counties directing that any person who has likely been exposed to COVID-19 should not enter the courthouse.

The order provides that a person who has likely been exposed to COVID-19 who has business before the courts must contact the clerk of superior court's office by telephone or other remote means, inform court personnel of the nature of his or her business before the court, and receive further instruction. The order defines a person who has likely been exposed to COVID-19 as any person who:

1. has traveled to China, South Korea, Japan, Italy, or Iran within the previous 14 days;
2. has been directed to quarantine, isolate, or self-monitor;
3. has been diagnosed with COVID-19; or
4. resides with or has been in close contact with any person in the abovementioned categories.

The Administrative Office of the Courts provided on Friday sample formatted signs for judicial officials.

Updated guidance. Circumstances regarding COVID-19 are rapidly developing. Yesterday, Sunday, March 15, 2020, the Chief Justice and the Director of the Administrative Office of the Courts, McKinley Wooten, issued a [memorandum](#) to "reiterate some measures in my March 16, 2020 order and to clarify others." Sunday's memo states that though courthouses at this time must remain open "to accept filings and address emergency / safety situations, the spirit of my order is to drastically reduce the foot traffic in **all** of our courthouses across the state. . . . Put simply, it cannot be business as usual for our court system. Non-essential court functions that cannot be accomplished through the use of remote technology must be postponed."

The memo directs the following for at least the next 30 days:

1. In-person meetings must be postponed or cancelled to the fullest extent possible.
2. When cases or hearings cannot be postponed for the next 30 days, remote technologies should be utilized as authorized by law and to the fullest extent possible.
3. Matters before the Clerks of Superior Court:
 - Subject to health precautions, involuntary commitment hearings, guardianship

hearings, and pressing estate administration matters should be conducted.

- Other matters before the clerk, such as foreclosures and other special proceedings, must be postponed.

4. Matters before Magistrates:

- Magistrates must conduct initial appearances and, subject to health precautions, should continue to perform weddings.
- Small claims proceedings, including summary ejectments and money owed, must be postponed.

5. District and Superior Court:

- All civil and criminal district and superior court matters that are not subject to the exceptions in my order, including traffic court, must be postponed.

The memo references, and was distributed by an email that attached, the [plan that Wake County officials established](#) to implement the Chief Justice's directives. The Chief Justice encouraged other districts to use the Wake County plan as a model.

The memo further notes that the Chief Justice has not yet entered an order extending statutes of limitations or filing deadlines, measures authorized by G.S. 7A-39(b)(1). The Chief Justice states that she is considering the most appropriate actions to take in that regard, and that any order she enters will likely have a retroactive effective date.

[Executive order.](#)

Legal authority. Governor Roy Cooper declared a state of emergency on March 10, 2020, to coordinate the state's response and protective actions to address COVID-19. During a gubernatorially or legislatively declared state of emergency, the Governor may, with the concurrence of the Council of State, "regulate and control . . . the congregation of persons in public places or buildings" among other actions. [G.S. 166A-19.30\(b\)\(3\)](#). The Governor also is broadly authorized, with the concurrence of the Council of State, to "perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population." G.S. 166A-19.30(b)(5).

The order. On Saturday, March 14, 2020, Governor Roy Cooper entered Executive Order No. 117, prohibiting mass gatherings and directing the statewide closure of public schools to limit the spread of COVID-19. The order was effective immediately, with the exception of the public school closure provisions, which became effective today, Monday, March 16, 2020.

No mass gatherings. The order "prohibit[s] mass gatherings in the State of North Carolina." A mass gathering is defined as "any event or convening that brings together more than 100 persons in a single room or single space at the same time, such as an auditorium, stadium, arena, large conference room, meeting hall, theater, or any other confined indoor or outdoor space." It includes parades, fairs and festivals.

The term does not include “normal operations such as airports, bus and train stations, medical facilities, libraries, shopping malls and centers, or other spaces where more than 100 people are gathered.” It also does not include “office environments, restaurants, factories, grocery stores or other retail establishments.”

The order directs, pursuant to G.S. 166A-19.30(a)(2), that it is to be enforced by state and local law enforcement officers. A person who violates the order is guilty of a Class 2 misdemeanor. See [G.S. 14-288.20A](#).

Public school closure. The order further directs, pursuant to G.S. 166A-19.30(b)(5), that public schools close for students effective Monday, March 16, 2020 until March 30, 2020, unless extended beyond that date.

Social distancing. Finally, the order urges all persons to maintain social distancing, which requires keeping a distance from other people of approximately six feet, and to continue to wash hands, use hand sanitizer and “practice proper respiratory etiquette (including coughing into elbow).”