



Supreme Court of Arkansas

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To: All Circuit Judges

Dear Judges:

In light of the uncertainty of the situation with the Coronavirus outbreak, the Supreme Court of Arkansas believes that the state judiciary should be prepared.

Attached is a press release that will be posted on the Arkansas Judiciary website.

Also attached is a memorandum regarding preparedness and determining essential court functions. Please review this memorandum and also review your county's COOP plan.

If you need any assistance in dealing with this ongoing situation, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Dan Kemp".

John Dan Kemp

Enc.



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FOR IMMEDIATE RELEASE

**ARKANSAS SUPREME COURT
Statement on
Novel Coronavirus Outbreak (COVID-19)
and the Courts
March 6, 2020**

Concern about the COVID-19 is at the forefront of the news, and it is anticipated that the virus will continue to spread. The Arkansas Judiciary is committed to working with federal, state, county, and city officials to take appropriate measures as the need arises and to ensure everyone has the facts on how to stay healthy and safe while visiting courthouses throughout our state.

Health officials will identify and test people who may have been exposed, and they are working with state and county health officials to share information, deploy resources, and respond at maximum capacity.

To best understand how to protect yourself and your loved ones and obtain guidance if you think you have been exposed, please visit the Arkansas Department of Health (ADH) website: <https://www.healthy.arkansas.gov/programs-services/topics/novel-coronavirus>.

ADH has activated a call center to answer questions from health-care providers and the public about the COVID-19. During normal business hours (8:00 a.m.–4:30 p.m.), the telephone number for urgent and non-urgent calls is 1-800-803-7847. After normal business hours, the telephone number for urgent calls needing immediate response is 501-661-2136.

The Arkansas Judiciary will follow health department recommendations and updates to stay safe, healthy, and informed of what is happening in our communities.

If an outbreak warrants a court closure, information will be announced locally and on the Arkansas Judiciary website: <https://www.arcourts.gov>.

If you are scheduled for jury duty or have business with the local court and have questions or concerns, please contact that court.

Please be assured that judicial branch leaders at all levels of our courts are monitoring this situation closely and are committed to open access to our courts and service to the public. We will continue to update the situation as new developments arise.

Preparation

Courts should begin now to prepare for potential infection in their communities. There is no need for alarm; however, being prepared will facilitate responses should an outbreak occur. Each court community should refer to its local COOP Plan and form a work group with judges and staff and consider these suggestions to prepare:

1. For current information, stay aware of statewide updates.

2. Determine which essential court functions must continue if an outbreak occurs in your jurisdiction. Essential court functions are court hearings that cannot be continued indefinitely. Courts should discuss which essential functions are necessary in the first 30 days, 30–90 days, and 90+ days. The following are examples of essential court functions:

- criminal initial appearance (without unnecessary delay, Ark. R. Crim. P. 8.1)
- probable cause hearing (48 hours of arrest without warrant, Ark. R. Crim. P. 4.1)
- speedy trial (will time run during the “outbreak”) (Ark. R. Crim. P. 28.1)
- cases in which victims are under fourteen years of age (Ark. Code Ann. § 16-10-130; Admin. Order No. 5)
- juvenile probable cause hearing (within five business days, Ark. Code Ann. § 9-27-315)
- juvenile detention hearing (72 hours or next business day following Saturday, Sunday or a holiday, Ark. Code Ann. § 9-27-326)
- hearing on writs of habeas corpus (within three days, Ark. Code Ann. § 16-112-102(a)(1))
- hearing on a temporary restraining order or injunction (as expeditiously as possible, Ark. R. Civ. P. 65)

However, civil jury trials might not fall into an essential function until well after 90 days. Courts should pay attention to whether to conduct jury trials, where large numbers of possibly infected people would report, increasing the chances of transmission of the disease.

3. Determine which staff members can perform the essential court functions. In the event of an outbreak in your community, one of the best ways to prevent the spread of the disease will be isolation. However, not all judges and court staff can stay home if court functions are to continue. This may result in some staff assuming the essential duties of others who are absent from work. Determine in advance which employees will come to work in the event of an outbreak and who can perform the duties of absent staff.

4. Consider setting up remote work sites. Some of the staff might be able to continue working from home. Judges can be equipped to conduct telephonic or video conference hearings. Staff should have remote access to the court computer network. Any “telecommuting” possibilities should be explored and set up in advance, as should the human resource/timekeeping issues that may be implicated.

5. Prepare to communicate effectively with the local bar, local officials, the public, and the state. If courts must close or limit services, notice should be given to the public and the bar. Use the court’s local website to post information or post a link to the Arkansas Judiciary website (www.arcourts.gov) if you are unable to update your local website. Have a conversation now with local newspaper and radio representatives and ask for assistance.

6. Obtain contact information for staff and other key stakeholders. A roster of contact information for all judges and court staff should be reviewed for accuracy. Consider obtaining multiple contact numbers and email addresses for all individuals. In addition, court leaders should obtain contact information for key justice stakeholders, including the county judge, sheriff, prosecuting attorney, circuit clerk, county clerk, county bar association, and public defender.

7. Have a discussion with the county judge, the mayor, and/or local emergency management officials to discuss who will exercise authority, should it become necessary, to close the court facility. In other states, disputes have arisen when the county administrator announced a building closure without consulting court officials.

8. In 2009, the Arkansas Bar Association released a publication entitled “Arkansas Public Health Law Bench Book,” which was written by the Health Law Committee of the Arkansas Bar Association and made possible through the resources of the University of Arkansas at Little Rock School of Law, the University of Arkansas for Medical Sciences College of Public Health, and a grant from the Centers for Disease Control and Prevention in Atlanta. A link to the Bench Book can be found under Resources at the end of this Statement. It contains guidance on legal issues that may arise during a pandemic. The bench book also contains sample order forms.

Action

Should an outbreak occur in your jurisdiction, the following information can be used to assist your court.

Public Health Authority

Federal public-health powers to control communicable diseases are vested in the President, the Department of Health and Human Services, and the Centers for Disease Control and Prevention. Under Executive Order of the President, the Secretary of DHHS has specific authority to regulate several communicable diseases, including influenza caused by novel or reemergent influenza viruses that are causing, or have the potential to cause, a pandemic. The Secretary of DHHS is vested with powers to help states enforce their quarantine orders.

The state has the power to quarantine and impose isolation. Isolation is the separation, for the period of communicability, of known infected persons in such places and under such conditions to prevent or limit the transmission of the infectious agent. Quarantine is the restriction of activities

of healthy persons who have been exposed to a communicable disease, during its period of communicability, to prevent disease transmission. Generally, individuals are ordered into isolation. Communities may be quarantined. The closure of schools during an outbreak is an example of quarantine.

In Arkansas, the State Board of Health has the authority to direct and control matters related to quarantine. The State Director of Health has the authority to order the examination of a person to determine the presence of a communicable disease and may order that person into isolation.

Role of the Court during a Public Health Emergency

The role of the courts is minimal if everyone complies with the orders of the State Board of Health and/or Department of Health. The courts' primary responsibility is to hear cases and issue orders as needed when an individual does not comply with the imposed control measures. In doing so, the courts must also ensure that the proper balance is struck between the protection of public health and the protection of individual liberty rights.

The following orders may be needed:

- Order for Involuntary Medical Testing or Examination
- Order for Involuntary Treatment for a Communicable Disease
- Order for Quarantine or Isolation

Court involvement may also include issuance of a temporary restraining order or an injunction to force closure of a public gathering place should the proprietor refuse to cooperate with the quarantine order.

Information on each of these orders and sample forms is available in the "Arkansas Public Health Bench Book."

Implementing Preparedness Plans

In the event of a pandemic outbreak in your community, court leadership should consider implementing the pandemic-preparedness plans. Consulting other key justice stakeholders should be included in this decision. If the plan is implemented, use the information in the steps listed above to mitigate the effects on the court system. Specifically, courts should only conduct essential functions listed in the 0-to-30-day time frame. Staffing should be kept to a minimum to avoid unnecessary transmission of the virus. Any telecommuting, teleconferencing, and videoconferencing steps should be implemented. Courts should also immediately implement a communication strategy with the public and the bar as identified above.

RESOURCES

Arkansas Public Health Law Bench Book



Health Bench Book
for Arkansas Court S

Arkansas Department of Health Pandemic Flu Response Plan



ADH Pandemic Flu
Response Plan (0720

February 2020

Office for Civil Rights, U.S. Department of Health and Human Services BULLETIN: HIPAA Privacy and Novel Coronavirus



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a-and-novel-corona

National Center for State Courts Pandemic Preparedness.



NCSC Pandemic
Preparedness 2016.1