



# MINNESOTA JUDICIAL BRANCH

The following are the best practices provided by the Executive Committee of the Judicial Council to address concerns raised by judges statewide regarding the processing of petitions for Orders for Protection and Harassment Restraining Orders during the Pandemic. Pursuant to the Administrative Order ADM20-8001 issued by Chief Justice Lorie S. Gildea on March 20, 2020 and amended March 23, 2020, the Court may conduct hearings in family and juvenile cases through limited in-person appearances, including emergency change-of-custody requests and any request for relief that presents an immediate liberty concern, or when public or personal safety concerns are paramount. The proceedings may include written submissions and arguments of the attorneys or self-represented litigants. Evidentiary hearings or trials will not be conducted unless specifically directed in the judicial officer's discretion because the case presents an immediate liberty concern or public or personal safety concerns are paramount. The hearings should be conducted remotely by any available video technology means whenever possible and only occur with parties in the courtroom if the parties are unable to appear remotely because they have no access to the remote technology.

## **Case Process for Orders for Protection and Harassment Restraining Orders**

1. If a Petition and Affidavit are filed that request relief that by statute requires a hearing:
  - a. Court staff will forward Petition and Affidavit for review to signer/blocked judicial officer for review to determine if a hearing should be scheduled.
    - i. The signer/blocked judicial officer will review the Petition and Affidavit to determine if OFP Petition requests an “emergency change of custody” such that a hearing should be scheduled.

*Examples of an emergency change of custody include:*

- *Parties are married*
- *Custody was previously ordered and Petitioner's temporary custody request would modify the existing custody order*

- ii. The signer/blocked judicial officer will also review if “public or personal safety concerns are paramount” in the OFP or HRO Petition such that a hearing should be scheduled.

*Examples of when “public or personal safety concerns are paramount” include:*

- *If the OFP Petition requests an order prohibiting Respondent from having firearms (box 17h in OFP Petition)*
- *Child retrieval in an OFP*
- *Kick out from joint home in an OFP*

- *Physical or Sexual abuse in a HRO*

b. Whether or not the judge issues an ex parte order, the judge shall determine how to proceed on the requested relief that by statute requires a hearing:

i. *Granting a hearing date*. The Order will include a finding that, “The Petition alleges a paramount public or personal safety concern.” Court staff will send out a hearing notice.

ii. *Not granting a hearing date*. The Order will include the following language: “The Governor of the State of Minnesota declared a peace time emergency on March 13, 2020. Additional restrictions on public activities have therefore been imposed for public health and safety reasons. Therefore, there will be no hearing scheduled at this time. Once a hearing is scheduled, court administration will mail notice to the parties at their last known address”. Court staff will send out separate pandemic notice saying a hearing will not be scheduled at this time

iii.

2. If the Respondent requests a hearing related to an Ex-Parte Order issued without a hearing, then:

a. Court Staff will send the underlying pleadings and notify the signer/blocked judicial officer that a request for hearing has been made by Respondent.

b. Signer/blocked judicial officer to review to determine if “public or personal safety concerns are paramount” such that a hearing should now be scheduled.

*Examples of when “public or personal safety concerns are paramount” include:*

- *Order was issued on behalf of a joint child.*
- *Order prohibited Respondent from being at a formerly shared residence*

c. Signer/blocked judicial officer will direct court staff whether a hearing should or should not be scheduled. If a hearing is scheduled, Court staff sends out notice of hearing with hearing date. If a hearing is not going to be scheduled, Court staff sends out pandemic notice.

3. After reaching a decision, if either party submits additional information then:

a. Court staff will send the motion to the signer/blocked judicial officer for consideration.

i. Signer/blocked judicial officer to review to determine if the motion requests an “emergency change of custody” such that a hearing should be scheduled.

*Examples of an “emergency change of custody” include:*

- ◆ *Parties are married and motion requests custody.*
- ◆ *If the father has been adjudicated and motion requests custody.*

- ii. Signer/blocked judicial officer to review to determine if “public or personal safety concerns are paramount” such that a hearing should be scheduled.

*Examples of when “public or personal safety concerns are paramount” include:*

- *Motion requests use/possession of formerly shared residence.*

- iii. Signer/blocked judicial officer directs court staff whether a hearing should be scheduled. If a hearing is scheduled, Court staff sends out notice of hearing with hearing date. If a hearing is not going to be scheduled, Court staff sends out pandemic notice.

4. No evidentiary hearings will be scheduled at this time unless specifically directed by the judicial officer because the case presents an immediate liberty concern or public or personal safety concerns are paramount. To the extent possible, hearings should be held without personal appearances in court and should instead be conducted by remote technology. The judicial officer retains discretion to hear limited arguments.