

IN THE SUPREME COURT OF THE STATE OF KANSAS


Administrative Order No. 240

In re: Kansas Judicial Branch Policy on Pandemic Disease

In light of the issues the possible outbreak of epidemic or pandemic disease, such as the current novel H1N1 influenza, would create and pursuant to the authority conferred by Article 3, Section 1 of the Kansas Constitution, the Supreme Court orders the following related to any pandemic disease recognized by the World Health Organization and the federal Centers for Disease Control and Prevention:

1. So that the Supreme Court may consider and enter appropriate orders and provide necessary support, the chief judge of the judicial district shall inform the departmental justice or the Office of Judicial Administration when:
  - A. The timely processing and disposition of cases is hindered by the pandemic disease; or
  - B. Legal filings arising from quarantine due to the pandemic disease have begun.
2. After consultation with the director of personnel, an appointing authority may direct an employee who appears to be suffering from the pandemic disease to leave the office. The employee will be required to use accrued paid leave or compensatory time, if available. If the affected employee has no paid leave available, the employee will be placed on leave without pay. The federal Family Medical Leave Act, if applicable, will be observed.
3. Upon consultation with and approval by the departmental justice, a chief judge may order an office closed because of the pandemic disease. Any closure ordered and approved in this manner shall be considered a "legal holiday" for purposes of preserving statutes of limitation as provided in K.S.A. 60-206(a). The chief judge should consult with the director of personnel to determine whether employees who are otherwise scheduled and able to work during the period of closure will be assigned to another office, allowed to perform work at home, or be placed on administrative leave.

BY ORDER OF THE COURT this 9<sup>th</sup> day of October, 2009.

  
Robert E. Davis  
Chief Justice

## **Kansas Supreme Court Statement on H1N1 Virus and the Courts**

**October 2009**

The World Health Organization, the federal Centers for Disease Control and Prevention (CDC), and the Kansas Department of Health and Environment (KDHE) have recognized a world-wide pandemic of the Novel H1N1 Influenza A virus. The virus has shown evidence of sustained and increasing human-to-human transmission, is highly contagious, and has resulted in widespread illness among the population and serious illness among certain segments of the population.

This document is intended to help Kansas courts prepare and respond in the event the disease spreads further. The two main goals of Judicial Branch pandemic planning are:

1. Operating in a way that protects the health and safety of everyone at court facilities; and
2. Keeping the courts open to ensure justice for the people we serve.

### **Prevention**

Prevention is the key to fighting any illness. The CDC has issued the prevention tips listed below. Please share them with your staff and others in contact with the court and consider taking steps, such as the purchase of necessary supplies, to encourage individuals to participate.

- Cover your nose and mouth with a tissue when you cough or sneeze. Throw the tissue in the trash after you use it. If you don't have a tissue, cough or sneeze into the crook of your elbow.
- Wash your hands often with soap and water, especially after you cough or sneeze. Alcohol-based hand cleaners (such as a liquid hand sanitizer) are also effective when soap and water are not available.
- Periodically clean counters and other work surfaces you're likely to touch with your hands.
- Avoid touching your eyes, nose, and mouth. Germs spread that way.
- Try to avoid close contact (*6 feet is recommended*) with persons who become infected or those who exhibit symptoms of infection.
- Encourage all employees to obtain vaccinations against both seasonal flu and the H1N1 virus. Information about the availability of the vaccines will be released by local health officials in each community.

- If you or one of your staff begin to exhibit symptoms, that individual should stay home from work and limit contact with others to keep from infecting them.

## **Information About H1N1 Flu**

### **What symptoms should I be alert to?**

The symptoms of H1N1 flu virus in humans are similar to the symptoms of seasonal flu and include:

- Fever greater than 100 degrees
- Body aches
- Coughing
- Sore throat
- Respiratory congestion
- In some cases, diarrhea and vomiting

**I have heard the terms "incubation period" and "period of communicability" used many times with the H1N1 flu outbreak. What is the difference?**

The "incubation period" refers to the time between when a person is first exposed to the virus (becomes infected) to when the person begins to show signs and symptoms of illness. For influenza, the estimated incubation period is one to four days. The "period of communicability" refers to the time that a person is able to spread illness to others. For influenza, the period of communicability ranges from one day before symptoms begin, to approximately seven days after the onset of symptoms in most people, but possibly longer in some people.

### **If I am sick, what can I do to prevent spreading my illness to others?**

If you are sick, you may be ill for a week or longer. If you develop influenza-like symptoms, you should stay home and avoid contact with others as much as possible until 24 hours after your fever subsides without the use of fever-reducing medication. If you need to leave your home to seek medical care, wear a mask if available, cover your coughs and sneezes with the sleeve of your shirt or a tissue, and then dispose of that tissue once it is used.

### **Do I need to be seen by a physician if I develop symptoms?**

If you have mild symptoms, you are better off staying in your home rather than sitting in a medical facility waiting to be seen. If you are not feeling well and you need guidance, call your physician's office and they will help you over the phone to decide if you need to be seen.

### **When do I seek medical attention?**

Medical experts state that you should seek medical attention if you have difficulty breathing or experience shortness of breath, pain or pressure in your chest or abdomen, persistent vomiting, sudden dizziness, confusion, fever longer than three days, flu-like symptoms that improve but then

return with fever and worsening cough after 12 to 24 hours, or unusual symptoms like a stiff neck or rash. Seek medical attention early if you have an underlying illness that makes you at higher risk of developing complications with the flu. As always, for emergencies, call 911.

### **Preparation**

Courts should begin now to prepare for potential infection in their community. The following list is intended to help you and your district be prepared if an outbreak were to occur in your district.

1. For current information, keep advised of statewide updates. KDHE has a dedicated H1N1 website (<http://www.kdheks.gov/H1N1/>) which provides current information regarding the virus, along with guidance for specific situations and answers to many common questions related to the virus.
2. Determine what essential court functions must continue if an outbreak occurs in your jurisdiction. Courts should discuss which essential functions are necessary in the first 30 days, 30 to 90 days, and 90 or more days. Examples of time sensitive matters are:
  - Probable cause determination for persons arrested without a warrant (within 48 hours of arrest), Riverside v. McLaughlin, 500 U.S. 44 (1991) (bond may be set).
  - Appearance before magistrate, K.S.A. 22-2901 (“without unnecessary delay”).
  - Appearance bonds; conditions of release pending preliminary examination or trial; K.S.A. 22-2802 (set at first appearance; K.S.A. 22-2901(3)).
  - Arrest for Criminal Trespass/Restraining Order Violation, K.S.A. 22-2901(7) (person cannot be allowed to post bond before first appearance as long as first appearance occurs within 48 hours after arrest).
  - Juvenile detention hearing, K.S.A. 38-2343(a) (48 hours, excluding Saturdays, Sundays, and legal holidays, from the time detention initially imposed).
  - Temporary custody hearing, K.S.A. 38-2243(b) (72 hours, excluding Saturdays, Sundays, and legal holidays, from child being taken into protective custody).
  - Commitment of sexually violent predator, K.S.A. 59-29a05(b) (Probable cause hearing within 72 hours after person is taken into custody upon the filing of a petition under K.S.A. 59-29a04 and a finding of probable cause).
  - Isolation/Quarantine, K.S.A. 65-129c(d)(3) (Hearing within 72 hours of request contesting isolation/quarantine by order of local health officer).
  - Abortion upon Minor, K.S.A. 65-6705(f); Supreme Court Rule 173 (District

court “shall hold a hearing and file its written decision . . . within 48 hours of filing of the petition. . .” If the court fails to rule within 48 hours, excluding Saturdays and Sundays, of the time of the filing of the minor's application, the application shall be deemed granted. The record on expedited appeal shall be completed and the appeal shall be perfected within five days from the filing of the notice to appeal).

- Any other matters that would require expeditious handling.

Civil jury trials may be able to be delayed. Courts should pay particular attention to jury trials, where large numbers of possibly infected people would report, increasing the chances of transmission of the disease. If a trial is scheduled and must be conducted, consider whether an increased number of juror summons should be issued, how large the gatherings of jurors should be at any one time, whether additional alternates should be selected, etc.

3. Determine what staff can perform essential court functions. Ill staff or those caring for the ill will need to stay home. This may result in some staff assuming essential duties of others who are absent from work. Determining in advance who can perform the duties of absent staff will be helpful.
4. Consider setting up remote work possibilities, encouraging filings by fax, mail, drop box, or other means of minimizing the need for people to come to court as a way of encouraging social distancing to slow the rate of infection. It may be possible for some of the staff to work from home. Judges might be able to conduct telephonic hearings or via videoconferencing. Staff might be able to access the court computer network remotely. Any “telecommuting” possibilities should be explored and set up in advance, as should the human resource/timekeeping issues that may be implicated. If you plan to use telecommuting, please consult with the director of personnel before finalizing your plan. When closing an office, ensure that arrangements are made to keep the fax machine stocked with paper to enable it to receive fax communications.
5. Prepare for good communication with the local bar, local officials, the public, and the state. If courts should need to close or limit services, notice should be given to the public and bar. Using the court’s local website and the Kansas Judicial Branch website could prove useful. You should also have a conversation now with local newspaper and radio representatives in the event that they will agree to assist.
6. A roster of contact information for all judges and court staff should be reviewed for accuracy. Consider obtaining multiple contact numbers and e-mail addresses for all individuals. In addition, court leaders should obtain or update contact information for persons who work with the courts, including the sheriff, county or district attorney, county clerk, local bar association, public defender, legal aid, and county commissioners.

7. Work with the county commissioners and other local officials to plan how closing the courthouse or the courts will be handled if it should become necessary.

For further assistance, please contact Doug Cruce, Court Security Analyst of the Office of Judicial Administration at 785-296-2256.