

IN THE SUPREME COURT OF THE STATE OF KANSAS

ADMINISTRATIVE ORDER NO. 263



Re: Court Closures and Involuntary Unpaid Leave of Nonjudicial Personnel

District court case filings for FY 2012 are down, reducing the funds the Kansas Judicial Branch receives from docket fees and the surcharge below the amounts anticipated when the 2011 Kansas Legislature finalized the judicial branch budget for FY 2012. In January, the Supreme Court requested a supplemental appropriation from the Legislature for the remainder of FY 2012. Later, the Court reminded legislative leadership that, without the supplemental appropriation, Judicial Branch employees would have to be furloughed this fiscal year. On Thursday, March 29, 2012, the budget conference committee agreed upon an amount and funding for the supplemental appropriation for the Judicial Branch.

However, late in the afternoon of March 30, 2012, the House leadership determined it could not accept the bill containing the supplemental appropriation. At that point, the Legislature adjourned until April 25, 2012, without providing for supplemental funding for FY 2012 and so leaving five work days unfunded. Without legislative assurances that the funding would later be provided, by Administrative Order No. 262 dated April 5, 2012, the Supreme Court ordered the closing of all courts and the furloughs of all employees of the Kansas Judicial Branch whose salaries are not protected by the Kansas Constitution. The first day of these court closures and furloughs occurred on April 13, 2012, to be followed by closures and furloughs on April 27, May 11, May 25, and June 8.

On April 20, 2012, the Kansas Supreme Court received assurances from members of the House Appropriations Committee, particularly its chairman, that the Legislature fully intended to pass a Judicial Branch supplemental appropriation for FY 2012 that would eliminate the need for additional furloughs and court closures this fiscal year. The assured supplemental appropriation legislation is unlikely to be passed, however, until sometime in May 2012.

Relying upon the committee's assurances, and taking into consideration a budget dependent on an uncertain volume of filing fees, and the needs of the citizens of Kansas, including Judicial Branch employees, the Supreme Court hereby rescinds Administrative Order No. 262. The Court further orders:

1. Kansas district and appellate courts will be closed on May 24 and 25, 2012, and June 7 and 8, 2012, unless prior to those dates appropriate supplemental funding for FY 2012 is provided by the Legislature. These closures apply to all court offices, including the offices of the clerks of the district court, the court services offices, the office of the Clerk of the Appellate courts, the Reporter of Decisions, the Supreme Court Law Library, the Office of Judicial Administration, the Office of the Disciplinary Administrator, the Kansas Lawyers Assistance Program, the Kansas

Continuing Legal Education Commission, and any other offices staffed by Kansas Judicial Branch personnel.

2. All Kansas Judicial Branch personnel (employees paid through the Kansas Judicial Branch except justices and judges) will be on involuntary unpaid leave on the closure dates stated in paragraph 1 unless appropriate supplemental funding has been provided by the Legislature or as otherwise approved in advance in writing by the Supreme Court. No employee will be allowed to take paid leave or holiday leave on any designated involuntary leave date. Employees in positions that are less than 1.0 full time equivalent shall be placed on involuntary unpaid leave for 40% of the hours in their normal work week for each two days of unpaid leave imposed on full-time employees in a work week. The chief judge of any district may realign the remaining work days of such employee to accommodate court closures.
3. Except as approved in advance in writing by the Kansas Supreme Court, no Kansas Judicial Branch personnel who are on involuntary unpaid leave shall perform any work for the Kansas Judicial Branch on the closure dates stated in paragraph 1.
4. All employees considered exempt under the Fair Labor Standards Act will be considered hourly employees during any week in which involuntary unpaid leave is imposed. As such, those employees will be required to complete a State of Kansas time and leave document for those periods and will be restricted to working no more than the equivalent of 8 hours per day for the remaining days, *e.g.*, in a week containing 2 involuntary unpaid leave days, the employee is restricted to working no more than 24 hours during the work week.
5. During the periods the courts are closed, the only district court proceedings that may be conducted are those that involve the following critical functions:

**Criminal**

- Determining probable cause for arrests without a warrant
  - Conducting first appearances, K.S.A. 2011 Supp. 22-2901
  - Setting appearance bonds and conditions of release pending preliminary examination or trial, K.S.A. 2011 Supp. 22-2802
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- Issuing warrants pursuant to K.S.A. 22-2302 (arrest); K.S.A. 2011 Supp. 22-3716 (violations of probation); K.S.A. 2011 Supp. 22-2502 (searches and seizures); K.S.A. 22-2816 (violation of supervised release program); K.S.A. 22-2805 (holding a material witness); and K.S.A. 20-342, 22-2911, and 22-2912 (violation of diversion agreement)
  - Issuing orders for wiretaps, K.S.A. 2011 Supp. 22-2516

- Conducting inquisitions, K.S.A. 22-3101, K.S.A. 2011 Supp. 22-3102, K.S.A. 22-3103, K.S.A. 22-3104, and K.S.A. 22-3105.

### **Child in Need of Care (CINC)/Juvenile Offender**

- Conducting juvenile detention hearings, K.S.A. 2011 Supp. 38-2343(a)
- Conducting temporary custody hearings, K.S.A. 2011 Supp. 38-2243(b)
- Issuing warrants for juvenile offenders, K.S.A. 2011 Supp. 38-2342
- Issuing ex parte orders for CINC, K.S.A. 2011 Supp. 38-2242(a)
- Issuing ex parte orders for violation of a valid court order in CINC proceedings, K.S.A. 2011 Supp. 38-2260(c)
- Conducting preliminary hearings on violation of a valid court order in CINC proceedings, K.S.A. 2011 Supp. 38-2260(d)
- Conducting evidentiary hearings on violation of a valid court order in CINC proceedings, K.S.A. 2011 Supp. 38-2260(e)

### **Care and Treatment**

- Conducting probable cause hearings regarding the commitment of sexually violent predators, K.S.A. 59-29a05(b)
- Issuing ex parte emergency custody orders, K.S.A. 59-2958 (mental illness) and K.S.A. 59-29b58 (alcohol and substance abuse)
- Issuing temporary custody orders, K.S.A. 59-2959 (mental illness) and K.S.A. 59-29b59 (alcohol and substance abuse)

### **Protection from Abuse Orders**

- Issuing protection from abuse emergency orders, K.S.A. 60-3105
- Issuing protection from stalking orders on an emergency basis, K.S.A. 2011 Supp. 60-31a06

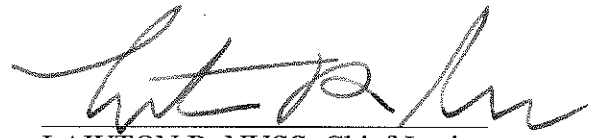
### Miscellaneous

- Conducting hearings and issuing orders for isolation or quarantine, K.S.A. 2011 Supp. 65-129c(d)(3), (5)
  - Considering petitions to waive notice under K.S.A. 65-6705 and Supreme Court rule 173 (2011 Kan. Ct. R. Annot. 257)
  - Issuing temporary orders for care and custody in adoption proceedings, K.S.A. 59-2131
  - Performing other functions of an emergency nature as approved by the departmental justice
6. The chief judge of each judicial district shall be responsible for implementing this administrative order. Each chief judge shall also:
- a. Ensure judicial coverage for the critical functions listed in paragraph 5;
  - b. Notify court users of the court closures, including using the media and web pages;
  - c. Ensure telephones other than those in judges' chambers are answered with a recorded message notifying the caller of the duration of the court closure;
  - d. Notify the bar and law enforcement agencies of how to contact a judge for performance of critical functions and to explain that judges will not process the receipt of any funds;
  - e. Ensure the courts' fax machines are operating and are maintained during the periods the clerks' offices and court services offices are closed;
  - f. Notify the post office to hold mail or make other arrangements for secure mail storage;
  - g. Arrange with law enforcement agencies or other entities for supervision of those on house arrest or high-risk supervision;
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- h. Discuss procedures for obtaining protection from abuse and protection from stalking orders with community organizations and law enforcement agencies;
  - i. Ensure courts are secure during periods of involuntary unpaid leave.
7. In addition to the closure dates stated in paragraph 1 of this order, offices of the clerks of the district courts may be closed to the public for additional time periods to allow staff uninterrupted time in which to process the backlogs resulting from court

closures. Any such additional closures must be requested by the chief judge of a district and approved in advance by the chief justice. The chief judge shall ensure the public is notified of the schedule.

8. It is the intent of the Court that this order will be rescinded or modified if appropriate supplemental funding for the remainder of FY 2012 is timely provided by the Legislature.

BY ORDER OF THE COURT this 26 day of April, 2012.

  
LAWTON R. NUSS, Chief Justice