

Temporary Modification to Local Rules – 35th Judicial District

Temporary Child Custody Hearings

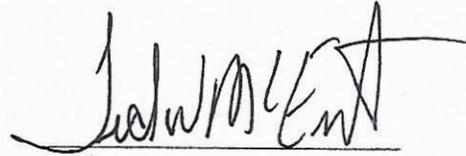
In the most recent Order from the Chief Justice, subject to exceptions, all cases in District Court are continued until June 1, 2020 or later. The Court currently provides the use of online custody mediation orientation and online custody mediations. Recognizing the importance that access to the Courts for civil litigants in cases involving child custody and the allowance to use technology to conduct remote hearings that can adequately protect the safety of litigants, attorneys, judges, clerks and other courthouse staff and security, the local rules for the 24th District are modified to allow Temporary Custody hearings to occur using remote technology. The rules for such hearings are as follows:

1. The use of this procedure requires the Consent of all participants. The parties and their attorneys are to file with the clerk the request for a Webex hearing for Temporary Custody which specifically provides their consent to that type of hearing, consent to receive Notice of hearing by electronic means, and the email addresses to be used for the Clerk to schedule the hearing invitations and send any notices. This document shall also contain an acknowledgment that the Local Rules as modified for the Webex hearing will be followed. The request for Webex hearing shall also list at least three date(s) and times in which all the parties are available for the Webex hearing. The Clerk shall communicate with the Court regarding availability and send an electronic notice of hearing. As with any Notice of Hearing there must be ten (10) day notice unless agreed upon by all parties the Webex hearing can be held less than 10 days from the request but in no event shall there be less than five (5) business day notice in order to give the Clerk time to coordinate the Webex hearing and to send out the invitations.
2. The time limit for these hearings is one hour, equally divided between the parties. This time limit recognizes the required use of affidavits for non-party witnesses. Each party to the action will be available to testify if called by either party. Non-party evidence must be submitted by affidavit. Please note the Chief Justice's modification on the appropriate language to substitute for the requirement of a notary applies, specifically "it shall be

sufficient if the subscriber affirms the truth of the matter to be verified by an affirmation or representation in substantially the following language: "I (we) affirm, under the penalties for perjury, that the foregoing representation(s) is (are) true. (Signed) _____"."

3. Only with consent of the presiding judge and all parties and their counsel may the hearing be conducted solely on affidavit. The Court will consider whether a party is reasonably unavailable, (detention, illness etc.) in determining whether to allow proceeding solely on affidavit.
4. The Clerk is to host all Webex hearings to ensure that proper recording of these hearings occurs.
5. Affidavits of the moving party are to be filed or submitted electronically five (5) business days prior to the Webex hearing. Affidavits of the non-moving party are to be filed or submitted electronically three (3) business days of the Webex hearing. Additionally, the parties shall email the affidavits to the opposing party and the presiding judge using the same timeframes.
6. All documents that are proposed to be submitted into evidence must be exchanged with the opposing party no later than 48 hours prior to the Webex hearing. Failure to exchange such documents as required by this rule may result in the document not being considered by the Court in this hearing.
7. Attorneys are to be up to date on Webex features such as document sharing during the hearing which may aid in the submission of documents into evidence (provided that the rules regarding same have been followed).
8. Attorneys are to email any such documents properly identified as an exhibit for the Webex hearing to all parties, the judge and the clerk so that same is entered into the record in the timeframe set forth herein.
9. Attorneys are to instruct their respective party that when testifying via Webex that if an objection is made that the witness is to be silent until a ruling has been made on the objection.
10. The attorneys are to be mindful to avoid "talking over" the witness. Specifically, the witness is to be allowed to finish their answer fully prior to asking the attorney asking the next question. This is also important for purposes of having an understandable recording of the proceedings particularly because there will be at times delays in the response of the video.
11. All parties and counsel in these hearings shall appear remotely and appropriate social distance of at least six feet shall be observed by all participants.

This Temporary Modification is effective immediately upon entry and will remain in effect until June 1, 2020 unless modified, rescinded, or extended. This the 7th Day of April, 2020.

A handwritten signature in black ink, appearing to read 'Ted W. McEntire', written over a horizontal line.

Ted W. McEntire
Chief District Court Judge