

FILED

The Supreme Court of Ohio

MAR 27 2020

CLERK OF COURT
SUPREME COURT OF OHIO

**In re: Tolling of Time Requirements
Imposed by Rules Promulgated by the
Supreme Court and Use of Technology**

ENTRY

WHEREAS, on March 9, 2020, the Governor of Ohio issued Executive Order 2020-01D and declared a state of emergency in Ohio in response to COVID-19;

WHEREAS, on March 11, 2020, the World Health Organization publicly characterized COVID-19 as a global “pandemic” requiring “urgent and aggressive action” to control the spread of COVID-19;

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency;

WHEREAS, on March 27, 2020, the Governor of Ohio signed into law Am. Sub. H.B. 197, which immediately tolled, retroactive to March 9, 2020, all statutes of limitation, time limitations, and deadlines in the Ohio Revised Code and the Ohio Administrative Code until the expiration of Executive Order 2020-01D or July 30, 2020, whichever is sooner;

WHEREAS, social distancing must be observed during the emergency period in all court proceedings and in each court in order to mitigate the spread of COVID-19;

WHEREAS, it is necessary for the Court to establish a temporary measure promoting uniformity and continuity amongst the courts of Ohio and ensuring the continued and effective operation of the judicial system during the emergency period;

NOW THEREFORE, the Court hereby orders the following:

(A) This order shall apply retroactively to the date of the emergency declared by Executive Order 2020-01D and shall expire on the date the period of emergency ends or July 30, 2020, whichever is sooner.

(B) As used in this order:

(1) “Rules of the Court” means the following rules promulgated by the Court:

(a) The Ohio Code of Judicial Conduct;

(b) The Ohio Rules of Appellate Procedure;

- (c) The Ohio Rules of Civil Procedure;
- (d) The Ohio Rules of Criminal Procedure;
- (e) The Ohio Rules of Evidence;
- (f) The Ohio Rules of Juvenile Procedure;
- (g) The Ohio Rules of Professional Conduct;
- (h) The Ohio Traffic Rules;
- (i) The Rules for Appointment of Counsel in Capital Cases;
- (j) The Rules for the Government of the Bar of Ohio;
- (k) The Rules for the Government of the Judiciary of Ohio;
- (l) The Rules of Practice of the Supreme Court of Ohio;
- (m) The Rules of Superintendence for the Courts of Ohio;
- (n) The Supreme Court Rules for the Reporting of Opinions;
- (o) Mayor's Courts Forms, Instructions, and Education & Procedure Rules.

(2) "Time requirements" means the time for filing all pleadings, appeals, and all other filings; time limitations; deadlines; and other directives related to time, including non-constitutional jurisdictional deadlines.

(C) Any requirement in a rule of the Court that a party appear in person or requiring in-person service may be waived by the Court, local court, hearing panel, board, or commission, as applicable. Appearance or service by use of technology may be allowed if it sufficiently guarantees the integrity of the proceedings and protects the parties' interests and rights.

(D) The time requirements imposed by the rules of the Court and set to expire during the term of this order shall be tolled.

(E) Upon the expiration of this order, all time requirements tolled by this order shall resume.

(F) Nothing in this order precludes filings during the duration of the order if the Court, local court, hearing panel, board, commission, or clerk is able to receive filings due to local accommodations and the matter is related to a situation that requires immediate attention.

(G) Notwithstanding the tolling of time requirements imposed by this order, the Court, local court, hearing panel, board, or commission, as applicable, may still require filing in accordance with existing rules and issue orders setting a specific schedule in a case or requiring parties to file documents by a specific due date if pertaining to a situation that requires immediate attention. A specific order in a case issued on or after March 9, 2020, shall supersede the tolling provisions of this order, unless otherwise noted in that specific order. All courts shall in every case strive to be in uniform conformance with the language and intention of this order, as well as complying with all directives from the Director of the Ohio Department of Health, until the specified expiration date.

A handwritten signature in black ink, appearing to read "Maureen O'Connor", written over a horizontal line.

Maureen O'Connor
Chief Justice



TOLLING ORDER - FREQUENTLY ASKED QUESTIONS

On March 27, 2020, the Supreme Court of Ohio issued an order which tolls the time requirements as established by all Supreme Court-promulgated rules. The order is in response to Am. Sub. H.B. 197, which Governor Mike DeWine also signed on March 27, 2020. It is intended to align the time requirements contained in Supreme Court-promulgated rules with statutory time requirements tolled by Am. Sub. H.B. 197.

Q: WHY IS ACTION NEEDED?

A: The impact of the coronavirus emergency and measures needed to mitigate the spread of the virus, including social distancing, impact the operation of the Ohio judicial system and the ability of courts and parties to comply with time requirements established by the various Supreme Court promulgated rules.

Q: WHY IS THE ORDER NEEDED? DOESN'T AM. SUB. H.B. 197 ADDRESS THESE ISSUES?

A: Am. Sub. H.B. 197 tolls only *statutorily* established time requirements (e.g., statutes of limitations). Constitutional separation of powers precludes the General Assembly from tolling time requirements that have been established by the various Supreme Court promulgated rules. The order is intended to work in conjunction with Am. Sub. H.B. 197.

Q: WHAT IS THE EFFECTIVE DATE FOR THE ORDER AND FOR HOW LONG IS IT EFFECTIVE?

A: The order is retroactive to March 9, 2020, the date of Governor DeWine's Executive Order 2020-01D. The order expires on the earlier of the two following dates: (1) the date the Governor's declaration of emergency ends or (2) July 30, 2020.

Q: WHY WERE THOSE DATES CHOSEN?

A: The order is intended to work in conjunction with Am. Sub. H.B. 197, which contained those specific dates.

Q: DOES THIS ORDER CLOSE MY COURT?

A: No. It is imperative that courts remain operational to deal with essential services and matters, such as arraignments, domestic violence orders, child protection orders, etc. However, in order to mitigate the spread of coronavirus, it is recommended that entry to the courthouse by the public be limited to those with business before the court or to file documents with the clerk. Additionally, the use of technology is strongly encouraged and the grant from the Supreme Court can help with your capabilities.

It is also imperative that courts employ all recommendations from the Ohio Dept. of Health in the workplace such as disinfecting, protection wear, social distancing and not allowing people who are exhibiting signs of illness into the building. Additionally, the use of teleworking for staff is highly recommended.

In deciding whether to continue or proceed with cases, the court should consider all relevant factors and circumstances, to include the urgency or time-sensitivity of the issue; the orders and recommendations of the Ohio Dept. of Health and local health department, such as stay-at-home orders; social distancing and the court's ability to conform such as with the use of technology; and any other reason made known to the court.

Q: WHAT DOES “TOLL” MEAN/WHAT IS THE EFFECT OF TOLLING?

A: Tolling serves to effectively freeze time from the date the tolling begins, which is March 9, 2020, until the expiration of the order. For example, if a deadline were set to expire on March 19, 2020 (10 days after the effective date of the order), the deadline will now expire 10 days after this tolling order is lifted.

Q: WHAT IMPACT DOES THE PROPOSED FEDERAL CARES ACT HAVE ON EVICTION ACTIONS?

A: As currently proposed, the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act would prevent some landlords that accept federal aid from bringing legal causes of action to recover possession from a tenant for nonpayment of rent or other fees or charges for 120 days if the dwelling is a property insured, guaranteed, supplemented, protected, or assisted in any way by the U.S. Department of Housing, Fannie Mae, Freddie Mac, the rural housing voucher program or the Violence Against Women Act of 1994. Courts should consider the possible application of the CARES Act in eviction proceedings.

Q: WHAT IS THE EFFECT OF AM. SUB. H.B. 197 AND THE SUPREME COURT’S ORDER ON EVICTION ACTIONS?

A: There are two key provisions in the legislation and Supreme Court order:

(1) Section 22(A)(10) of Am. Sub. H.B. 197 tolls any “criminal, civil, or administrative time limitation *under the Revised Code*” (emphasis added) that is set to expire between March 9, 2020 and July 30, 2020.

(2) The Supreme Court’s order tolls any “time requirements imposed *by the rules of the [Supreme] Court*” (emphasis added) set to expire during this same timeframe. However, in cases that require immediate attention, the Court’s order still allows a local court to issue orders requiring filing in accordance with existing rules and setting a specific schedule, which would supersede the rule-based tolling provisions of the Supreme Court’s order. *However, these orders would not supersede the General Assembly’s tolling of statutory timelines.*

Nothing in the legislation or the Supreme Court’s order prevents the filing of an eviction action during the emergency period. In deciding whether an eviction action should proceed, the court must consider Am. Sub. H.B. 197 and the potential application of the proposed federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act). In deciding whether to issue a scheduling order, the court should consider all relevant factors and circumstances, to include the reason for the eviction action; the orders and recommendations of the Ohio Dept. of Health and local health department, such as stay-at-home orders; social distancing and the court’s ability to conform such as with the use of technology; and any other reason made known to the court.

Q: DOES THE SUPREME COURT OF OHIO’S ORDER VOID PREVIOUS SCHEDULING ORDERS ISSUED BY A LOCAL COURT?

A: Any scheduling orders issued on or *after* March 9, 2020, shall remain in effect. Any scheduling orders issued *before* March 9, 2020, should be reconsidered by the local court.

Q: DOES THIS ORDER AFFECT THE TIME FOR SUBMISSION OF CASELOAD STATISTICS UNDER SUPERINTENDENCE RULE 37?

A: Yes, the order tolls the time by which appellate courts and trial courts are required to submit caseload statistics to the Supreme Court.

Q: DOES THIS ORDER AFFECT THE CASE PROCESSING TIME GUIDELINES AS OUTLINED ON THE APPELLATE AND TRIAL COURT STATISTICAL REPORT FORMS?

A: Yes, the order tolls the time by which appellate courts and trial courts are required to complete certain case types.