

# Superior Court of California County of Santa Clara



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## LIMITED SERVICES MAY CONTINUE INTO NEXT WEEK

SAN JOSÉ, California (August 5, 2016): The Superior Court of California, County of Santa Clara will continue to provide essential services should the work stoppage extend into next week. The following advisories remain in effect for the week of Monday, August 8, 2016.

- All essential functions (outlined below) will be maintained.
- All divisions are hearing cases on a limited basis, including: Criminal (Felony & Misdemeanor), Drug/Mental Health, Family, Child Support, Civil, Probate, Small Claims, Traffic, Unlawful Detainer, Domestic Violence, Juvenile Justice and Juvenile Dependency.
- Jury selection is continuing for some Criminal departments. Individuals summoned for jury duty should continue to utilize existing practices prescribed on their summons to see if they are needed until they have been formally dismissed by the Court.
- Clerk's Offices at the following locations are closed; however, filings or payments placed in the drop boxes at each of these locations will be processed: Sunnyvale (Family), Terraine (Drug/Mental Health), Morgan Hill (Criminal), Palo Alto (Criminal), Santa Clara (Traffic), Terraine (Juvenile Dependency), Guadalupe (Juvenile Justice).
- Those wishing to speak to Court personnel by phone should expect higher than usual wait/return call times.
- Those who have hearings scheduled for tomorrow, Thursday, August 4<sup>th</sup> should plan to come to Court. If a hearing cannot go forward due to staffing shortages, another date will be provided at that time.
- The Self-Help Center will reopen on a limited basis.

***\*ALL INFORMATION CONTAINED ABOVE IS SUBJECT TO CHANGE\****

## **MANDATED AND ESSENTIAL COURT SERVICES**

### **Criminal Proceedings**

California Penal Code requires that individuals detained must be charged with a crime within forty-eight hours or be released into the community. In addition, the Penal Code compels the Court to dismiss criminal charges and release a defendant if strict timelines are not met, such as not starting trial when time has not been waived and trial does not commence within sixty (60) days for felony cases and thirty (30) days for misdemeanor cases.

The criminal division plays a critical role in processing and adjudicating all general felony, misdemeanor and domestic violence cases; the Court determines bail, presides over probable cause hearings resulting in criminal charges, holds arraignment proceedings for those individuals charged with crimes (many of whom are in custody), presides over criminal trials with a priority for time-not-waived cases and presides in sentencing and probation hearings.

### **Family Law**

Matters under the jurisdiction of the Court's family law division frequently arise on an emergency basis, are usually volatile in nature and must be handled in an efficient and expedited manner. The Court regularly issues temporary restraining orders in a variety of family law matters, most involving domestic violence situations, issues temporary support orders for spouses and children and adjudicates temporary custody matters involving children.

### **Juvenile Dependency**

When a petition alleging child abuse and neglect is filed and a child is removed from the custody of his or her parents, the Court is statutorily mandated to process the case within strict timelines to ensure the child's safety and physical and emotional well-being. Once the petition is filed, the Court must hold an initial hearing no later than the next court day, the jurisdictional hearing within fifteen (15) court days of the initial hearing and the dispositional hearing within ten (10) court days after the jurisdictional hearing. Once the dispositional hearing is held, the law requires a review hearing at specific intervals to determine if the child should be returned to the parent and also to determine the permanent placement of the child including the termination of parental rights.

### **Juvenile Justice**

Once a petition is filed alleging that a juvenile has committed a crime, the law defines the timeline for processing the case when time has not been waived. The timeline is similar to Juvenile Dependency, in that the Court must hold a detention hearing almost immediately after the petition is filed, a jurisdictional hearing within fifteen (15) court days of the detention hearing and the dispositional hearing within ten (10) court days after the jurisdictional hearing.

### **Mental Health Competency**

The law requires that if a person is certified to be held involuntarily in a mental health facility beyond seventy-two (72) hours, he or she can petition the Court to be released. The law requires the Court to schedule a hearing within two (2) days of the filing of a petition. Currently, the Court schedules these hearings several days a week.

### **Conservatorships/Guardianships**

In probate conservatorship proceedings, the Court appoints a responsible person or organization (called the "conservator") to care for another adult (called the "conservatee") who cannot care for himself or herself or manage his or her own finances. When a conservatorship is needed immediately, the Court may appoint a temporary conservator until a general conservator can be appointed. The main duties of a temporary conservator are arranging for the temporary care, protection and support of the conservatee and protecting the conservatee's finances and property.

Lanterman-Petris-Short (LPS) conservatorships are used to care for adults with serious mental health illnesses who need special care. These conservatorships are used for people who usually need very restrictive living arrangements (like living in locked facilities) and require extensive mental health treatment (like very powerful drugs to control behavior). Conservatees in LPS conservatorships cannot or will not agree to the special living arrangements or treatment on their own.

A court investigator consults the proposed conservatee and others who may be familiar with the conservatee's condition.

In guardianship proceedings, the Court orders someone other than the child's parent to have custody of the child and/or manage the child's property because the child's parents are not able to parent. A probate guardianship of the person is established because a child is living with an adult who is not the child's parent, and the adult needs a court order to make decisions on behalf of the child. If guardianship is granted, the guardian has the same responsibilities to care for the child as a

parent would. That means the guardian has full legal and physical custody of the child and can make all the decisions about the physical care of the child that a parent would make. The Court will look at what is in the best interest of the child to make sure the child is raised in a safe, stable, and loving environment.

### **Civil Harassment**

When a person or employer believes a threat to safety exists, a petition can be filed to issue a temporary or permanent restraining or protective order barring contact. These cases may involve a neighbor, co-worker, former friend, disgruntled employee or member of the public. For safety and security reasons, the public must have immediate access to the Court to seek civil harassment orders.

### **Unlawful Detainer**

An Unlawful Detainer action is a special court proceeding to evict someone from the place where he or she lives or works. The grounds for eviction include when a tenant stays after the lease has expired, the lease is canceled, or the landlord thinks the tenant hasn't paid rent. An Unlawful Detainer decides if the landlord can take the property back from the tenant. If the landlord prevails, he or she will get a "judgment for possession" which the sheriff can enforce to physically make the tenant leave. Unlawful Detainer proceedings are expedited; usually, the tenant has 5 days to file a response and trial can be held 20 days after the response is filed.

### **Temporary Restraining Orders and Preliminary Injunctions**

The Court regularly issues temporary restraining orders and other injunctive relief in criminal, family, juvenile, civil, probate and other cases. Adjudicating and issuing emergency restraining orders expeditiously is critical in order to preserve the status quo and prevent imminent and irreparable harm. For safety and security reasons, the public must have immediate access to the Court for these emergency orders.

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