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***POLICY AND ORDER  
REGARDING  
PLEA PETITIONS FOR  
MISDEMEANOR AND GROSS  
MISDEMEANOR OFFENSES***

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**WHEREAS**, on March 20, 2020, in recognition of an ongoing state of emergency and to limit gatherings in public locations, the Minnesota Supreme Court issued an Administrative Order ("MSCAO") providing that in-person court administration services are suspended and access to all courtrooms limited to court staff and judicial officers, and participants whose presence is required for scheduled court proceedings; and

**WHEREAS**, the MSCAO is in effect until at least May 4, 2020; and

**WHEREAS**, it is necessary to make efforts to protect the public, as well as court participants and staff pursuant to the MSCAO, to ensure that only persons who have essential business enter the courthouse, while ensuring individual constitutional rights are preserved; and

**WHEREAS**, consistent with the Rules of Criminal Procedure, defendants are permitted to waive a personal appearance including plea and sentencing hearings; and

**WHEREAS**, in order to promote a uniform process for filing and accepting plea petitions, and issuing corresponding sentencing orders, it is appropriate and proper to adopt a temporary policy addressing this issue.

**NOW, THEREFORE, IT IS HEREBY ORDERED EFFECTIVE IMMEDIATELY:**

1. The attached Temporary Plea Petition Policy ["Policy"] is adopted for all misdemeanor and gross misdemeanor plea petitions filed in McLeod County, Minnesota.
2. Unless authorized by the Court, there will be no in-person plea or sentencing hearings for misdemeanor and gross misdemeanor offenses.
3. This procedure shall remain in effect until May 4, 2020, or until further order by this Court.

**BY THE COURT:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jessica Maher  
Judge, First Judicial District

**BY THE COURT:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jody Winters  
Judge, First Judicial District

*Plea Petition Policy  
Temporary- Pandemic*

A guilty plea petition may be filed in lieu of a court appearance for any misdemeanor or gross misdemeanor offense, and defendants may waive their right to be present for sentencing, subject to the following terms and requirements.

Authority: Court may excuse defendant from any court appearance in a misdemeanor or gross misdemeanor matter except for a trial on a gross misdemeanor offense. Crim. Pro. R. 26.03 subd. 1

Types of Plea Agreements and Filing Requirements:

- Fully Negotiated - all terms agreed upon by parties.
  1. Plea petition signed by Defendant and attorneys.
  2. If the plea is to an enhanceable offense, plea petition must include acknowledgment of increased penalties and future offenses.
  3. Apart from basic probationary conditions, plea petition must identify specific terms of probation, fines and jail, including jail credit.
  4. Defendant must WAIVE right to be present for sentencing.
  
- Partially Negotiated- charge(s) agreed upon but not all terms of disposition.
  1. Plea petition signed by Defendant and attorneys.
  2. If plea is to enhanceable offense, plea petition must include acknowledgment of increased penalties and future offenses.
  3. Apart from basic probationary conditions, plea petition must identify any agreed upon terms of probation, fines and jail, including jail credit. If there is no agreement on disposition, then indicate "No agreement" in petition.
  4. Defendant must WAIVE right to be present for sentencing.

5. Defense counsel shall submit a letter outlining requests and rationale for disposition at time of filing petition.
  6. State shall have 7 days to respond.
- Straight Up - plea to all charge(s) with no agreement on disposition.
    1. Plea petition signed by Defendant and defense counsel.
    2. If plea is to enhanceable offense, plea petition must include acknowledgment of increased penalties and future offenses.
    3. Indicate "No agreement" in petition.
    4. Defendant must WAIVE right to be present for sentencing.
    5. Defense counsel shall submit a letter outlining requests and rationale for disposition at time of filing petition.
    6. State shall have 7 days to respond.
  - Caveat - Domestic Assault: If a plea is to a domestic assault, a short form PSI will be ordered primarily to receive victim input. Upon filing of PSI, both State and Defendant will have 7 days to submit written requests regarding disposition.

Either party may request the matter be set for sentencing hearing, which will be scheduled consistent with any current calendaring policy. To the extent possible, the hearing may be done via ITV or VMR.