



MARICOPA COUNTY JUSTICE COURTS BEST PRACTICES

SUBJECT: IMPLEMENTATION OF EXECUTIVE ORDER 2020-14

EFFECTIVE: 03/26/2020

1. **RATIONALE:** Governor Ducey issued Executive Order 2020-14 entitled “Postponement of Eviction Actions” on March 24, 2020.
2. **PURPOSE:** The purpose of any “best practice” is to foster excellence regarding case processing, form development and control, and other operating procedure throughout the Maricopa County Justice Court system (“MCJC”). Implementation of a “best practice” is strongly recommended to promote consistency and efficiency throughout the MCJC but is voluntary by any individual Justice of the Peace (“JP”) Court.
3. **ISSUE:** The Executive Order directs constables and law enforcement officers to temporarily delay writs of restitution in certain circumstances and for certain individuals. The Executive Order does include necessary activity on the part of the courts, but as it did not go through the legislative or Supreme Court’s rule-making process, it requires courts to substantively resolve certain issues. This Best Practice is offered to provide judicial officers points to consider in fulfilling their obligations under the Executive Order.
4. **LEGAL AUTHORITY:** Executive Order 2020-14 entitled “Postponement of Eviction Actions” on March 24, 2020.
5. **BEST PRACTICE:**

The Executive Order does not make substantive changes to Arizona eviction law. It directs constables and law enforcement officers (collectively “LEOs”) to temporarily delay writs of restitution in certain circumstances and for certain individuals and then allows for an aggrieved party to file a motion

to enforce a writ if the party does not agree with a LEO's decision not to enforce the writ.

The initial eviction proceeding and writ issuance process is unchanged as the Executive Order process is not triggered until after the writ is issued. The Executive Order highlights that a landlord shall not interpret a health and safety provision of a contract to include COVID-19 as a reason for termination of a lease.

The Executive Order relief process is triggered when the tenant provides the landlord with written documentation of their alleged entitlement to a temporary delay of enforcement of the writ after it has been issued. The Committee has determined that this "written" documentation requirement may be satisfied by any form of notification, including emails and text messages. The Committee also recognizes that property managers are agents of the owners/landlords and therefore deem written documentation to the property manager as sufficient.

If the LEO has arrived to enforce a writ and the tenant believes they are entitled to relief but have not yet provided documentation to the landlord, the Committee has been informed that many LEOs will allow the tenant five business days to provide documentation to the landlord before enforcing the writ. The Committee recognizes this implements the intent of Executive Order.

A landlord who disagrees with a LEO's decision to delay enforcement of a writ may file a "Motion to Compel Enforcement of the Writ" with the court and provide copies to the tenant. The LEO may choose to return the delayed writ to the court with or without a report. **No action is required by the court until or unless a Motion to Compel is filed.**

Any Motion to Compel Enforcement of the Writ should be heard expeditiously (preferably within five business days) and may be heard telephonically. The court should allow the tenant an opportunity to file a response in writing before ruling on a motion.

As part of the hearing on the motion process, the court shall determine whether enforcement is necessary in the interest of justice or is in accordance with ARS 33-1368(A). The court should instruct the tenant that rent must still be paid while the tenant remains in possession and may provide further guidance to the parties on the length of an authorized delay of enforcement.

The Committee has determined that, while silent as to the definition of "tenant," the Executive Order should be interpreted to apply to tenants subject to the Mobile Home Parks Residential Landlord and Tenant Act.

The Committee recognizes that Executive Order 2020-14 expires on July 23, 2020, and may be a moving target. Any subsequent changes to it may require this Best Practice to be amended or vacated.

6. **IMPLEMENTATION:** The above best practice was recommended on March 26, 2020. The practice may be implemented immediately and remain effective until superseded or abolished.