



STATE OF KENTUCKY STATUTE OF LIMITATIONS (during COVID-19 pandemic)

Prepared by

Samantha R. Wright

Middleton Reutlinger

401 South Fourth Street, Suite 2600

Louisville, KY 40202

Tel: (502)625-2774

Email: SWright@MiddletonLaw.com

www.middletonlaw.com

EXTENDED STATUTES OF LIMITATIONS DURING THIS TIME OF COVID-19

The following information explains Kentucky's limited tolling period.

On March 6, 2020, Governor Beshear entered Executive Order 2020-215 and declared a State of Emergency in response to COVID-19 in Kentucky. In response to the Governor's Order, on March 17, 2020, the Supreme Court of Kentucky provided Administrative Order 2020-10. The 2020-10 Order specifically provided that emergency matters and "time-sensitive matters" were exceptions to the civil and criminal court cancellations. However, the 2020-10 Order tolled the 20-day preliminary hearing requirement for out-of-custody defendants under RCr 3.10.

Thereafter, most of Kentucky's Supreme Court Administrative Orders continued to be silent on the issue of statute of limitations. Administrative Orders 2020-13, 2020-16, and 2020-22 provide that all criminal and civil cases "with the exception of emergency matters and hearings statutorily required to be held" were postponed or cancelled. Therefore, aside from the orders for out-of-custody defendants, Kentucky did not toll the statute of limitations during COVID-19. The tolling period for out-of-state defendants was tolled on May 31, 2020.

On April 24, 2020, Administrative Order 2020-28 tolled the 60-day period provided in RCr 5.22(3) and any cases required to be tolled by this order were to be presented to the grand jury on or before July 30, 2020. Specifically, RCr 5.22(3) provides the following:

[i]n any event, if a defendant has been held to answer, without being indicted, for longer than 60 days from the finding of probable cause pursuant to RCr 3.14(1), the circuit court shall, upon motion, thereupon make an order discharging such defendant from custody; or, if such defendant is free on bail that has not been forfeited, exonerating such defendant's bail and any conditions thereon or directing a refund of any money or bonds deposited as bail, as the case may be.

In response to a recent spike in COVID-19 cases in the Commonwealth, the Kentucky Supreme Court issued Administrative Order 2020-72, which provided that grand jury proceedings shall be conducted remotely beginning November 30, 2020. In the event the grand jury proceeding cannot be conducted remotely, the 60-day period provide for in RCr 5.22(3) shall be

tolled and the matter shall be presented within 60 days of the expiration of Administrative Order 2020-72.

While Kentucky provides for limited statute of limitations tolling, the Commonwealth also allows for extension of filing deadlines. Administrative Orders, 2020-11 and 2020-17, extended appellate deadlines falling between March 16, 2020 and May 1, 2020 by 30 days. On April 28, 2020, Administrative Order 2020-29 extended deadlines for filing of notices, motions, and briefs to the Supreme Court of Kentucky and the Kentucky Court of Appeals between May 1, 2020 and May 31, 2020 by 30 days. All other pleadings, including motions for reconsideration, petitions for rehearing, or responses to disclosures were to be filed within usual timeframes unless a timely motion for extension was granted.

TEMPORARY RULES EXTENDING TIME LIMITS TO SERVE COMPLAINTS AND/OR SPECIAL RULES RELATING TO METHODS OF SERVICE

Under the Kentucky Rules of Civil Procedure, service of a summons is often issued by the clerk upon the filing of the complaint. However, the initiating party may request copies to conduct service on its own, in which case prompt proof of service is required by the court upon completion, or within the 20-day response period of the person served. Kentucky Judges were encouraged to issue summonses in lieu of bench warrants and notices of failure to appear.

As far as special rules for methods of service, there have not been changes made relating to methods of service.

This Compendium outline contains a brief overview of certain laws concerning various litigation and legal topics. The compendium provides a simple synopsis of current law and is not intended to explore lengthy analysis of legal issues. This compendium is provided for general information and educational purposes only. It does not solicit, establish, or continue an attorney-client relationship with any attorney or law firm identified as an author, editor, or contributor. The contents should not be construed as legal advice or opinion. While every effort has been made to be accurate, the contents should not be relied upon in any specific factual situation. These materials are not intended to provide legal advice or to cover all laws or regulations that may be applicable to a specific factual situation. If you have matters or questions to be resolved for which legal advice may be indicated, you are encouraged to contact a lawyer authorized to practice law in the state for which you are investigating and/or seeking legal advice.