

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
OF FLORIDA

ADMINISTRATIVE ORDER NO:
20-15 6TH AMENDED
SUPERSEDES 20-15 5TH
AMENDED

IN RE: CONTINUATION OF OPERATIONS BASED UPON COVID-19 CONCERNS

WHEREAS, the World Health Organization (WHO), has declared the Coronavirus Disease 2019 (COVID-19), a severe acute respiratory illness that can spread among individuals through respiratory transmission, a global pandemic; and

WHEREAS, Florida Governor Ron DeSantis on March 1, 2020, by Executive Order No.: 20-51, directed the State Health Officer and Surgeon General, Dr. Scott Rivkees to declare a public emergency in the State of Florida pursuant to F.S. 381.00315; and

WHEREAS, Florida's Surgeon General, Dr. Scott Rivkees declared that a public health emergency exists in the State of Florida as a result of COVID-19; and

WHEREAS, Governor DeSantis issued Executive Order No.: 20-52 on March 9, 2020, declaring a State of Emergency for the State of Florida as a result of COVID-19; and

WHEREAS, the Centers for Disease Control recommends community preparedness and various prevention and mitigation measures be taken. These measures include among other things, distancing individuals from persons who are ill or have been exposed to persons ill with COVID-19, limiting face-to face contact with individuals who are ill or have been exposed to persons ill with COVID-19, exercising social distancing which includes remaining out of congregate settings, and maintaining distance (approximately 6 feet or 2 meters) from others and remaining at home; and

WHEREAS, on March 13, 2020 Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-13, In Re: COVID-19 Emergency Procedures in the Florida State Courts, requiring Chief Judges to continue ongoing planning and authorizing the use of mitigating measures to address the effects of COVID-19; and

WHEREAS, on March 17, 2020, Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-15, In Re: COVID-19 Essential and Critical Trial Court Proceedings, requiring that no proceedings or other court events other than essential proceedings and proceedings critical to the state of emergency or the public health emergency shall be conducted through in-person hearings until such time as the public health emergency is resolved, or as provided by subsequent order; and

WHEREAS, pursuant to Administrative Order No. AOSC20-15, In Re: COVID-19 Essential and Critical Trial Court Proceedings, the Chief Judge may determine that other proceedings and events can be effectively conducted remotely without the necessity of in-person court appearances; and

WHEREAS, on April 6, 2020, Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-23, In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts, extending, refining, and strengthening previously enacted temporary remedial measures. The measures remained in effect until the close of business on May 29, 2020; and

WHEREAS, on May 4, 2020, Chief Justice Charles T. Canady issued Amendment 1 to Administrative Order AOSC20-23, extending suspensions of all jury proceedings; specifying the types of proceedings the circuit and county courts should conduct remotely; and, extending certain time periods in criminal and juvenile court proceedings; and

WHEREAS, on May 21, 2020, Chief Justice Charles T. Canady issued Amendment 3 to Administrative Order AOSC20-23, providing that it is the intent of the judicial branch to transition to optimal operations in a manner that protects the public's health and safety during each of the following anticipated of the pandemic:

- a. Phase 1 – in-person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare;
- b. Phase 2 – limited in-person contact is authorized for certain purposes and requires use of protective measures;
- c. Phase 3 – in-person contact is more broadly authorized and protective measures are relaxed; and
- d. Phase 4 – COVID-19 no longer presents a significant risk to public health and safety; and

WHEREAS, on May 21, 2020 Chief Justice Charles T. Canady issued Administrative Order No. AOSC20-32, adopting the Requirements, Benchmarks, and *Guidelines Governing the Transition to Limited In-Person Contact (Phase 2)*(the “report”), as modified, and providing that any judicial circuit seeking to transition to Phase 2 and expand in-person activities consistent with AOSC20-23, Amendment 2, must have (1) met the five benchmark criteria established in the report, (2) developed an operational plan addressing, at a minimum, implementation of the requirements identified in the report, and (3) filed the operational plan with the Office of State Courts Administrator; and

WHEREAS, on June 8, 2020, Chief Justice Charles T. Canady issued Amendment 3 to Administrative Order No. AOSC20-23, providing that all statewide grand jury proceedings shall remain suspended through July 26, 2020, and all other jury proceedings, including grand jury proceedings, jury selection proceedings, and criminal and civil jury trials shall remain suspended through July 17, 2020; specifying the types of proceedings the circuit and county courts should conduct remotely; providing that all time periods involving the speedy trial procedure in criminal and juvenile court proceedings shall remain suspended through the close of business on Monday, July 20, 2020; providing that, with regard to persons arrested for first degree murder, all time periods under Florida Rules of Criminal Procedure 3.133(b) and 3.134 shall remain suspended through July 17, 2020; and

WHEREAS, on June 16, 2020, Chief Justice Charles T. Canady issued Amendment 4 to Administrative Order No. AOSC20-23, which extends, refines, and strengthens previously enacted temporary remedial measures, to include changing the suspension period for jury proceedings other than statewide grand jury proceedings, extending the suspension of the speedy trial procedure for criminal and juvenile court proceedings, and specifying a termination date for the suspension of the speedy trial procedures for civil traffic infractions; and

WHEREAS, on June 4, 2020, the Eighteenth Judicial Circuit Court of Florida Determined that it had met the five benchmark criteria established in the report, finalized development of an operational plan addressing, at a minimum, implementation of the requirements identified in the report, and filed the operational plan with the Office of State Courts Administrator; and

WHEREAS, in conducting essential proceedings and proceedings critical to the state of emergency or the public health emergency, circuit and county courts shall employ all methods practicable to minimize risk of COVID-19 exposure to individuals involved in the proceedings or the general public; and

WHEREAS, during the duration of Administrative Orders Nos. AOSC20-13, AOSC20-15, and Amendments 1,2,3 and 4 to AOSC20-23, the Chief Judge of each judicial circuit is authorized to establish temporary procedures for the use, to the maximum extent feasible, of communication equipment for the conducting of proceedings by remote electronic means, as are necessary in their respective circuits due to the public health emergency; and

WHEREAS, it has become apparent that the Eighteenth Judicial Circuit can no longer meet one of the five benchmark criteria as established in the report, specifically improving COVID-19 health conditions over a 14-day period in the community; and

WHEREAS, for the health and safety of the public, court employees, and all those who must come to the courthouse to conduct business, and in consultation with local justice partners, it has been decided that the Eighteenth Judicial Circuit must return to Phase 1 until such time as the community again shows improving health conditions over a 14-day period; and

WHEREAS, pursuant to section 40.001, Florida Statutes, the Chief Judge of each judicial circuit is vested with overall authority and responsibility for the management, operation, and

oversight of the jury system within his or her circuit, and section 905.01, Florida Statutes, requires the Chief Judge to regularly convene the grand jury for a term of 6 months.

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the Chief Judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to the Chief Judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and considering available resources, to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the Chief Judge is required to provide direction, *see* Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and

In accordance with the authority vested in the Chief Judge by Article V, section 2(d) of the Florida Constitution, sections 40.001, 43.26, and 905.01, Florida Statutes, Florida Rule of Judicial Administration 2.215, and to promote public safety, it is hereby ORDERED effective immediately unless otherwise provided herein:

1. Beginning July 20, 2020 consistent with Amendment 4 to Florida Supreme Court Administrative Order No. AOSC20-23, AOSC20-32 and the Eighteenth Judicial Circuit Court Transitional Operation Plan, the Eighteenth Judicial Circuit Court is transitioning from Phase 2 (limited in-person contact is authorized for certain purposes and requires use of protective measures) back to Phase 1 (in-person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare) due to the inability of the Circuit to continue to meet one of the five benchmark criteria as stated in the report, namely declining COVID-19 health conditions over a 14-day period in the community.
2. The Eighteenth Judicial Circuit and County Courts shall continue to perform essential court proceedings when feasible remotely, including but not limited to: first appearance; criminal arraignments as necessary; hearings on motions to set or modify monetary bail for individuals who are in custody; bond revocations juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights. Should it not be feasible to conduct the aforementioned court proceedings remotely, then they shall proceed as otherwise indicated in this order.

DEPENDENCY

All Dependency Shelters shall proceed as normally scheduled before the Dependency Judge or their designees. However, attendance at Shelter hearings shall be limited to only the parties involved and their attorneys. Minors should not be brought to Shelter hearings.

REMOTE APPEARANCES

All in-custody initial appearances, arraignments, VOP arraignments, VOP hearings, early resolution cases, and bond hearings shall be conducted by remote appearance via video conferencing at the jail. An in-custody plea may be treated like a bond hearing. Pro se defendants may appear in person for all misdemeanor arraignments.

Juvenile Detention proceedings shall be conducted by remote appearance via video conferencing at the jail in Brevard County.

Juvenile Detention proceedings shall be conducted at the Juvenile Justice Center in Seminole County, Monday through Friday and otherwise conducted by remote appearance via video conferencing at the jail.

BAKER AND MARCHMAN ACTS/EMERGENCY GUARDIANSHIP/RISK PROTECTION ORDERS

All Baker Acts and Marchman Acts hearings shall proceed via video conferencing or telephonically. Emergency Guardianship matters and Risk Protection Order Hearings shall proceed via video conferencing or telephonically in Brevard County.

Emergency Guardianship matters and Risk Protection Order Hearings shall proceed at the Juvenile Justice center in Seminole County Monday through Friday and otherwise conducted by remote appearance via video conferencing on the weekend.

The Sheriff shall notify the Clerk, the Court, the office of the State Attorney and counsel for the defendant, upon receipt of information where an arrestee/inmate is associated with a med alert address or otherwise symptomatic.

STIPULATED BOND MODIFICATIONS

In any case identified for Remote Appearance, whether a Circuit or County court case, wherein release from custody is thought to be in the best interest of the inmate population and which will not have a detrimental effect upon the safety of the

public, the State and Defense may submit a *Stipulated Request for Release from Custody with Conditions*.

The Clerk shall submit all submitted Motions and Proposed Orders to the Judge whose division the case is assigned.

Should a Stipulated Request for Release from Custody with Conditions be Granted by the Court, the State and Defense may revisit the conditions of pretrial release and request the Court modify the defendant's Pre-trial release if it is determined the defendant's health no longer warrants the release for the protection of the inmate population or as a person warranting social distancing.

PROCEEDINGS DEALING WITH OUT OF CUSTODY CRIMINAL DEFENDANTS AND JUVENILE DELINQUENTS

All represented out of custody defendants' and juvenile delinquents' appearances for docket soundings, pre-trials, docket reviews, and calendar calls shall be waived. All out of custody defendants' appearances shall be waived for felony arraignments, including VOP arraignments.

In the interest of justice, all criminal division judges and the juvenile delinquent judge may hold in-person and/or combination hybrid in-person and electronic change of plea hearings for out of custody defendants and juvenile delinquents during phase 1. Any such hearings shall be conducted in compliance with all COVID-19 Public Health and Safety Precautions and Procedures established in Administrative Orders 20-28 Amended, section A, and 20-35. Social distancing requirements will be enforced and judges shall take all necessary measures to conservatively schedule these hearings in a manner that ensures compliance with these procedures, including staggered start times, adequate waiting space, and reasonable limitation on the number of such hearings in a given time period to comply with such health and safety requirements.

Requests for continuance will be accepted without signature of the defendant provided they are signed by counsel for the defendant.

Any time periods involving the speedy trial procedure shall be suspended as set forth by administrative orders executed by Chief Justice Charles T. Canady.

Any other nonemergent hearing may move forward, providing the parties appear remotely.

INJUNCTIONS

All domestic violence, repeat violence, dating violence, stalking, sexual violence, dating violence, vulnerable adult injunctions, and cyberstalking injunction hearings

relating to the safety of an individual may proceed in-person. Any current temporary injunction shall remain in place until the date of the scheduled hearing.

Any Petition for Temporary *ex parte* injunctions which includes domestic violence, repeat violence, dating violence, stalking, sexual violence, dating violence, vulnerable adult and cyberstalking will continued to be addressed in the Clerk's Offices at the Courthouses in Brevard County and Seminole County.

PROPERTY CASES

All property cases shall proceed remotely. All ejectments or writs of possession and unlawful detainers shall proceed including the initial paperwork. The Clerk of Court shall issue summons. The Sheriff and or process server shall serve all summons.

All residential evictions and commercial evictions shall proceed including the initial paperwork. The Clerk of Court shall issue summons. The Sheriff and or process server shall serve all summons. Upon proper Motion, the Court shall determine if a defense based upon COVID-19 is available. Should the Court determine a defense is available for a residential eviction, the final action of eviction shall be suspended pursuant to Executive Orders 20-94 and 20-180.

Residential foreclosure sales that arise from non-payment of a mortgage by a single-family mortgagor adversely affected by the COVID-19 emergency shall be suspended until August 31, 2020 or as provided by subsequent order. Upon proper Motion, the Court shall determine if the mortgagor was adversely affected by the COVID-19 emergency. The foreclosure sale shall be scheduled on the next available date after August 31, 2020. All other foreclosures may proceed.

MISDEMEANOR ARRAIGNMENTS

All out of custody unrepresented defendants may appear in person for misdemeanor arraignments, if unable to move forward remotely. The misdemeanor arraignment docket will be staggered to accommodate the social distancing requirements for all pro defendants' appearances either every half hour or every hour depending on the size of the docket and the capacity of the courtroom.

3. The Eighteenth Judicial Circuit and County Courts shall also perform, as necessary and applicable, critical proceedings related to the state of emergency of the public health emergency, including but not limited to proceedings related to: violation of

- quarantine isolation; violation of orders to limit travel; violation of orders to close public or private buildings; and enforcement of curfew orders.
4. Pursuant to section 43.26(2)(d), Florida Statutes, the Clerks of Court, State Attorney, Public Defender, and other officers of the Court must attend court proceedings as directed by the Chief Judge or Presiding Judge.
 5. Public access to court facilities is hereby limited to counsel for the parties and the litigants involved in an in-person or hybrid essential court proceeding, and visitors to the offices of the Clerk of Court and in Seminole county clients of the Public Defender with a scheduled appointment with his/her attorney visiting the office located in the Courthouse. Only persons essential to any proceeding will be allowed in the courtroom: Judge, clerks, parties, attorneys, victims, witnesses, court reporters, court interpreters and other persons whose presence is essential. No other persons will be allowed to enter court facilities via the public entrances or attend court proceedings, except as may be permitted by the Presiding Judge or the Chief Judge. Media may continue to access court facilities consistent with existing administrative orders. In conducting proceedings, the Eighteenth Judicial Circuit Court shall employ all methods practicable to minimize risk of COVID-19 exposure to anyone involved in the proceedings.
 6. Any person, regardless of status, who is exhibiting symptoms consistent with COVID-19, or any person who has knowingly been in contact with another person who is suffering from the effects of the COVID-19 virus, consistent with the provisions of the Eighteenth Judicial Circuit Administrative Order 20-28 as amended, is prohibited from entering any court facility.
 7. If a Judge has coordinated hearings that do not involve in-person contact, then those hearings may occur without delay. In-person court appearances may be conducted as permitted by AOSC20-23, Amendment 4.
 8. All jury proceedings, including grand jury proceedings, jury selection proceedings, and criminal and civil jury trials, shall remain suspended until 30 days after the Chief Judge of the judicial circuit has determined that the circuit or a county within the circuit has transitioned to Phase 2 pursuant to Florida Supreme Court Administrative Order No. AOSC20-32, Amendment 1. Individuals with questions as to jury service may contact the Clerk of the Court in Brevard county at 321-637-6559 or in Seminole county at 407-665-4392.
 9. All time periods involving the speedy trial procedure in criminal and juvenile court proceedings shall remain suspended until 90 days after the Chief Justice has approved the certification of a Chief Judge of a judicial circuit that the circuit or a county within the circuit has transitioned to Phase 3. Any defendant facing criminal charges who raises a speedy trial issue because of the suspension of jury duty during the time set forth herein shall file a written motion and provide a courtesy copy to

the Administrative Judge of the Circuit Criminal Division or the Administrative Judge of the County Criminal Division, as appropriate, and the Chief Judge.

10. All time periods involving the speedy trial procedure in noncriminal traffic infraction court proceedings remain suspended until 60 days after the Chief Judge has determined that the Eighteenth Judicial Circuit has transitioned to Phase 2 pursuant to Florida Supreme Court Administrative Order No. AOSC20-32, Amendment 1, or 60 days after the effective date of Florida Supreme Court Administrative Order No. AOSC20-23, Amendment 4.
11. Effective immediately, the Public Defender is appointed for all first appearances and juvenile detention hearings, and counsel is appointed for all dependency shelter hearings, without the necessity of an affidavit of indigency.
12. Non-essential and Non-critical Court Proceedings. Pursuant to Amendment 2 to AOSC20-23, the Chief Justice determined that the following proceedings are amenable to being conducted remotely:
 - A. Alternative dispute resolution proceedings;
 - B. Status, case management, docket soundings, calendar calls and pretrial conferences in all case types;
 - C. Non-evidentiary and evidentiary motion hearings in all case types;
 - D. Pleas in absentia in county court misdemeanor cases;
 - E. Hearings in juvenile delinquency cases;
 - F. Hearings in noncriminal traffic infraction cases;
 - G. Hearings in involuntary commitment of sexually violent predator cases;
 - H. Problem-solving court staffings, hearings, and wellness checks; and
 - I. Non-jury trials in all case types except for:
 - Criminal cases unless the parties in such case agree to the remote conduct of a non-jury trial; or
 - Termination of parental rights or juvenile delinquency cases, unless the Chief Judge or the Presiding Judge in the case determines that the non-jury trial should proceed remotely.
13. The individual Judges of the Family Division shall have discretion to conduct family law trials and evidentiary hearings remotely as each Judge sees fit. Accordingly, Administrative Order No: 20-15 3RD AMENDED (entered July 20, 2020) is amended to remove the requirement that parties consent in advance to a hearing proceeding remotely; each Family Division Judge shall retain discretion to hear such matters, and on such terms, as that Judge sees fit.
14. Each of the above-listed proceedings shall be conducted using video or other electronic means available unless the Presiding Judge or Chief Judge determines that one of the following exceptions applies:

Remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order; or

Remote conduct of the proceeding would be infeasible because the Court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or public health emergency, lacks the staff resources necessary to conduct the proceeding.

Self-Represented Litigants (Pro-Se)

Please register for the E-Portal so you can electronically receive and file documents. You could also be required to appear remotely for your Court proceeding.

<https://www.myflcourtaccess.com/default.aspx>

Other proceedings may be conducted if the Presiding Judge can do so using technological resources such as video or telephone conferencing. Information concerning these other proceedings, including instructions on participating in such proceedings shall be determined by contacting the presiding judge. The Court shall continue to review cases and court events and the communications technology resources available to the Circuit, each county, and each Judge. All necessary steps shall be taken to ensure that the above-listed proceedings are conducted to the fullest extent possible.

15. In the event of any in-person essential proceedings, the Presiding Judge shall take necessary steps to ensure social distancing in order to minimize potential exposure to COVID-19. The Presiding Judge must ensure that all participants in the proceeding maintain at least as 6-foot “social distance” from each other at all times.
16. All essential proceedings are being conducted as set forth above. As determined by the Chief Judge, other proceedings and events may be conducted if the Presiding Judge can do so using technological resources such as video or telephone conferencing. Information concerning these other proceedings, including instructions on participating in such proceedings, can be found <https://flcourts18.org/covid-19-emergency-information/>
17. This administrative order shall be subject to modification, addition, and extension as the evolving and fluid nature of the facts and circumstances may require.

DONE and ORDERED this 6th day of August, 2020.

LISA DAVIDSON
LISA DAVIDSON
CHIEF JUDGE

Distribution:

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