

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
AUTHORIZING LIMITATION OF	)	Administrative Order
COURT OPERATIONS DURING A	)	No. 2021 - <u>172</u>
PUBLIC HEALTH EMERGENCY	)	(Replacing Administrative
AND TRANSITION TO RESUMPTION	)	Order No. <u>2021-109</u> )
OF CERTAIN OPERATIONS	)	
	)	

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Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona declared a statewide public health emergency on March 11, 2020 pursuant to A.R.S. § 26-303 and in accordance with A.R.S. § 26-301(15). Since March 18, 2020, several administrative orders have been issued in response to the COVID-19 public health threat that limited and modified court operations to ensure justice in Arizona is administered safely. The most recent such order, Administrative Order No. 2021-109 issued on July 14, 2021, directed Arizona's courts to continue to conduct business in a manner that reduced the risks associated with COVID-19 but to resume certain operations in an orderly way that prioritizes the safety of the public, judicial officers, and employees of the judiciary. This order updates and continues the effect of that order.

For the purposes of this order and the attachment, the term "judicial leadership" refers, as applicable, to the chief judge of the court of appeals, the presiding superior court judge, the Presiding Justice of the Peace in Maricopa County, the Chief Administrative Justice of the Peace of the Pima County Consolidated Justice Court, the presiding judge of a municipal court that has multiple judges, or, for other limited jurisdiction courts that have only one judge, the judge of such court. The term "courthouse" refers to all judicial branch facilities, including probation offices, juvenile detention facilities, clerks' offices, and warehouses.

Arizona courts remain open to serve the public. Nevertheless, given the ongoing potential threat to public safety, the availability of approved vaccinations, and changing CDC guidance to protect the public, certain limitations and changes in court practices and operations are still necessary. These changes will occur in phases consistent with this order and the Standards for Resumption of On-Site Court Operations During a Public Health Emergency in Attachment A.

Therefore, pursuant to Article VI, Sections 3 and 5, of the Arizona Constitution,

IT IS ORDERED that all Arizona courts and the office of the presiding disciplinary judge may continue transitioning to in-person proceedings to the extent this can be safely accomplished.

IT IS FURTHER ORDERED that presiding superior court judges continue to meet with local criminal justice system stakeholders to coordinate how best to handle the phasing-in of normal procedures in criminal proceedings, including resuming petit and grand jury proceedings.

IT IS FURTHER ORDERED that presiding superior court judges shall determine for the courts in their respective counties how in-person court proceedings and courthouse activities are to be phased-in and conducted, consistent with this order, in a manner intended to offer reasonable protection to all participants. The chief judge of each court of appeals division shall determine how in-person court proceedings are to be phased-in and conducted.

IT IS FURTHER ORDERED that the presiding superior court judge of each county may modify that county's judicial branch health emergency order to address the use of social distancing and other measures for that county, as discussed in Phase III of Attachment A. If warranted by a change of the pandemic-related circumstances in a specific county, the presiding judge may resume the imposition of previously authorized health-related requirements for the protection of the public and court employees. If this becomes necessary, the presiding judge shall modify that county's judicial branch health emergency order, notify the administrative director, and post the requirements at facility entrances and on the court's public website.

IT IS FURTHER ORDERED that:

**I. TO PROTECT COURTHOUSE SAFETY:**

1. The presiding superior court judge of each county and the chief judge of each division of the court of appeals is authorized to adopt or suspend any local rule or order as needed to address the current public health emergency in cooperation with public health officials and to take any reasonable action that circumstances require to enable necessary operations of the Court of Appeals (COA) in each division and the superior, justice, and municipal courts in each county.
2. Except where the number of judicial officers and court employees or other constraints will not allow, judicial leadership shall implement a staffing plan, which may include dividing judicial officers and employees into two or more teams or using other methods, considering the number of court employees who have been vaccinated, to prevent all or a substantial portion of judicial officers and court employees from becoming infected or requiring quarantine at the same time due to work-related contact. The presiding superior court judge may exempt judicial officers and court employees who perform critical court functions from this provision if there is no practical alternative.
3. Courts should modify operations to limit the number of transportation events to necessary in-court hearings for individuals in custody or receiving services

pursuant to court order, including combining hearings subject to maximum gathering size required by this order, and to minimize mixing of populations to eliminate avoidable quarantines when such individuals are returned to custody following court hearings.

4. Change of judge pursuant to Rule 10.2, Rules of Criminal Procedure; Rule 42.1, Rules of Civil Procedure; Rule 2(B), Rules of Procedure for Juvenile Court; Rule 6, Rules of Family Law Procedure; Rule 133(d), Justice Court Rules of Civil Procedure (except as provided in A.R.S. § 22-204); Rule 9(c), Rules of Procedure for Eviction Actions (except as provided in A.R.S. § 22-204); and any local rule remain suspended until further order in the Superior Court in counties with less than three Superior Court judges (Apache, Gila, Graham, Greenlee, La Paz, and Santa Cruz), in justice courts (excluding Pima County Consolidated Justice Court), and in municipal courts with less than three magistrates to reduce the risk of virus exposure inherent in judges' travel, and to ensure adequate judicial resources for backlog reduction. The suspension of these rules is lifted in all other courts only as to cases filed on or after November 17, 2021.
5. Judicial leadership shall adopt practices regarding gathering size, masking, social distancing, and other standards in Attachment A, considering the size of the courtrooms and other spaces where people gather in and around the courthouse. A court should not schedule in-person multiple, simultaneous proceedings that are inconsistent with these standards. Courts should coordinate with law enforcement to require staggered citation appearance times.
6. Judicial leadership must require all participants in court proceedings, including attorneys, parties, victims, witnesses, jurors, judicial officers, court employees, and other necessary persons to notify the court prior to appearing at the courthouse of any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities and to make alternative arrangements to participate.
7. During Phases I and II, judicial leadership should limit any required in-person proceedings to attorneys, parties, victims, witnesses, jurors, judicial officers, court employees, and other necessary persons, where necessary to maintain the recommended social distancing within the courthouse, including each courtroom. On request, judicial leadership should authorize admission of a media observer or a representative of a media pool to in-person proceedings to the extent possible considering social distancing requirements and courtroom space limitations. The judicial officer in each proceeding is authorized to make reasonable orders to ensure the health and safety of hearing participants consistent with the parties' right to due process of law.

8. Judicial officers may liberally grant continuances and make accommodations, if necessary and possible, for attorneys, parties, victims, witnesses, jurors, and others with business before the courts who are at a high risk of illness from COVID-19 or who report any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities.
9. The Administrative Office of the Courts shall provide judicial leadership with a health screening protocol for judicial officers and court employees used to detect COVID-19-related symptoms consistent with recommendations by public health officials to prevent the spread of the virus. Judicial leadership shall implement this protocol. The presiding superior court judge of a county may require judicial officers and court employees to wear their own or court-provided masks, face coverings, or face shields when having any in-person contact with judicial officers, court employees, or the public, or as allowed by section I(11) of this order. The presiding superior court judge of a county may establish different requirements for a court facility considering its unique circumstances. At a minimum, unvaccinated individuals should be encouraged to wear masks. Employees who work in or visit juvenile detention centers shall continue to wear masks or other face coverings while in the facilities.
10. The Administrative Office of the Courts shall also provide judicial leadership with a health screening protocol for the public used to detect COVID-19-related symptoms consistent with recommendations by public health officials to prevent the spread of the virus. Judicial leadership shall implement this protocol. Where courthouse entrance security screening is available, the COVID-19 screening protocol may require body temperature screening for the public. Considering the unique circumstances in each county, the presiding superior court judge of a county may require court participants and visitors to wear a mask or other face covering in a court facility, except visitors to a juvenile detention center shall wear masks or other face coverings while in the facility. The presiding superior court judge of a county may establish different requirements for a court facility considering its unique circumstances. If masks are required, courts may provide a mask or face covering for use by persons who do not have their own. Courts may exclude persons from the courthouse who refuse to cooperate with or who do not pass established screening protocols or, where required, refuse to wear a mask or other face covering. Judicial leadership shall post any requirements for persons to wear masks at entrances and on their public website.
11. In the event the presiding judge continues to require masks, during in-courtroom proceedings, the judicial officer presiding may authorize removal of masks or face coverings for purposes of witness testimony, defendant identification, making an appropriate record, or other reasons as deemed

necessary by the judicial officer, provided that appropriate social distancing or other protective measures are followed.

## **II. TO USE TECHNOLOGY TO MINIMIZE IN-PERSON PROCEEDINGS:**

1. Proceedings in all Arizona appellate, superior, justice, juvenile, and municipal courts and before the presiding disciplinary judge may be held by teleconferencing or video conferencing, consistent with core constitutional rights.
2. During Phases I and II, judicial leadership should limit in-person contact in the conduct of court business as much as possible by using available technologies, including alternative means of filing, teleconferencing, video conferencing, and use of email and text messages to reasonably ensure the health and safety of all participants.
3. Judicial officers may hold *ex parte* and contested hearings on orders of protection electronically.
4. Judicial leadership may authorize the use of available online dispute resolution (ODR) platforms to resolve cases.
5. Judicial leadership may authorize the use of electronic, digital, or other means regularly used in court proceedings to create a verbatim record, except in grand jury proceedings.
6. When court proceedings are not held in-person or the public is limited from attending in-person proceedings, the presiding superior court judge shall provide public access by video or audio to civil and criminal court proceedings typically open to the public to maximize the public's ability to observe court proceedings to the extent logically possible. The presiding superior court judge or single judge of a limited jurisdiction court should make video or audio proceedings, excluding small claims cases, available to the public to the greatest extent possible.
7. Clerks may attend court proceedings by teleconferencing or video conferencing to comply with A.R.S. § 12-283(A)(1).
8. Arizona Revised Statutes, Title 36, Chapter 5 matters are confidential and not open to persons other than the parties, witnesses, their respective counsel, and additional persons the court permits to attend. When these proceedings are not conducted in-person, judicial leadership must use technology in a manner that protects the patient's rights to privacy and confidentiality.

9. The judicial officer in each proceeding conducted using video-conferencing may limit and permit recording as appropriate to apply the policies provided in Rule 122, Rules of the Supreme Court, to those proceedings.
10. When conducting virtual hearings, courts may establish procedures to collect the defendant's fingerprint, or to otherwise establish the defendant's identity as an alternative means of complying with the procedures required by A.R.S. § 13-607 and Rule 26.10 of the Rules of Criminal Procedure.

### **III. TO CALCULATE TIME CONSIDERING THE EMERGENCY:**

1. The period of March 18, 2020 through March 31, 2021 is excluded from calculation of time under rule provisions and statutory procedures that require court proceedings to be held within a specific period of time, including Rule 8, Rules of Criminal Procedure; Rules 17, 25, 79 and 100, Rules of Procedure for the Juvenile Court; and Rules 2, 3, 11(c) and 15, Rules of Procedure for Eviction Actions. After March 31, 2021 and notwithstanding Rules 8.1(e) and 8.4(a)(4), the presiding superior court judge may exclude additional time from individual cases or groups of cases due to trial calendar congestion or, at the request of the trial judge, due to extraordinary circumstances caused by COVID-19 public health emergency.
2. The following are not excluded from calculations of time:
  - (a) For persons held in-custody: initial appearances, arraignments, preliminary hearings, in-custody probation violation, and conditions of release;
  - (b) Domestic violence protective proceedings and injunctions;
  - (c) Child protection temporary custody proceedings;
  - (d) Court-ordered evaluation and treatment proceedings under Title 36, A.R.S.;
  - (e) Appointment of a temporary guardian or temporary conservator;
  - (f) Habeas corpus proceedings;
  - (g) COVID-19 public health emergency proceedings;
  - (h) Juvenile detention hearings;
  - (i) Election cases; and
  - (j) Any other proceeding that is necessary to determine whether to grant emergency relief.

### **IV. TO APPROPRIATELY PRIORITIZE CASE PROCESSING:**

1. Constitutional and statutory priorities for cases continue to apply unless otherwise waived.
2. For cases where the right to a jury trial has not been waived, but where the availability of courthouse facilities, judicial officers or court employees require

prioritization and recognizing that constitutional and statutory priorities govern for specific issues raised in a specific case, trials shall be scheduled in the following order of priority:

- (a) Criminal felony and misdemeanor cases, where the defendant is in custody;
- (b) Sexually violent person cases;
- (c) Criminal felony cases, where the defendant is not in custody;
- (d) Criminal misdemeanor cases, where the defendant is not in custody; and
- (e) Civil and any other jury trial cases.

3. Recognizing that the priority required by the regular calculation of time for the proceedings listed in section III(2) applies first, where the limited availability of courthouse facilities, judicial officers, or court employees require prioritization, court proceedings shall be scheduled in the following order of priority:

- (a) In superior court:

- (1) Juvenile;
- (2) Criminal;
- (3) Evaluation and treatment (under chapter 5, title 36, A.R.S.);
- (4) Family (involving minor children);
- (5) Family (not involving minor children);
- (6) Probate (under chapter 5, title 14, A.R.S.), subject to paragraph 5 below;
- (7) Civil;
- (8) General Probate; and
- (9) Tax and Administrative cases.

- (b) In justice and municipal courts:

- (1) Juvenile;
- (2) Criminal misdemeanors;
- (3) Other criminal;
- (4) Residential eviction;
- (5) Civil traffic;
- (6) Civil; and
- (7) Small claims.

4. Where backlogs exist, judicial leadership should expand case disposition capacity, including calling back retired judges, using judges pro tempore, and temporarily reassigning judges from other assignments.
5. The superior court shall give priority to cases in which the appointment of a guardian under Title 14, A.R.S. has been requested for an incapacitated person whom a healthcare institution has determined is medically appropriate for discharge from that healthcare institution. For purposes of this paragraph,

“healthcare institution” has the same meaning as prescribed in A.R.S. § 36-401(22).

## **V. TO SAFELY PROVIDE FOR JURY TRIALS AND GRAND JURIES:**

1. Trials of cases to a jury may resume when Arizona enters Phase I. When considering when and how to restart jury trials, courts should consult the guidance provided in the Arizona Jury Management Subgroup Best Practice Recommendations During the COVID-19 Public Health Emergency. To the extent the Jury Management Subgroup’s report is inconsistent with any Administrative Order, the most recent version of the Administrative Order controls.
2. The presiding superior court judge in each county should determine when jury trials can safely be held, taking into consideration the physical space of individual courthouses and courtrooms and the public health threat in the county. Considering the unique circumstances in each county, as well as the recommendations of the state and local health departments and the CDC, the presiding superior court judge of that county may require social distancing and other measures intended to offer protection to jurors and the general public. Judicial leadership shall post notice of any such requirements at entrances and on their public website.
3. To reduce the number of citizens summoned to jury duty until amendments abolishing peremptory strikes in jury selection take effect on January 1, 2022, procedural rules (including Rule 18.4(c), Rules of Criminal Procedure; Rule 47(e), Rules of Civil Procedure; Rule 134(a)(1), Justice Court Rules of Civil Procedure; and Rule 12, Rules of Procedure for Eviction Actions) are modified to afford litigants only two peremptory strikes for potential jurors per side in all civil and felony cases tried in the superior court, and one peremptory strike per side in all misdemeanor cases, and all civil cases tried in limited jurisdiction courts. This provision does not apply to capital murder cases.
4. Consistent with phasing standards provided in Attachment A, and to accommodate any social distancing requirements for that county, courts may stagger times for prospective jurors to report for jury duty, direct them to individual courtrooms rather than jury assembly rooms, and conduct voir dire remotely or in multiple groups.
5. Judicial leadership may authorize the use of technology to facilitate alternatives to in-person appearance for selecting grand and petit jurors and for conducting grand jury proceedings, and with the permission of the presiding superior court judge, for jury trials.

6. As required by A.R.S. § 21-202(b)(2), jury commissioners must temporarily excuse prospective jurors whose jury service would substantially and materially affect the public welfare in an adverse manner, including but not limited to those who report a COVID-19 diagnosis, symptoms, or notification by a public health official of exposure to COVID-19 and may temporarily excuse potential jurors who are highly vulnerable to COVID-19.
7. Considering the unique circumstances in each county, as well as the recommendations of the state and local health departments and the CDC, the presiding superior court judge in coordination with the county attorney in each county may determine when, and under what conditions, grand juries can be held in a safe manner. Grand jury selection may be conducted in-person by staggering the appearance of prospective jurors or remotely by use of technology. The presiding superior court judge may authorize grand jury proceedings to be held by video-conferencing.

#### **IN GENERAL:**

1. Court offices shall remain accessible to the public by telephone and email during their regular business hours to the greatest extent possible, including using drop boxes for documents.
2. During this period of reduced operations, courts and court clerks shall make reasonable efforts to provide alternative methods of accessing court records.
3. Probation officers are authorized to use social distancing and technology of all types to supervise those on criminal and juvenile probation, including, where appropriate, for contacts with such individuals.
4. Clerks of the court shall continue to issue marriage licenses and may do so remotely if the available technology allows licenses to be properly issued.
5. A judge may perform a marriage ceremony at the courthouse subject to any limitations set by the presiding superior court judge of the county. A judge may perform a marriage ceremony in the electronic presence of the couple and witnesses at the parties' request.
6. The Administrative Office of the Courts may use technology to ensure social distancing for its operations, including the Court Appointed Special Advocate program, the Foster Care Review Boards program, and the Certification and Licensing programs under Part 7, Chapter 2, of the Arizona Code of Judicial Administration.

7. Limited jurisdiction judicial leadership may issue orders as necessary to implement the provisions of this order and take actions consistent with this order and orders issued by their presiding superior court judge.
8. Judicial leadership must notify court customers, the public, and the Administrative Director of all administrative orders issued under the authorization provided by this order using the most effective means available.
9. Judicial leadership must provide information regarding court access and operations in both English and Spanish.
10. The presiding superior court judge of a county and the judicial officers and court employees in leadership in the limited jurisdiction courts in the county shall periodically meet to coordinate county-wide court activities impacted by the current COVID-19 crisis.

Dated this 10th day of November, 2021.

FOR THE COURT:

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ROBERT BRUTINEL  
Chief Justice

## ATTACHMENT A

### **Standards for Resumption of On-site Court Operations During a Public Health Emergency**

**UNLESS OTHERWISE SPECIFIED IN THE PHASING STANDARDS BELOW, ALL GENERAL PROVISIONS IN THE ADMINISTRATIVE ORDER REMAIN IN EFFECT UNTIL FURTHER ORDER. THIS INCLUDES THE LIMITATION ON PEREMPTORY STRIKES OF PROSPECTIVE JURORS, AND THE SUSPENSION OF NOTICES OF CHANGE OF JUDGE.**

In planning for a phased resumption of on-site court operations, courts<sup>1</sup> must consider the following factors:

1. The pandemic-related circumstances in each local court jurisdiction;
2. The size and functionality of courthouse facilities, both in terms of courtrooms and other public meeting areas; and
3. The size of the bench and supporting court staff.

The timing of the phases will be largely determined by Arizona specific conditions. The Administrative Director will notify the judicial leadership of the current phase. Taking these factors into account, local courts should systematically resume on-site operations as follows:

**Phase Zero:** Due to the statewide public health emergency, all in-person court proceedings should be avoided to the greatest extent possible, consistent with constitutional rights.

- Courts should follow CDC social distancing guidelines and limit the number of persons at any court event to 10. Judicial leadership may authorize groups larger than 10, but not to exceed 30.
- The empaneling of new petit juries is suspended.
- In-person contact is to be limited through the use of virtual hearings (audio or video), electronic recording of court proceedings and electronic transmission of documents.
- Certain state and local court rules are suspended or amended to maximize public safety.
- Courts shall require masks or face coverings to be worn in the courthouse, except as authorized by the judicial officer in the courtroom.

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<sup>1</sup> In this attachment, courts include Arizona courts, Office of the Presiding Disciplinary Judge, and Court of Appeals.

**Phase I:** Courts are authorized to transition to in-person proceedings to the extent it could be safely accomplished in compliance with the following standards:

- Courthouse Safety:
  - Except where the number of the employees or other constraints will not allow, judicial leadership shall implement a staffing plan, which shall include dividing employees and judicial officers into two or more teams or other methods to accomplish the goal of preventing all or a substantial portion of court employees and judicial officers from becoming infected or requiring quarantine at the same time due to work related contact. The presiding superior court judge may exempt employees and judicial officers who perform critical court functions from this provision if there is no practical alternative.
  - Judicial leadership shall limit any required in-person proceedings to attorneys, parties, victims, witnesses, jurors, judicial officers, court employees, and other necessary persons.
  - Judicial leadership should modify operations to limit the number of transportation events to necessary in-court hearings for individuals in custody.
  - Courts should limit the number of persons at any court event to 30 people depending on the size of the facility and with appropriate precautions. In extraordinary circumstances, the presiding superior court judge may authorize more than 30 people to gather in one location to conduct court business based on social distancing recommendations and the space available at the location.
  - Courts shall utilize the health screening protocols provided by the AOC.
  - Courts shall require masks or face coverings to be worn in the courthouse, except as authorized by the judicial officer in the courtroom.
  - Rules which provide litigants a change of judge as a matter of right are suspended as provided in the current order.
  - Courts shall exclude persons failing the screening protocol from entry to the courthouse and attempt to make alternative arrangements for them to conduct court business. If an excluded person is attempting to attend a scheduled court proceeding, the appropriate court shall be notified of the person's inability to enter the courthouse.
- Technology
  - Courts shall continue the use of virtual hearings, electronic recording and electronic transmission of documents.

- Courts shall provide public access by video or audio to court proceedings which are typically open to the public, specifically for the case types designated in this Administrative Order.
- Courts shall consider and encourage the use of on-line dispute resolution (ODR).
- Appropriately Prioritize Case Processing
  - Courts shall follow the prioritization of case types, both for jury and non-jury cases.
  - Courts may expand case disposition capacity, using retired judges and judges pro tempore and temporarily reassigning judges from other assignments.
- Jury Trials and Grand Juries
  - Jury trials may resume, subject to the approval of the presiding superior court judge.
  - Courts shall utilize appropriate social distancing and measures necessary for the protection of jurors, including the use of technology for virtual selection of petit and grand jurors and conducting of grand jury proceedings and, with the approval of the presiding superior court judge, for jury trials.
  - The presiding superior court judge may determine when grand juries can be resumed.
- In General
  - Courts shall provide for the use of drop boxes for filing documents.

**Phase II:** Phase II has been divided into two phases. Phase II(B) is less restrictive.

**A.** Scheduling of in-person court proceedings can resume, while limiting the projected number of courthouse visitors.

- Courthouse Safety
  - On-site court staffing should systematically increase during Phase II, as necessary to serve the increased number of visitors at the courthouse. Except where the number of judicial officers and court employees or other constraints will not allow, judicial leadership shall implement a staffing plan, which may include dividing judicial officers and court employees into two or more teams or using other methods, considering the number of court employees that have been vaccinated, to prevent all or a substantial portion of judicial officers and court employees from becoming infected or requiring quarantine at the same time due to work-related contact. The presiding superior court judge may exempt judicial officers and court employees who perform critical court functions from this provision if there is no practical alternative.

- Judicial leadership shall allow attorneys, parties, victims, witnesses, jurors, judicial officers, court employees, and other necessary persons to attend any required in-person proceedings. In addition to these individuals, judicial leadership may allow members of the public and others to attend in-person proceedings considering the physical space limitations of each court.
- Judicial leadership should modify operations to limit the number of transportation events to necessary in-court hearings for individuals in custody.
- Courts should limit the number of persons at any court event to 50 people depending on the size of the facility and with appropriate precautions. In extraordinary circumstances, the presiding superior court judge may authorize more than 50 people to gather in one location to conduct court business based on social distancing recommendations and the space available at the location.
- Courts shall utilize the health screening protocols provided by the AOC.
- Courts may require masks or face coverings to be worn in the courthouse, except as authorized by the judicial officer in the courtroom.
- Rules which provide litigants a change of judge as a matter of right are suspended as provided in the current order.
- Courts shall exclude persons failing the screening protocol from entering the courthouse and attempt to make alternative arrangements for them to conduct court business. If an excluded person is attempting to attend a scheduled court proceeding, the appropriate court shall be notified of the person's inability to enter the courthouse.
- Technology
  - The use of technology should continue, both to maximize public safety and to maximize efficiencies in court operations.
  - Courts may continue the use of virtual hearings, electronic recording, and electronic transmission of documents.
  - Courts shall provide public access by video or audio to court proceedings which are typically open to the public, specifically for the case types designated in this Administrative Order.
  - Courts shall consider and encourage the use of on-line dispute resolution (ODR).
- Appropriately Prioritize Case Processing
  - Courts may expand case disposition capacity, using retired judges and judges pro tempore and temporarily reassigning judges from other assignments.
- Jury Trials and Grand Juries

- Jury trials may resume, subject to the approval of the presiding superior court judge.
- Courts shall utilize appropriate social distancing and measures necessary for the protection of jurors, including the use of technology for virtual selection of petit and grand jurors and conducting of grand jury proceedings and, with the approval of the presiding superior court judge, for petit jury trials.
- The presiding superior court judge may determine when grand juries can be resumed.
- In General
  - Courts shall provide for the use of drop boxes for filing documents.

**B.** Scheduling of in-person court proceedings can resume, while limiting the likely number of courthouse visitors. Restrictions related to jury service are discretionary, as determined by the presiding superior court judge of each county.

- Courthouse Safety
  - On-site court staffing should systematically increase during Phase II, as necessary to serve the increased number of visitors at the courthouse. Except where the number of judicial officers and court employees or other constraints will not allow, judicial leadership shall implement a staffing plan designed to limit interruptions to court operations required by quarantine requirements. This may continue to include dividing judicial officers and court employees into two or more teams or using other methods, considering the number of court employees that have been vaccinated, to prevent all or a substantial portion of judicial officers and court employees from becoming infected or requiring quarantine at the same time due to work-related contact. The presiding superior court judge may exempt judicial officers and court employees who perform critical court functions from this provision if there is no practical alternative.
  - Judicial leadership shall allow attorneys, parties, victims, witnesses, jurors, judicial officers, court employees, and other necessary persons to attend any required in-person proceedings. In addition to these individuals, judicial leadership may allow members of the public and others to attend in-person proceedings considering the physical space limitations of each court.
  - Judicial leadership should modify operations to limit the number of transportation events to necessary in-court hearings for individuals in custody.
  - Courts should limit the number of persons at any court event to 50 people depending on the size of the facility and with appropriate precautions. In extraordinary circumstances, the presiding superior court judge may authorize more than 50 people

to gather in one location to conduct court business based on social distancing recommendations and the space available at the location.

- Courts shall utilize the health screening protocols provided by the AOC.
- Courts shall exclude persons failing the screening protocol from entering the courthouse and attempt to make alternative arrangements for them to conduct court business. If an excluded person is attempting to attend a scheduled court proceeding, the appropriate court shall be notified of the person's inability to enter the courthouse.
- Technology
  - The use of technology should continue, both to maximize public safety and to maximize efficiencies in court operations.
  - Courts may continue the use of virtual hearings, electronic recording, and electronic transmission of documents.
  - Courts shall provide public access by video or audio to court proceedings which are typically open to the public, specifically for the case types designated in this Administrative Order.
  - Courts shall consider and encourage the use of on-line dispute resolution (ODR).
- Appropriately Prioritize Case Processing
  - Courts may expand case disposition capacity, using retired judges and judges pro tempore and temporarily reassigning judges from other assignments.
- Jury Trials and Grand Juries
  - Jury trials may resume, subject to the approval of the presiding superior court judge.
  - Due to the likelihood that both vaccinated and unvaccinated persons will be summoned for jury service, courts shall utilize appropriate social distancing for all jury-related activities. Considering the unique circumstances in each county, the presiding superior court judge of that county may develop a plan that requires jurors to wear masks or other face coverings while in court. The plan may be uniform for all courts in that county or, if there is good cause, may have different requirements for particular facilities. Upon its issuance by the presiding superior court judge, the courts in each county must comply with the plan.
  - Courts may use technology for virtual selection of petit and grand jurors and conducting of grand jury proceedings and, with the approval of the presiding superior court judge, for petit jury trials.
  - The presiding superior court judge will determine when grand juries can be resumed.

- In General
  - Courts shall make available drop boxes for filing documents.
  - If warranted by a change of the pandemic-related circumstances in a specific county, the presiding judge may resume the imposition of mask requirements. If this becomes necessary, the court shall notify the administrative director and post the requirements at entrances and on the court's public website.

**Phase III:** Scheduling of in-person court proceedings and other on-site court services can fully resume with the following conditions of court operations:

- Courthouse Safety
  - On-site court staffing should be largely restored during this phase to serve the increased number of visitors at the courthouse. Courts may still opt to have some judicial officers and court employees continue working remotely.
  - Considering the unique circumstances in each county, as well as recommendations of the state and local health departments and the CDC, the presiding superior court judge of each county may modify that county's judicial branch health emergency order to require social distancing in the courthouse. The order may differentiate between types of activities such as courtroom proceedings or marriage ceremonies, and between particular areas of the court facilities.
- Technology
  - The use of technology should continue, both to maximize public safety and to achieve efficiencies in court operations.
  - To limit the need for continuances that delay resolution, and where not otherwise prohibited by law or procedural rule, parties, attorneys or witnesses who are uncomfortable with attending in-person proceedings may be offered remote appearances.
- Jury Trials and Grand Juries
  - Considering the unique circumstances in each county, as well as recommendations of the state and local health departments and the CDC, the presiding superior court judge of each county may modify that county's judicial branch health emergency order to require social distancing, masking, and other measures necessary for the protection of jurors, including the use of technology for virtual selection of petit and grand jurors

and conducting of grand jury proceedings and, with the approval of the presiding superior court judge, for jury trials.

- Where social distancing is no longer required for jury-related activities, each county's judicial branch health emergency plan must be flexible enough to accommodate jurors who want to maintain social distance from other jurors.
- In General
  - Courts shall provide for the use of drop boxes for filing documents.