

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

ADMINISTRATIVE ORDER NO.: 12.510 -05/2020.11*

IN RE: MITIGATING MEASURES IN RESPONSE TO COVID-19

In response to the public health emergency caused by the outbreak of the Coronavirus Disease 2019 (COVID-19), the Florida Supreme Court and the Fifteenth Judicial Circuit took significant initial measures to limit and modify court operations so as to ensure the safe administration of justice.¹ As a result of those initial measures, which will be referred to as Phase 1, essential proceedings have been and continue to be held in-person, but jury and grand jury proceedings are postponed until after July 2, 2020, and non-essential court proceedings are either being held remotely or are suspended. These Phase 1 measures have allowed the Court to stay open and accessible to the fullest extent consistent with public safety.

On May 21, 2020, the Florida Supreme Court issued Administrative Orders directing chief judges in all 20 circuits to design a Phase 2 plan aimed at providing a systematic return to the way court proceedings were held prior to the COVID-19 pandemic.² Before implementing a Phase 2 plan, each circuit must meet five benchmark criteria. Due to local circumstances in Palm Beach County, the Fifteenth Judicial Circuit cannot yet meet all of the benchmarks and, therefore, cannot yet enter into Phase 2. Nonetheless, in anticipation of being able to enter into Phase 2 in the near future, the Court will begin implementing further safety measures with the aim of ensuring that the transition into Phase 2 occurs in an orderly manner that prioritizes the safety of the public, litigants, attorneys, judges, and employees of the judiciary.

NOW THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215 it is **ORDERED** as follows:

¹ See, Fla Admin. Order No. AOSC20-23, Amendment 1 (Fla. May 4, 2020); Fla Admin. Order No. AOSC20-23, (Fla. April 5, 2020); Fla. Admin. Order No. AOSC20-17 (Fla. March 23, 2020); Fla. Admin. Order; AOSC20-15 (Fla. March 17, 2020); Fla. Admin. Order No. AOSC20-13 (March 13, 2020); Fla. Admin Order No. AOSC20-12 (Fla. March 13, 2020) (all available at <https://www.floridasupremecourt.org/Emergency>).

² Fla Admin. Order No. AOSC20-23, Amendment 2 (Fla. May 21, 2020); Fla. Admin. Order No. AOSC20-32 (Fla. May 21, 2020) (all available at <https://www.floridasupremecourt.org/Emergency>).

I. COURT PROCEEDINGS OVERVIEW

1. Essential court proceedings as defined in section II.(1), below, will be held in-person unless they can be effectively held using the technology available to the Circuit. Essential court proceedings will be handled by the divisional judge, magistrate, hearing officer, or duty judge who would normally hear the matter.

2. Non-essential proceedings outlined in section III.(1), below, will be held remotely and may not proceed in-person until further order of the Court. The Circuit has purchased Zoom licenses for judges and court staff which allow the Court to host remote hearings via Zoom at no cost to the parties. Therefore, for the sake of consistency, all remote proceedings will be conducted via Zoom unless the litigants request otherwise.

3. All grand jury proceedings, jury selection proceedings, and criminal and civil jury trials were suspended beginning Monday, March 16, 2020 and will remain suspended until July 2, 2020 or as further ordered by the Florida Supreme Court.

II. ESSENTIAL COURT PROCEEDINGS

1. The following matters are deemed essential court proceedings:
 - a. First appearance hearings;
 - b. Criminal arraignments, when necessary;
 - c. Hearings on motions to set or modify monetary bail for individuals who are in custody;
 - d. Pre-negotiated pleas in circuit and county criminal divisions where the settlement paperwork has been provided to the presiding judge in advance of the hearing;
 - e. **Hearings on Motions to Dismiss in criminal cases (e.g. C4, double jeopardy, or defect);**
 - f. **Hearings on Motions to Suppress if dispositive;**
 - g. **Stand Your Ground hearings;**
 - h. Juvenile detention hearings;
 - i. Juvenile dependency shelter hearings and arraignment hearings as necessary;
 - j. Termination of Parental Rights advisory hearings;
 - k. Petitions for Judicial Waiver of Notice pursuant to section 390.01114(4), Florida Statutes;
 - l. Hearings on petitions for the appointment of an emergency temporary guardian;

- m. Ex parte injunctions for dating violence, domestic violence, repeat violence, sexual violence, stalking, or prevention of child abuse pursuant to Chapter 39, Florida Statutes;
- n. Hearings on petitions for Risk Protection Orders;
- o. Issuance of warrants or authorizations for wiretaps;
- p. Baker Act and Marchman Act proceedings;
- q. Extraordinary Writs;
- r. Proceedings related to the state of emergency or public health emergency, including but not limited to proceedings related to: violation of quarantine or isolation orders; violation of orders to limit travel; violation of orders to close public or private buildings; and enforcement of curfew orders;

2. Pursuant to AOSC20-13, all Baker Act involuntary commitment hearings will be conducted remotely using communication equipment.

3. Effective immediately, the Public Defender shall be appointed for all first appearance hearings and juvenile detention hearings without the necessity of an affidavit of indigency. Further, affidavits of indigency may be e-filed by the public defender on behalf of a defendant.

4. Per request of the Department of Children and Families (“DCF”) and AOSC20-18, effective immediately, all visitation in dependency cases may be conducted remotely. Visitation scheduled will remain the same but may be conducted by electronic means with video visitation being the preferred electronic method when possible. If child(ren) are placed with family members who are willing to transport the child(ren) and supervise the visits, DCF shall draft a safety plan to allow in person visits as long as all safety measures are followed. If a parent or attorney believes the visitations must be in- person, then the party shall motion the court for such relief.

5. Effective immediately, the Office of Regional Conflict Counsel shall be appointed at all dependency shelter hearings without the necessity of an affidavit of indigency.

III. NON-ESSENTIAL COURT PROCEEDINGS

1. The following non-essential court proceedings will be heard by remote electronic means until further order of the Court.

- a. County and Circuit Criminal Divisions (including Criminal Traffic)
 - i. Any non-essential proceeding where the defendant’s presence has been waived, including pleas in absentia
 - ii. Drug court hearings
 - iii. **Nebbia hearings**
 - iv. **Case disposition hearings**
 - v. **Status, case management, and pretrial conferences**
 - vi. Any other type of hearing which can be held effectively using remote

technology as determined by the presiding, Administrative, or Chief Judge

b. County and Circuit Civil Divisions

- i. UMC hearings
- ii. Special set hearings on Motions to Dismiss or Motions for Summary Judgment
- iii. Lack of prosecution hearings
- iv. **Status, case management**, and pretrial conferences (including PIP pre-trial conferences)
- v. Mediations
- vi. Any other type of hearing which can be held effectively using remote technology as determined by the presiding, Administrative, or Chief Judge

c. Family Divisions

- i. Motions related to temporary relief
- ii. Motions related to timesharing
 1. If the timesharing issue stems from a COVID-19 related issue, such motions shall be considered by the presiding circuit judge on an expedited basis and shall *not* be referred to a magistrate. When such a motion raises a facially sufficient claim for relief, the judge should set the motion for a remote hearing to be held, whenever possible, within five business days from the date the motion was filed. Nothing in this provision prevents the presiding judge from ordering the parties to attend mediation before the scheduled hearing.
- iii. Contempt/enforcement motions
- iv. Injunctions related to property
- v. Uncontested final hearings
- vi. Hearings under Chapter 63
- vii. UMC Hearings
- viii. Mediations
- ix. Any other type of hearing which can be held effectively using remote technology as determined by the presiding, Administrative, or Chief Judge .

d. Probate/Guardianship Divisions

- i. UMC hearings
- ii. Evidentiary hearings less than 2 hours in length
- iii. Emergency Temporary Guardianship hearings **subsequent to the appointment of the Emergency Temporary Guardian**
- iv. Any other type of hearing which can be held effectively using remote technology as determined by the presiding, Administrative, or Chief Judge

- e. Juvenile Divisions
 - i. Judicial Reviews
 - ii. Probable cause challenges in Dependency cases
 - iii. Non-essential arraignments in Dependency and Delinquency cases
 - iv. Problem-solving court staffings, hearings, and wellness checks**
 - v. Any other type of hearing which can be held effectively using remote technology as determined by the presiding, Administrative, or Chief Judge

- f. Civil Traffic Divisions
 - i. Any proceeding where the defendant's presence has been waived
 - ii. Any other type of hearing which can be held effectively using remote technology as determined by the Chief Judge

The fact that one of the above outlined proceedings cannot be held in-person is not a valid reason for continuing the proceeding until in-person proceedings are permitted unless the presiding judge determines that remote conduct of the proceeding:

- a. Is inconsistent with the United States or Florida Constitution, a statute, or rule of court that has not been suspended by administrative order; or**

- b. Would be infeasible because a participant in the proceeding lacks the technological resources necessary to conduct the proceeding.**

2. Non-essential court proceedings not set by the Clerk must be calendared through the Circuit's Online Scheduling ("OLS") administrative platform.

3. Pursuant to section VII of AOSC20-23, Amendment 2, the Clerk may set small claims pretrial conferences as far out as necessary, but for conferences at the Main Courthouse, no sooner than ninety (90) days out.

4. All scheduled foreclosure sales are hereby cancelled up to and including May 29, 2020.

5. The Clerk and Comptroller's Office shall not issue a D-6 license suspension or default any defendant on any civil or criminal traffic violation **until June 1, 2020.**

6. Effective immediately **until further order of the Court**, the Clerk and Comptroller's Office shall not issue writs of possession.

IV. COURTHOUSE SAFETY³

In order to ensure the safety of those required to be at the courthouses, the following restrictions apply to all county and circuit courthouses located in Palm Beach County, Florida.

³ Some of these safety measures were originally contained in *In re* Restricting Certain Visitors to the Courthouse, 15th Judicial Circuit Administrative Order 12.511-04/2020.2.

1. **Limitations on Visitors:** Effective June 1, 2020, only the following visitors are permitted to enter the courthouses: 1) persons whose presence is essential to a proceeding (attorneys, litigants, court reporters, court interpreters, victims, witnesses, etc.), 2) immediate family members of juvenile criminal defendants, 3) persons who have business at the Clerk's office, and 4) members of the media. Those members of the public who wish to enter the courthouse for observational purposes, including friends and family of litigants whose presence is not necessary to the proceeding, are directed to section IX, below. Additionally, the following persons shall not enter the courthouses:

- a. Persons who have been in any foreign country within the last 14 days.
- b. Persons who have been in the states of Connecticut, New Jersey, New York, or Louisiana within the last 14 days.
- c. Persons who reside with or who have had close contact with someone who has been in any foreign country or the states of Connecticut, New Jersey, New York, or Louisiana within the last 14 days;
- d. Persons who have been asked to self-quarantine by any doctor, hospital, or health agency;
- e. Persons who have been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19 within the last 14 days.
- f. Persons with a body temperature of **100°F** or higher.

2. **Temperature and COVID-19 Exposure Screenings:** Persons entering any of the courthouses will be subject to a COVID-19 screening, including a temperature scan and limited inquiries regarding virus exposure.

3. **Masks:** Effective June 1, 2020, all persons entering any of the courthouses shall wear a mask or facial covering and continue to wear masks while in any common area of the courthouse. Masks must remain on inside the courtrooms unless directed otherwise by the presiding judge for the purposes of creating a clear record, identification, or other reasons deemed necessary. In the event a party or attorney appearing in a courtroom fails to wear a mask, the presiding judge, in his or her discretion, may reset the matter.

Criminal defense attorneys, including the Public Defender and ORCC, are responsible for ensuring that their out-of-custody clients and staff appear at the courthouse with a mask or facial covering. The Sheriff is responsible for ensuring that in-custody defendants appear at the courthouse with a mask or facial covering. The State Attorney is responsible for ensuring that their staff and any victims or witnesses subpoenaed by the State appear at the courthouse with a mask or facial covering. The Clerk is responsible for ensuring that any of its customers, including jurors, appear at the courthouse with a mask or facial covering.

4. **Security Lines:** Effective June 1, 2020, only court staff and attorneys presenting identification (Court, Clerk, GAL, County, ASA, or APD issued IDs or a Florida Bar Card) may proceed through the employees/attorneys security lines. Persons who do not have the proper ID will be required to move to the public entrance line. Further, all persons proceeding through the employees/attorneys security line must wear a mask while waiting in and proceeding through the line.

5. **Courtroom Limitations.** The maximum amount of persons, including the judge and court staff, allowed in a courtroom at any given time is limited to twenty (20) persons. The maximum amount of persons allowed in a magistrate hearing room at any given time is limited to six (6) persons.

6. **Social Distancing:** All persons inside the courthouse must make every effort to stay at least six feet away from any other person. To effectuate social distancing, there will be social distancing stickers placed on the floor throughout the courthouses where court users may gather. Individual judges should ensure that all persons in their courtrooms are social distancing to the maximum extent feasible.

7. **Scheduling:** In-person hearing times must be sufficiently staggered so as to prevent crowding. For arraignments or other historically large dockets, no more than twenty (20) cases may be set per hour and the hearing times for each case must be sufficiently staggered so as to prevent crowding outside of the courtroom. So as to reduce in-person waiting time and prevent potential crowding in the courtrooms, remote proceedings may not be scheduled on an in-person docket.

8. **Deposition Rooms:** Deposition rooms are closed to the public until further order of the Court.

V. **DEFENDANTS RELEASED ON SUPERVISED OWN RECOGNIZANCE (S.O.R.)**

Effective immediately until further order from the Court, all pre-trial criminal defendants who have been released S.O.R. may report telephonically.

VI. **PRETRIAL RELEASE PROGRAM**

Effective immediately until further order from the Court, the Palm Beach County Pretrial Release Program is not required to conduct in-person interviews of defendants prior to first appearance.

VII. **TEMPORARY MODIFICATION TO BOND SCHEDULE (Administrative Order 4.202-3/2020)**

Effective immediately until further order from the Court, the following provisions regarding bond prior to first appearance control over any provision to the contrary contained in Administrative Order No. 4.202-03/2020:

1. Any person arrested pursuant to section 381.00315(6), Florida Statutes, for the offense of violating any rule adopted under section 381.00315, Florida Statutes, any isolation or quarantine, or any requirement adopted by the Department of Health or its designee—a second degree misdemeanor—is not eligible for release on bond prior to a first appearance hearing.

2. Any person arrested for a third degree felony other than those identified in Section I of A.O. 4.202-3/2020 or Burglary of a Conveyance or Structure pursuant to section 810.02(4), Florida Statutes, shall be eligible for release prior to first appearance with a \$1,000 bond, regardless of whether the arrestee lives in Palm Beach County.

3. Persons arrested for a misdemeanor are not required to provide proof of a current permanent address in order to be released O.R. if otherwise eligible.

VIII. TEMPORARY SUSPENSION OF WEEKEND SENTENCES

1. Effective immediately until further order from the Court, the Weekend Sentences program at the Palm Beach County Jail as referenced in Administrative Order 4.909-9/08 is hereby suspended. As a result of this suspension:

- a. All weekend jail sentences previously imposed are hereby tolled and held in abeyance until further order of the Court. Defendants serving a weekend jail sentence will be required to resume and complete the terms of their sentence once the suspension is lifted.
- b. No sentence imposed by a presiding judge shall include a weekend jail sentence that will start during the term of this suspension.

IX. ACCESS TO PROCEEDINGS

Unless closed per rule, statute, or court order, all proceedings, whether conducted in-person or electronically, remain accessible to the public. Any person who wishes to access a proceeding remotely should contact the court's Public Information Officer at least one day in advance of the proceeding. **Depending on the manner in which the proceeding is being conducted, such persons shall be provided with a call in number or a website link. Members of the media are permitted to physically attend proceedings conducted in open court and may also attend remotely.**

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X. NO TRANSPORTATION OF INFECTED OR QUARANTINED INMATES

The Sheriff shall not transport any inmate at the Palm Beach County Jail who is being quarantined based on a confirmed or suspected COVID-19 diagnosis to the courthouses for attendance at a court proceeding. However, inmates who are being quarantined will be given the opportunity to attend court proceedings remotely while in quarantine. The Sheriff shall provide the Court with a list of all inmates in quarantine on a bi-weekly basis and shall provide the Court with as much advance notice as possible in the event an inmate scheduled for an in-person court appearance will not be transported due to quarantine.

DONE and ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, this 27th day of May 2020.

A handwritten signature in black ink, appearing to read "Krista Marx", is written over a horizontal line.

Krista Marx, Chief Judge

*Amends and supersedes the version of AO 12.510-03/2020.10 entered April 17, 2020. Several organizational changes were made to this order. The nature of these changes made it impractical to denote all changes in bold and, therefore, only substantive changes are reflected in bold.