

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

ADMINISTRATIVE ORDER NO.: 12.510 -09/23/2020.15*

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 remotely or in-person, but jury and grand jury proceedings are postponed and non-essential court proceedings are either being held remotely or are suspended. These Phase 1 measures allowed the Court to stay open and accessible to the fullest extent consistent with public safety.

The Florida Supreme Court has directed 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 improving local conditions in Palm Beach County, the Fifteenth Judicial Circuit has met the five benchmarks and is ready to proceed to its Phase 2 plan.

As it proceeds into Phase 2, which will begin on September 9, 2020, the Court will continue to conduct the majority of non-essential proceedings through remote technology. However, there are limited types of non-essential proceedings that are time sensitive and are not amenable to remote proceedings. The Court will begin holding such non-essential proceedings in-person on a limited basis and subject to the safety measures outlined in this Order.

Additionally, The Court will convene the grand jury no earlier than thirty days after entering into Phase 2. Thereafter, the Court will begin a measured approach towards resuming jury trials in criminal and civil cases.

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 6 (Fla. Aug. 12, 2020); Fla. Admin. Order No. AOSC20-32, Amendment 3 (Fla. August 12, 2020) (all available at <https://www.floridasupremecourt.org/Emergency>).

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

I. COURT PROCEEDINGS OVERVIEW

1. Essential Proceedings: Essential court proceedings as defined in section II.(1), below, may proceed in-person, but only if the presiding judge determines that remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or rule of court and/or is infeasible due to a participant's lack of technological resources. Essential court proceedings will be handled by the divisional judge, magistrate, hearing officer, or duty judge who would normally hear the matter. All in-person proceedings must be held in conformity with the safety measures outlined in Section IV, below

2. Remote Only Non-Essential Proceedings: 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. Remote or In-Person Non-Essential Proceedings: During Phase 2, which begins on September 9, 2020, non-essential proceedings outlined in Section III.(2), below, may proceed in-person, but only if the presiding judge determines that remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or rule of court and/or is infeasible due to a participant's lack of technological resources. All in-person proceedings must be held in conformity with the safety measures outlined in Section IV, below.

4. Grand Jury Proceedings: Grand jury proceedings will resume no earlier than 30 days after the Court enters into Phase 2. All grand jury proceedings must be held in conformity with the safety measures outlined in Section IV, below.

5. Jury Proceedings: After the grand jury is convened, a small pool of jurors will be summoned for the purpose of trying a discrete number (approximately 4) of circuit criminal and civil cases. The few judges who preside over these jury trials will reach out to the parties at least six weeks in advance to coordinate scheduling and logistics. The Court will use these proceedings to develop strategies for the larger resumption of jury trials in 2021. All jury proceedings must be held in conformity with the safety measures outlined in Section IV, below.

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 AOSC20-23, 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 AOSC20-23, as amended, 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. Lack of prosecution hearings
- iii. Status, case management, and pretrial conferences (including PIP pre-trial conferences)
- iv. 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. Injunctions related to property
- iv. Uncontested final hearings
- v. Hearings under Chapter 63

- vi. UMC Hearings
 - vii. 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. The following non-essential proceedings may be held in-person during Phase 2, but only if the presiding judge determines that remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or rule of court and/or is infeasible due to a participant's lack of technological resources. All in-person proceedings must be held in conformity with the safety measures outlined in Section IV, below.
- a. County and Circuit Criminal Divisions (including Criminal Traffic)
- i. Out of Custody Misdemeanor and Traffic Arraignments where the Defendant

- has not Waived his or her Appearance
- ii. Violation of Probation Hearings
- iii. *Richardson* Hearings
- iv. *Nelson* Hearings
- v. *Faretta* Hearings
- vi. Sentencing Hearings
- vii. Bench Trials (maximum of 12 persons in the courtroom at any given time)

b. County and Circuit Civil Divisions

- i. Special Set Evidentiary Hearings
- ii. Special set hearings on Motions to Dismiss or Motions for Summary Judgment
- iii. Bench Trials (maximum of 12 persons in the courtroom at any given time)
- iv. Hearings on Extraordinary Writs
- v. Hearings in Residential Eviction Cases for Nonpayment of Rent
- vi. Limited³ Pretrial Conferences in Small Claims Cases (excluding PIP)
- vii. Mediations**

c. Family Divisions

- i. Bench Trials (maximum of 12 persons in the courtroom at any given time)
- ii. Contempt/enforcement motions
- iii. Final hearings on domestic violence, stalking, dating violence, repeat violence, and sexual violence injunctions
- iv. Mediations**

d. Probate/Guardianship Divisions

- i. Evidentiary hearings longer than 2 hours in length

e. Juvenile Divisions

- i. Dependency and TPR Trials (maximum of 12 persons in the courtroom at any given time)
- ii. Delinquency Trials, including Disposition Hearings (maximum of 12 persons in the courtroom at any given time)
- iii. Mediations**

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

4. Pursuant to section VII of AOSC20-23, Amendment 6, the Clerk may set small claims pretrial conferences, as far out as necessary. For non-PIP pretrial conferences at the Main Courthouse, the Clerk shall not set the conferences any sooner than ninety (90) days out. This provision expires on October 30, 2020 unless extended by the Florida Supreme Court.

³ Each county civil judge may hold no more than one in-person small claims pretrial docket every two weeks. Such dockets will be limited to 15 cases per hour. The Administrative Judge for County Civil will develop a schedule which ensures that no judges located at the same courthouse are holding dockets on the same day. The schedule must also consider the availability of mediators.

IV. COURTHOUSE SAFETY⁴

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.

1. Limitations on Visitors: 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 are under instructions to self-isolate or quarantine due to COVID-19;
- c. Persons who, within the past 14 days, have had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19 based on symptoms or suspected exposure.
- d. Persons who are currently awaiting the results of a test to determine if they have COVID-19 based on symptoms or suspected exposure.
- e. Persons with a body temperature of 100°F or higher.
- f. Persons who are exhibiting any of the following symptoms (excluding those due to a known medical reason other than COVID-19):
 - i. Cough
 - ii. Shortness of breath or difficulty breathing
 - iii. Fever or chills
 - iv. Fatigue
 - v. Muscle or body aches
 - vi. Headache
 - vii. Sore throat
 - viii. New loss of taste or smell
 - ix. Congestion or runny nose
 - x. Nausea or vomiting
 - xi. Diarrhea

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.

⁴ 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.

3. Masks: 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 reason deemed necessary.

4. Security Lines: 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.

5. Courtroom Limitations.

- a. In grand jury proceedings, the maximum amount of persons, including the judge and court staff, allowed in the grand jury room at any given time is limited to 30.
- b. In bench trials, the maximum amount of persons, including the judge and court staff, allowed in a courtroom at any given time is limited to twelve (12) persons.
- c. For all other proceedings other than grand jury proceedings and bench trials, the maximum amount of persons, including the judge and court staff, allowed in a courtroom at any given time is limited to:
 - i. Forty (40) persons in the Gun Club courtrooms or Courtroom 2 at the North County Courthouse.
 - ii. Twenty (20) persons in all other courtrooms.
- d. 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, social distancing stickers have been 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.

The Weekend Sentences program at the Palm Beach County Jail as referenced in Administrative Order 4.909-9/08 was temporarily suspended effective April 10, 2020. That suspension is lifted as of September 21, 2020.

IX. ACCESS TO PROCEEDINGS

1. Unless closed per rule, statute, or court order, all proceedings, whether conducted in-person or electronically, remain accessible to the public.
2. 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.

3. Members of the media are permitted to physically attend proceedings conducted in open court and may also attend remotely. Any member of the media wishing to physically attend a proceeding for purposes of covering the proceeding via electronic media and/or still photography must contact the court's Public Information Officer at least one day in advance of the proceeding. For purposes of this Order, "media" means: 1) traditional print and broadcast communication channels, such as radio and television, newspapers, and magazines, through which news and information is disseminated that reach or influence people widely, and 2) an online entity which is an independent site that contains regularly updated original news content above and beyond links, forums, troubleshooting tips, and reader contributions; which content is reviewed by an independent editor before publication, and which has a readership of more than 1,000 views per month. Fan sites, web logs or blogs, social media accounts, and portable websites do not qualify as media.

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.

XI. JURY EXCUSALS FOR COVID-19 RELATED CIRCUMSTANCES

The Florida Supreme Court has directed each Circuit to develop a process for excusing a potential juror who indicates, subject to penalty of perjury, that he or she:

- **Does not meet the court's Phase 2 screening requirements for courthouse entry as established in the circuit's operational plan;**
- **Is a person at higher risk for severe illness due to COVID-19 infection as identified by the Centers for Disease Control and Prevention and requests to be excused;**
- **Must care for a child or relative whose regular care provider is closed or unavailable for reasons related to COVID-19; or**
- **Is receiving leave pursuant to the Families First Coronavirus Response Act.**

Additionally, the Court directed that jurors may seek a postponement for up to six months if the potential juror indicates, subject to penalty of perjury, that he or she:

- Has recently returned to work after being unemployed due to COVID-19; or
- Has suffered a financial or personal loss due to COVID-19 that makes it a hardship to perform jury service.

Based on this guidance, the Clerk is directed to post a form on its website which potential jurors may sign and submit to request an excusal or postponement based on one of the foregoing reasons. The Clerk shall forward any completed forms seeking either an excusal or a postponement which exceeds the six-month statutory maximum to the Chief Judge. In her judicial discretion, the Chief Judge will make the ultimate decision regarding all excusals or postponements which exceed the statutory maximum sought pursuant to this section.

DONE and **ORDERED** in Chambers at West Palm Beach, Palm Beach County, Florida, this 23rd day of September 2020.

A handwritten signature in black ink, appearing to read "Krista Marx", is written over a light gray rectangular background.

Krista Marx, Chief Judge

*Amends and supersedes the version of AO 12.510-09/2020.14 entered September 9, 2020.