

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

ADMINISTRATIVE ORDER NO.: 12.515.6 - 11/2021*

IN RE: COVID-19 HEALTH AND SAFETY PROTOCOLS AND
OPERATIONAL MEASURES

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 For the first six months of the pandemic, the Circuit remained in what the Florida Supreme Court defined as Phase 1 of court operations. During Phase 1, essential proceedings were held remotely or in-person, non-essential court proceedings were either held remotely or were suspended, and jury and grand jury proceedings were suspended.

On September 9, 2020, the Circuit transitioned into Phase 2 of the Florida Supreme Court's operational phases. While in Phase 2, the Court heard the majority of non-essential proceedings through remote technology. However, limited types of non-essential proceedings, including grand jury proceedings and jury trials, were conducted in-person on a limited basis and subject to certain safety measures. The provisions governing Phases 1 and 2 were outlined in Administrative Order 12.510 as amended numerous times.

On June 4, 2021, the Florida Supreme Court entered an Administrative Order authorizing all courts to exit Phase 2 operations as warranted by the wide use and availability of an effective vaccine. Fla. Admin. Order No. AOSC21-17 (Fla. June 4, 2021). Based on this guidance, effective 12:01 a.m. on June 21, 2021, the Circuit ceased operating in Phase 2.

Based on an increase in COVID-19 variant cases in the State of Florida, the Florida Supreme Court authorized all courts to implement additional health and safety protocols to protect against the spread of COVID-19 variants, including requiring the wearing of face masks by all persons in a courthouse or any portion thereof and supporting the remote conduct of proceedings that are not required to be held in person. Fla. Admin. Order No. AOSC21-17, Amendment 1 (Fla. July 29, 2021). Based on local health conditions, the wearing of masks has been mandatory in all courthouses in Palm Beach County since August 2, 2021.

On November 4, 2021, the Supreme Court entered an Administrative Order terminating AOSC21-17, Amendment 1 effective 12:01 a.m. on November 15, 2021. Fla. Admin. Order No. AOSC21-17, Amendment 2 (Fla. November 4, 2021). Based on this Administrative Order,

¹ See, Fla Admin. Order No. AOSC20-23, (Fla. May 4, 2020) (and as amended); Fla. Admin. Order No. AOSC20-17 (Fla. March 23, 2020) (and as amended) (all available at <https://www.floridasupremecourt.org/Emergency>).

mandatory mask requirements, physical distancing and certain remote proceedings are no longer authorized after November 15, 2021.

Local health conditions in Palm Beach County have continued to improve. The CDC has now classified Palm Beach County as a moderate transmission community. Based on these improving conditions, and AOSC 21-17 Amendment 2, additional modifications to the health and safety protocols for the Circuit are warranted. Therefore, effective 12:01 a.m. on November 15, 2021, the following protocols and measures will govern the Circuit's operations.

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

I. CONDUCT OF COURT PROCEEDINGS:

1. In-Person Proceedings: The following matters should proceed in-person unless the circumstances, as determined by the presiding judge, warrant proceeding remotely.²

- a. Grand Jury Proceedings;
- b. Jury Proceedings;
- c. First appearance hearings;
- d. Criminal arraignments, when necessary;
- e. Out of Custody Misdemeanor and Traffic Arraignments where the Defendant has not Waived his or her Appearance Hearings on motions to set or modify monetary bail for individuals who are in custody;
- f. Hearings on Motions to Dismiss in criminal and delinquency cases;
- g. Hearings on Motions to Suppress in criminal and delinquency cases;
- h. Stand Your Ground hearings in criminal and delinquency cases;
- i. *Richardson* Hearings;
- j. *Nelson* Hearings;
- k. *Faretta* Hearings;
- l. Plea conferences in circuit and county criminal divisions;
- m. Juvenile plea conferences;

² There may be individualized circumstances that nonetheless warrant proceeding remotely in full or part. For example, there may be instances where a criminal or juvenile defendant waives physical presence and requests a remote proceeding and/or where health and safety concerns specific to the case requires a remote appearance as determined by the presiding judge. There may also be instances in which a witness is unavailable to testify in-person but may be able to testify remotely, where a victim desires to assert his/her constitutional rights remotely, or where a court finds that the best interests of a juvenile warrant proceeding remotely, including when the juvenile or his/her caretakers are quarantined or have health concerns. In such instances, the proceeding may occur remotely (in part or in whole) subject to 1) the presiding judicial officer's discretion, 2) any limitations on remote conduct imposed by the United States or Florida Constitution, a statute, or rule of court, and 3) the participants' access to technological resources. Conducting a proceeding remotely (in part or in whole) may require express waivers by the defendant and should include individualized judicial findings. *See, e.g. Maryland v. Craig*, 497 U.S. 736 (1990); *Muhammad v. State*, 782 So. 2d 343, 351 (Fla. 2001); *E.A.C. v. State*, 46 Fla. L. Weekly D1538 (Fla. 4th DCA June 30, 2021).

- n. Sentencing Hearings;
- o. Delinquency Trials, including Disposition Hearings; and
- p. Petitions for Judicial Waiver of Notice pursuant to section 390.01114(4), Florida Statutes.

2. **Baker and Marchman Act Involuntary Hearings: Baker and Marchman Act involuntary commitment hearings must be conducted in-person, unless that individual waives the right to physical presence at the hearing.**

3. **Remote or In-Person Proceedings**: Any proceeding not specifically addressed in the in-person proceeding list above, including but not limited to, the following:

- a. Termination of Parental Rights trials;
- b. Shelter and Detention Hearings;
- c. Civil and Family Bench Trials;
- d. Criminal Court (County or Circuit) case dispositions or status checks;
- e. Uniform Motion Calendars in all divisions;
- f. Special set hearings;
- g. Contempt/enforcement hearings in family cases; and
- h. Court facilitated mediations in family cases
- i. Violation of Probation Hearings in criminal and delinquency cases
- j. Ex parte injunctions for dating violence, domestic violence, repeat violence, sexual violence, or stalking injunctions;
- k. Final hearings on domestic violence, stalking, dating violence, repeat violence, sexual violence; or prevention of child abuse injunctions pursuant to Chapter 39, Florida Statutes;
- l. Hearings on petitions for Risk Protection Orders;
- m. Issuance of warrants or authorizations for wiretaps;
- n. Extraordinary Writs;
- o. Small Claims Pre-Trials (non-PIP);
- p. Small Claims Pre Trials (PIP); and
- q. Civil traffic trials.

may proceed either in-person or remotely, subject to: 1) the presiding judicial officer's discretion, 2) any limitations on remote conduct imposed by the United States or Florida Constitution, a statute, or rule of court, and 3) the participants' access to technological resources.

Individual judicial officers are encouraged to enter standing orders delineating which type of proceedings heard by that judicial officer will presumptively proceed in-person and which types of proceedings will presumptively proceed remotely. All remote-proceedings must be conducted by the judicial officer from his or her courtroom or hearing room.

4. **Priority of Jury Proceedings**: Jury proceedings will continue to the maximum extent feasible. The priority order for jury trials will be as follows (from highest to lowest):

- a. Circuit and county criminal trials where speedy trial will run within twenty-days days

- b. Circuit and county criminal trials with an in-custody defendant
- c. Circuit and county criminal trials with an out of custody defendant
- d. Circuit civil jury trials
- e. County civil jury trials

II. COURTHOUSE SAFETY

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. **Masks:** **The wearing of masks in courthouses in Palm Beach County is optional. Persons who wish to wear a facemask or facial covering will be permitted, but not required, to do so. The wearing of masks by unvaccinated individuals is strongly encouraged. Masks shall be provided upon request during any in-person court proceeding. The term “in-person court proceeding” means the assembly of prospective jurors, voir dire, juror deliberations, and any status conference, hearing, trial or other proceeding conducted by a judge, magistrate or hearing officer if conducted in-person.**

2. **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.

3. **Social Distancing:** Although social distancing is no longer required, all persons inside the courthouse are encouraged to social distance. As guidance, social distancing stickers have been placed on the floor throughout the courthouses. Participants in an in-court proceeding may request to be physically distanced. The presiding judge will address such requests as appropriate under the circumstances at the time of the request.

4. **Scheduling:** **Judges, magistrates and hearing officers are encouraged to stagger hearing times to avoid overcrowding.**

5. **Previously Restricted Public Areas:** Areas which were previously closed to the public due to the pandemic, such as the law library and deposition rooms are open.

III. ACCESS TO REMOTE PROCEEDINGS

Any person who wishes to access a proceeding being held remotely should contact the court’s Public Information Officer at least one day in advance of the proceeding. When a hearing is being conducted remotely, such persons shall be provided with a call in number or a website link.

IV. NO TRANSPORTATION OF INFECTED OR QUARANTINED INMATES

The Sheriff shall not transport any inmate at the Palm Beach County Jail who is either in pre-house quarantine or 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 in pre-house quarantine or who are being quarantined will be given the opportunity to attend court

proceedings remotely while in pre-house quarantine or quarantine. The Sheriff shall notify the criminal judges and JAs via email of any inmate who is not being transported due to being in pre-house quarantine by no later than 8 A.M. on the day of the inmate's scheduled event. 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 12th day of November, 2021.



Glenn D. Kelley, Chief Judge

*supersedes admin. order 12.515.5 – 11/2021