

**IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT
IN AND FOR THE STATE OF FLORIDA**

IN RE: COVID-19 OPERATIONAL PLAN (Amended February 18, 2021)

INTRODUCTION

As directed by the amended Florida Supreme Court Order 20-23 (AOSC20-23), the Third Judicial Circuit has developed the following operational plan. It outlines health and safety parameters that each court facility must establish while conducting in-person operations. The plan is a fluid document which may change according to the needs of the Circuit and environmental factors presented by the Covid-19 virus.

For general purposes, the Third Judicial Circuit moved into Phase 2 as an organization in late 2020. Environmental factors may cause individual counties to scale back operations according to the identified benchmarks.

Court Administration is committed to maintaining access to our facilities while keeping litigants, staff, and the public safe during the Coronavirus (COVID-19) pandemic. We are coordinating with state and county health departments and other governmental agencies to ensure we are consistent with their guidance in the appropriate response while fulfilling our statutory and constitutional obligations. Our top priority is protecting the health and safety of our judicial officers, staff, and citizens while fairly and efficiently administering equal justice to all.

Florida Supreme Court Administrative Order 20-23 and its amendments — issued by Florida Supreme Court Chief Justice Charles T. Canady, dated May 21, 2020 - specifically accepted and approved the *Requirements, Benchmarks, and Guidelines, Governing the Transition to Limited In-Person Contact (Phase 2)* as issued by the Court Operations Workgroup, which includes the fact that “facemasks are required for everyone entering the courthouse building, with no exceptions. Facemasks shall be worn at all times throughout the courthouse building, including inside the courtroom.”

Phases

According to Florida Supreme Court Chief Justice Charles T. Canady’s Administrative Order 20-32 (Amendment 6), the current phases observed by the Court are:

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

Transition Criteria

The following criteria must be met prior to any county within the Third Judicial Circuit transitioning from Phase 1 to Phase 2 and expanding face-to-face activities:

- No confirmed or suspected cases of COVID-19 in the court facility within a 14-day period; or, confirmed or suspected cases have occurred in the court facility, but deep cleaning of exposed areas and applicable employee self-quarantine actions have been taken.
- Rescission of local and state restrictive movement and/or stay-at-home orders.
- Improving COVID-19 health conditions over a 14-day period in the community, including conditions such as the number of confirmed COVID-19 cases and related deaths in relation to a community's population density, downward trajectory of positive tests as a percent of total tests, size of particularly vulnerable populations, and availability of medical facilities including emergency and intensive care capacity.
- Adequate testing programs in place, increased availability of COVID-19 tests, and emerging antibody testing.
- Consultation with other building occupants (for multi-tenant courthouses or buildings) and with justice system partners (including, but not limited to clerk of court, state attorney, public defender, law enforcement, local bar, and others necessary to resume certain case types, such as the Department of Children and Families).
- Based upon the Workgroup's recommendation, the Florida Department of Health Weekly Positivity rate benchmark is twenty (20) cases. Counties which exceed the benchmark for two (2) consecutive weeks must suspend in-person proceedings until the positivity rate drops below (20) twenty. Affected counties must remain below the benchmark for two (2) consecutive weeks before resuming in-person proceedings.

Medical Guidance

Medical guidance is provided by the Florida Department of Health (DOH), The Centers for Disease Control and Prevention (CDC), and other medical authorities. The DOH virus statistics are the benchmarks all Circuits use to gauge the infection rate within their locale. The statistics are reviewed and documented at the beginning of each week to determine the welfare of each county. Moreover, statistical analysis enables the Court to determine its operational status in relation to the infection rate. Until the pandemic ceases, it is imperative staff and judicial officers continue to heed the advice of public health officials.

Generally Accepted Health Principles:

1. Cover your cough. If you have a cough, stay home, or go home if a cough develops.
2. Frequently wash hands with soap and water for 20 seconds; use hand sanitizer with a minimum of 60% alcohol when soap and water are not available.

3. Stay home when sick. For information about the coronavirus symptomology, please visit <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>. If you have symptoms compatible with COVID-19, stay home for the time listed on the CDC website.
4. Avoid touching your face.
5. All courthouse visitors are required to wear a face covering. For more information on face coverings, see <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>.
6. Disinfect frequently used items and surfaces as much as possible. For recommended cleaning practices, please visit <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>.

HEALTH & SAFETY OF COURT FACILITIES

Social Distancing

Social distancing means maintaining a distance of at least 6 feet (360 degrees) from others at all times. Court facilities must practice social distancing while in Phase 2 and beyond or until the medical community recommends otherwise.

Face Covering Public Policy

As directed by AOSC20-23 (amended), anyone who enters a court facility will be required to wear a face mask. The following information will be widely disseminated and prominently posted at each courthouse entrance.

All persons entering a courthouse are required to wear a face mask/covering when court is in session and security screening is being conducted.

- The Court has a limited supply of face masks and may not be able to provide one, so it is important that court patrons bring a face mask/covering.
- Facemasks will only be supplied to those who are there for court proceedings. Individuals appearing in any courthouse for purposes other than court shall provide their own facemask or obtain one from the office whom they intend to visit.
- Face masks shall conform to CDC recommendations.
- Face coverings with profanity or vulgar images/text are prohibited.
- Clear face masks will not be supplied by the Court in any court proceeding. The State Attorney, Public Defender's Office and private defense counsel may provide a clear face mask to any witness, juror or litigant where they believe it is necessary to view facial expressions.
- Individuals who refuse to comply with the mask/covering requirement will not be allowed to enter the courthouse, and this may result in their court appearance being rescheduled.
- Plexiglass and clear face shields may be used to supplement the use of a face mask/covering. However, neither will be used in lieu of a face mask/covering for any person inside of a courtroom.

Cleaning and Disinfecting the Public Areas and Work Environment

Court Administration will coordinate with each county's custodial representatives to ensure that appropriate cleaning and disinfecting is performed. In the event a public space or work area has been identified as an exposed location, that area will be cordoned off. It will not be re-opened until the local cleaning provider has completed a "deep cleaning" of the location including but not limited to all high contact surfaces, carpeting, windows, window treatments, walls, ceilings, furniture, and light fixtures.

- 1) Staff are strongly discouraged from using other employees' phones, desks, offices, or other work tools and equipment. If necessary, clean and disinfect equipment before and after use.
- 2) County cleaning representatives shall disinfect all common spaces such as lobbies, restrooms, elevators, stairwells, courtrooms, and breakrooms frequently.
- 3) Judges, Judicial Assistants, and staff should disinfect individual workspaces with cleansing wipes or disinfecting sprays:
 - a) Use on personal workstations such as keyboard, mouse, phone, and desk.
 - b) When using disinfecting wipes to disinfect hard, nonporous surfaces, enough product should be used to ensure the surface remains wet for *one* minute. Let the surface dry completely.
 - c) For highly soiled surfaces, clean off excess dirt before using the disinfecting wipes.
 - d) *Don't* use the wipes to cleanse skin.
- 4) Frequently wash hands with soap and water for 20 seconds; utilize hand sanitizer if unable to use soap and water.
- 5) Hand sanitizer should be a minimum of 60% alcohol.
- 6) Hand sanitizer should be available for all judges, staff, courtroom users, and public service counter users.

Partitions or Barriers

Where social distancing cannot be maintained, especially at public counters and in courtrooms, Court Administration shall coordinate with county staff to evaluate the feasibility of the installation of partitions or barriers. The installation of a plexiglass barrier is not a substitute for wearing a face mask/covering while in a courtroom or hearing room.

Non-Public Facing Staff Exposure Control Measures

1. Supervisors will contact all staff to communicate assignments throughout this transition.
2. If rotating staff through the office, it is recommended to rotate the same staff together to limit exposure.
3. Accommodations for vulnerable or high-risk staff will be made as necessary.
4. If staff reports a Positive (or Presumptive Positive) COVID-19 illness, the employee must notify his/her immediate supervisor by email. The entire policy is outlined in Appendix A.
5. Frequently wash hands with soap and water for 20 seconds; utilize hand sanitizer if unable to use soap and water.
6. Hand sanitizer should be a minimum of 60% alcohol.

Public Facing Staff Exposure Control Measures

1. Maintain social distancing as much as possible, including between court personnel (consistent with courtroom requirements).
2. Limit operating hours to specific days/times, or business needs to allow for disinfecting and cleaning between customer interactions.
3. Encourage customers to conduct business through phone, email, and internet when practicable.
4. Frequently wash hands with soap and water for 20 seconds; utilize hand sanitizer if unable to use soap and water.
5. Hand sanitizer should be a minimum of 60% alcohol.
6. Hand sanitizer should be available for staff and public service counter users.
7. Coordinate with maintenance personnel to ensure restrooms are stocked with soap and paper towels.

Courtrooms & Hearing Rooms

Social distancing and appropriate exposure control measures must be maintained when courtrooms are used.

Courtrooms Exposure Control Measures

1. Maintain social distancing at all times, including between court personnel.
2. Remote video participation, when technically feasible, should remain an option when determined by the presiding judge.
3. Jurors shall only sit in designated areas within the courtroom (when trials resume).
4. Litigants shall only sit in designated areas within the courtroom.
5. PPE products are available at counsel tables, witness box and podium for litigants, counsel and court patrons to use. Litigants, counsel or other courtroom patrons may use PPE products to clean/disinfect the table or podium used before beginning a proceeding.
6. Custodial services should wipe down frequently touched surfaces (table-tops, microphone, podium, door handles, etc.) during breaks in court activity.
7. Offer options for electronic document and exhibit intake to reduce paper handling.
8. Frequently wash hands with soap and water for 20 seconds; utilize hand sanitizer if unable to use soap and water.
9. Hand sanitizer should be a minimum of 60% alcohol.
10. Hand sanitizer should be available for all judges, staff, and courtroom users.

Purchases for Ongoing Operations

Purchasing will be coordinated by our Fiscal Management team. Personal protective equipment products will be purchased with State and County budgets based upon available funds and product.

LIMITED IN-PERSON PROCEEDINGS

Strategy

The Third Judicial Circuit plans to take a measured approach to limited in person hearings. A slow, cautious, and phased approach is recommended for the following reasons:

1. Allows all staff and judicial officers to limit exposure to others in the office setting via continued social distancing.
2. Allows the availability of staff to backfill should another fall ill.
3. Allows court operations to be suspended should an office have an outbreak.
4. Allows for minimal use of PPE and sanitizing supplies with minimal staff onsite.
5. Allows for adequate time to clean and disinfect with minimal staff and customers onsite.

In order to establish protocols for protective measures, Court Administration has evaluated courtrooms circuit-wide, and the following steps have been taken.

- Social distancing, hand washing, and other CDC guideline notices posted in every courthouse.
- Seating has been marked.
- Hand sanitizer present in all courtrooms.
- Surface cleaner and disinfectant present in all courtrooms.

Guidelines

- While limited in-person hearings are conducted (and are expanded in Phase 3), the number of people permitted in the courtroom will be limited and social distancing will be implemented. Approved seating will be found in those open spaces on pews or seats which have no seating prohibition signage.
- Based upon each presiding Judge's directive, the Clerk will re-schedule cases on a staggered basis rather than all docketed simultaneously. Re-scheduling efforts will be maintained until the Court enters Phase 4.
- Case scheduling will also avoid multiple court venues from starting simultaneously to avoid large groups of people entering the building at any one time.

Communications

The Court will disseminate information to the public, justice partners, and the Bar using:

- Public service announcements, media advisories, and press releases
- Court website (www.thirdcircuitfl.org)
- Social media platforms
- Courthouse signage
- Other technologies, including text messaging and email

Courthouse Entry Health Screening

All courthouses within the Third Judicial Circuit are considered to be multi-use facilities. In accordance with the revised COVID-19 court operations workgroup recommendations, entry into a courthouse in a multi-use building refers to the security point at which individuals are screened before entering the courthouse.

Anyone entering a courthouse will be required to undergo a health screening with a temperature check when court is in session and security screening is being conducted. Persons who have a fever of 100.4 degrees or greater; answer affirmatively to any of the symptoms in Question 1; or answer affirmatively to Question 2, 3, and 4 shall be denied entry.

The name and contact information of anyone refused entry who has a scheduled court appearance will be recorded in order to reschedule their proceeding. If possible, alternative arrangements should be made for this person, such as handling their business over the phone, rescheduling a hearing, or other means as appropriate.

The health screening shall include the following questions:

Question 1: Do you have any of the following symptoms (excluding those due to a known medical reason): • Cough • Shortness of breath or difficulty breathing • Chills • Muscle pain • Sore throat or New loss of taste or smell?

Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19?

Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?

Question 4: Have you had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19?

The Court will establish a process to safeguard against the release of sensitive health information.

Pedestrian Traffic Control

In cooperation with the local Sheriff's Office and County Facilities Management, the Court will:

1. Post signage limiting the number of persons permitted in an elevator to maintain social distancing.
2. Limit public hallway seating.
3. Consider and alter traffic flow patterns to minimize cross traffic (one door in and one door out) in each county courthouse as needed.
4. In-person proceedings will be strictly limited to parties, interpreters, witnesses, court personnel, and any other necessary persons. Friends and family members not directly involved in a case will not be permitted in the courthouse (ADA support personnel notwithstanding).
5. All litigants will be encouraged to wait in their vehicle and only enter the courthouse fifteen (15) minutes prior to their designated appearance time, or after being contacted by their attorney indicating their case is about to be called. If the case is called and necessary participants are not present, the case will be re-called only after the court has proceeded through the remaining docket.

Remote Technology

Per Chief Justice Canady's recent Administrative Order 20-23 (amended), all proceedings shall occur remotely (such as by teleconferencing, videoconferencing, or other means) unless litigants or other court participants are unable to successfully participate in a remote hearing for reasons beyond the court's control.

Hybrid Hearings

The Court has developed procedures for in-custody and out-of-custody pleas (see Appendix B). Hybrid hearings will enable a defendant to appear in person at a courthouse or jail while all other participants appear remotely.

Staff Telework

Consistent with AOSC20-23 (amended), all employees shall continue to work remotely to the extent their work can be done using supplied technology. Staff are also permitted to visit their normal workplace to access supplies, equipment or to work. Social distancing protocol is required. Staff meetings will occur telephonically or by Teams/Zoom.

Courtrooms

Courtroom podiums will be used to keep the attorneys and litigants a reasonable distance from the bench and prevent the congregation of individuals in the well of the courtroom.

Attorneys, litigants, and anyone appearing in the courtroom shall wear a face mask/covering, may use supplied personal protective equipment while maintaining social distancing, including sitting in identified seating areas. Likewise, while in the courthouse, attorneys, litigants, and anyone else shall enter and exit courtrooms in a timely manner, avoid unnecessary appearances, and maintain social distancing while in the hallways, hearing rooms or other areas. No one that is sick or experiencing any symptoms of illness should enter the courthouse.

Court Proceedings

Once a county has met the benchmark criteria or resumed limited in-person proceedings, each division will begin to schedule only those matters which cannot be conducted via remote technology.

Each Judge shall identify specific cases that were unable to be addressed with remote technology. The presiding judge will direct the respective County Clerk of Court to schedule those cases using the following guidelines:

- Allows for efficient court appearances and avoids unnecessary court appearances;
- Takes advantage of orders and processes that allow cases to progress through remote appearances and agreed orders.

Requests for time-sensitive matters, such as orders of protection, injunctions against harassment, *ex parte* temporary child custody orders, court-ordered inpatient medical treatment, evictions, temporary emergency orders, expedited election matters, temporary restraining orders, etc., should continue to be priority matters.

Prioritization of Case Types for Resolution During Initial Transition:

Where limits on capacity require prioritization and triage, the following priorities for general case types should apply (recognizing constitutional and statutory preferences govern specific issues that may be raised in a specific case), starting with highest priority:

- 1) Criminal
- 2) Juvenile
- 3) Mental Health
- 4) Family (involving minor children)
- 5) Family (not involving minor children)
- 6) Probate

- 7) Civil
- 8) Other

Defense Bar and Civil Lawyers:

- A. Continue to submit agreed orders via the Florida E-portal.
- B. Negotiations should be done outside of the courthouse, prior to court, to the greatest extent possible.
- C. Pre-hearing or pre-trial preparation with clients and witnesses should be done prior to court, outside of the courthouse, to the greatest extent possible.
- D. Parties and witnesses should not come to the courthouse more than 30 minutes prior to their scheduled court time, unless exceptional circumstances exist.
- E. Exhibits and documents for hearings and trials shall be in electronic form (whenever possible) and submitted to other parties and the Court prior to the court date.

In criminal cases specifically, the Court should apply the following priorities (recognizing constitutional and statutory preferences govern specific issues that may be raised in a specific case), starting with highest priority:

- 1) Criminal cases where the defendant is in custody.
- 2) Criminal felony cases where the defendant is not in custody.
- 3) Criminal misdemeanor cases where the defendant is not in custody.

APPENDIX A

WORKING DURING THE PANDEMIC: THIRD JUDICIAL CIRCUIT HEALTH AND SAFETY PROCEDURES

- Judges and staff shall “self-check” for symptoms prior to departing their residence for their workplace.
- Employees may not appear for work if experiencing any symptoms associated with COVID-19. Instead, they must call their supervisor and report their illness.
- While at the workplace, employees are highly encouraged to wear masks in public spaces, but are exempt from doing so in a private office or work area.
- At work, court employees must avoid socializing in groups and practice social distancing. At home or in public locations, court employees should reduce their risk of exposure by using a face covering in crowded public areas and follow the Centers for Disease Control guidelines including frequent washing of hands and social distancing.
- Any staff with a fever of 100°F or more must return home and call their supervisor for instructions.

- A court employee who falls ill with symptoms associated with COVID-19 and who has had contact with others in a courthouse up to 14 days before becoming ill may be directed to undergo COVID-19 testing by their supervisory entity.
- If a court partner employee who has potentially had contact with court employees (e.g., a courtroom clerk), the court partner supervisor will immediately inform the TCA (no names are required unless necessary for alerting potentially exposed persons). If the person is a court employee, the employee's supervisor must notify the TCA immediately. The supervisor should not share the name of the employee with anyone other than the TCA.
- Persons who may have had contact with the ill person will be notified by the TCA or Court HR and informed that they may have been exposed to a person who is now ill and is being tested for COVID-19.
- Any court employee who may suffer from Covid-19 symptoms is highly encouraged to get tested and;
 - If positive, the employee must self-quarantine until they are symptom free for a minimum of 72 consecutive hours or receive a negative test.
 - Self-quarantine for 14 consecutive days if exposed to a family member or other person who has tested positive;
- Court employees must remain home and contact their supervisor if they live with a family member who:
 - is exhibiting COVID-19 symptoms; or
 - who was directed to be tested; or
 - has tested positive for COVID-19

Persons who are required to self-quarantine as a result of a positive or Covid test must use accrued compensatory, annual or sick leave unless Emergency Paid Sick Leave is reinstated.

Court employees who fail to follow these procedures may be subject to disciplinary action up to and including termination.

APPENDIX B

OUT-OF-CUSTODY CHANGE OF PLEA PROCEDURES AND GUIDELINES FOR THE THIRD JUDICIAL CIRCUIT

The following temporary procedures are implemented in an effort to be consistent with the Administrative Orders of the Florida Supreme Court and the Third Judicial Circuit of Florida. These are enacted due to the COVID-19 pandemic, including the continuation of all essential court proceedings and, to the extent feasible, the continuation of all non-essential hearings using communication equipment and web-based videoconferencing tools.

The following procedures govern change of pleas (COP) for out-of-custody defendants and juvenile delinquents:

1. Notice and setting a change of plea hearing:

This process is to be utilized when a negotiated plea has been reached. **The plea must be in writing, signed by all parties, and sent to the presiding judge or his or her JA prior to scheduling the hearing. When applicable, a scoresheet must also be attached to the plea.**

All COP hearings will be by appointment only. Hearings may be conducted for both felony and misdemeanor cases Monday through Friday during normal operating hours using the web-based videoconferencing platform Zoom or Microsoft Teams. Appointments will be set per each judge's schedule in time increments they deem appropriate but no less than ten-minute increments.

Counsel for each party shall have current contact information, including an email address and telephone number, filed with the Clerk of Court.

Upon scheduling the hearing, counsel setting the hearing shall *Notice* the COP by filing such notice with the Clerk of Court, with service on the opposing party, and a courtesy copy emailed to the presiding judge. Counsel, or the ASA if the defendant is pro se, shall also inform the defendant (1) of the hearing date, time, and location; (2) the requirement to wear a mask; (3) that he or she may be subject to possible health screening upon entry; (4) that no non-parties may attend court hearing; and (5) that no extraneous personal belongings may be brought to the hearing. Juveniles may be accompanied to the hearing by one parent or guardian.

2. Location and Procedure:

A special hearing room/station will be set up for each individual county within the Third Judicial Circuit. The court or the bailiff will have specific instructions as to where to report for your individual county.

Defendants shall arrive at least five minutes before the start of their hearing. Defendants shall report to the front entrance of the designated location. The defendant shall bring valid photo identification. The defendant is required to wear a mask that follows CDC recommendations. The defendant will follow all screening procedures in place for admittance. In juvenile cases, the parent or guardian will also be subject to all screening procedures and must also wear a mask.

With the exception of one parent or guardian in juvenile cases, no other persons, including family members, will be permitted to attend the hearing in person without prior written approval from the Chief Judge. However, interested non-parties may observe the hearing remotely. The attorneys are responsible for providing the link, invite, or call-in information

to interested parties (family members, victims, etc.) and informing them that they must mute themselves.

Defense counsel, state attorney, clerk, probation officer, etc., will all appear remotely. A law enforcement officer will be present at the hearing to take fingerprints and to assist the defendant as necessary. The equipment will be cleaned between each hearing.

All proceedings shall be recorded on Zoom or Teams and the Open Court digital system.