

THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 11.32

SECOND REVISED CORONA VIRUS PANDEMIC EMERGENCY PROCEDURES

WHEREAS, on March 26, 2020 this Court issued Administrative Order 11.25, *Revised Corona Virus Pandemic Emergency Procedures*; and

WHEREAS, on April 13, 2020 this Court issued Administrative Order 11.28, extending those emergency procedures through May 29, 2020, and

WHEREAS, on May 21, 2020 the Florida Supreme Court issued AOSC20-32, *Covid-19 Public Health and Safety Precautions for Phase 2*, which provides for a phased approach to the court's return to full operation. All circuits in the state are currently operating in Phase 1, in which in-person court events are strictly limited to specifically delineated essential and critical proceedings. AOSC 20-32 provides a path for circuits to transition to Phase 2, in which limited additional in-person court events are allowed. In order to transition to Phase 2, courts must confirm that certain medical benchmark criteria have been met within its circuit (see AOSC20-32, Attachment, page 3) and submit an operational plan addressing the implementation of safety precautions within its courthouses, including but not limited to; health screenings, temperature checks, physical distancing, and the wearing of face masks (see AOSC20-32, Attachment, pages 4-10); and

WHEREAS, on May 21, 2020 the Florida Supreme Court also issued AOSC20-23-Amendment 2, *Comprehensive Covid-19 Emergency Measures for the Florida State Courts*, which provides, among other things, that a court's successful transition to Phase 2 would allow in-person appearances in non-essential court events **only in the limited circumstances** in which the proceeding cannot be conducted remotely because (1) remote conduct of the proceedings is inconsistent with the U.S. or Florida Constitution, a statute, or rule, or (2) remote conduct of the proceedings is infeasible due to the lack of technological resources; and

WHEREAS, this Court must fulfill its responsibility to keep the courts operating to the fullest extent possible, while protecting the health and well-being of the public, the bar, court staff, court partners, and judges; and

WHEREAS, all counties in the Eighth Circuit have experienced improving COVID-19 health conditions over the most recent 14-day period, including a low number of confirmed cases relative to population density. Additionally, the number of positive tests recorded in the counties of the circuit, as a percentage of total tests, falls well below the benchmark percentage established by the CDC, reflecting a low rate of community spread.

WHEREAS, this Court is aware that there is not unanimous agreement among the judges of this circuit regarding the wearing of face coverings within the courthouses* and courtrooms, however this Court is ethically bound to issue an Administrative Order which is consistent with the most reasonable interpretation of the requirements set forth by the Florida Supreme Court in AOSC20-32.

WHEREAS, this Order is entered pursuant to the authority vested in the Chief Judge by Article V, Section 2 of the Florida Constitution, as well as the Administrative Orders issued by the Florida Supreme Court referenced above,

IT IS THEREFORE ORDERED that

1. **Jury Proceedings**

All grand jury proceedings, jury selection proceedings, and criminal and civil jury trials shall continue to be suspended through July 2, 2020, as required by AOSC20-23, Amendment 2.

*In counties where non-court constitutional officers share space with the court, this provision is applicable only to the judicial portion of the courthouse.

2. Modified Phase 1

- A. Commencement - Commencing June 1, 2020, this circuit shall transition to a modified Phase 1.
- B. Remote Proceedings - All court events which can be effectively conducted remotely, shall proceed by electronic means with no in-person court appearances.
- C. Non-Essential, Non-Critical Court Proceedings - Any court event which cannot be effectively conducted remotely with no in-person court appearances, shall not proceed unless it is an *essential or critical court proceeding* as defined below.
- D. Essential or Critical Court Proceedings - Any court event which cannot be effectively conducted remotely, shall proceed with in-person court appearances if it is an *essential or critical court proceeding*, **and** the safety precautions set forth below are employed. Such hearings shall be conducted remotely to the extent possible, using a hybrid approach in which some participants appear in-person and some appear remotely if feasible.
- E. Essential Court Proceedings Defined - Essential Court Proceedings are defined as:
 - i. First Appearance, bond hearings, in-custody Changes of Plea, in-custody violation of probation or community control hearings, in-custody motions which the court determines will be dispositive of the case, out-of-custody Changes of Plea, and juvenile delinquency detention hearings.
 - ii. Domestic Violence Injunction Hearings (including repeat, sexual, dating violence and stalking injunction), and Risk Protection Order hearings.
 - iii. Juvenile Dependency Shelter hearings and Dependency and Termination of Parental Rights Adjudicatory Hearings, as determined by the presiding judge.
 - iv. Hearings on Appointment of Emergency Temporary Guardian, Vulnerable Adult Injunctions, Adult Protective Services proceedings, "Do not resuscitate" proceedings, Seizure of bodily fluid proceedings, and other matters of this type which the Court determines to be of an urgent nature.

- v. Urgent matters exclusively addressing parenting or time-sharing plans.
 - vi. Hearings to determine whether an individual should be involuntarily committed under the Baker Act or Marchman Act.
 - vii. Other matters of an urgent or emergency nature as determined by the Chief Judge at the request of the presiding judge.
- F. Critical Court Proceedings Defined – Critical Court Proceedings are defined as: All proceedings related to the current public health emergency, such as violation of quarantine, travel limitations, closing of buildings, or curfews, which shall be heard by the Chief Judge or his designee.
- G. Safety Precautions - Essential or Critical Court Proceedings may only be conducted with in-person appearances if the following safety precautions are employed:
- i. Hearing times shall be staggered so that no more than ten (10) people shall be present in the gallery of the courtroom at any time, and only those individuals who are essential to the proceeding are present in the well.
 - ii. All persons in the public areas of the courthouse*, including the courtroom, shall be separated by no less than six feet whenever possible.
 - iii. As directed by the Florida Supreme Court in AOSC20-32, face coverings which cover the nose and mouth are required for everyone entering the courthouse*, and shall be worn at all times throughout the public areas of the courthouse, including the courtroom. Persons shall be exempted from this requirement upon presentation of a letter from a medical doctor setting forth that the individual cannot safely wear a face covering due to a verifiable medical condition.

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- iv. The presiding judge or judicial officer shall have the discretion to allow a participant in a court proceeding to remove or lower their face covering, including but not limited to circumstance in which; the wearing of a face covering hampers the ability to adequately hear the participant, the creation of an accurate record may be impaired, or the participant's facial expressions or features need to be observed. The presiding judge or judicial officer shall assure that the participant removing or lowering their face covering shall be no less than six feet from any other person in the courtroom.
- v. Commonly touched surfaces in the courtroom (i.e. podium, microphone, tables) shall be disinfected before and after individual appearance.
- vi. Hearings involving vulnerable individuals (defined as anyone 65 years of age or older or a person with a serious underlying medical condition, as identified by the CDC at www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html) shall, upon request, be addressed in a separate proceeding in which only those persons necessary to address that case are present in the courtroom.

H. Prohibition from Entering Courthouse*

- i. Individuals are prohibited from entering the courthouse* if; they are under instructions to self-isolate or quarantine due to COVID-19, have had close contact in the previous 14 days with someone who has tested positive for COVID-19, or have the symptoms of COVID-19 set forth by the CDC (cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, and recent loss of taste or smell).
- ii. Individuals may be prohibited from entering the courthouse* if they are not essential to the proceeding they are seeking to attend, and space is limited or unavailable.

3. **Mediations**

Court program mediations shall not be conducted in-person. All court program mediations, including those family and dependency mediations currently scheduled, shall proceed and shall be conducted remotely with the parties participating by using telephonic or electronic means, unless excused by the Court.

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4. **Transition to Phase 2**

The Circuit will move forward expeditiously to transition to Phase 2.

5. **Extension of Prior Emergency Orders**

The following previously entered Emergency Administrative Orders are extended until further order of the court; AO 11.24 COVID-19 Weekend Jail Sentence Suspension, AO 11.27 Emergency Procedures Relating to Post Arrest Detention of Juveniles, and AO 11.31 Extension of Suspension of Certain Eviction and Mortgage Foreclosure Actions.

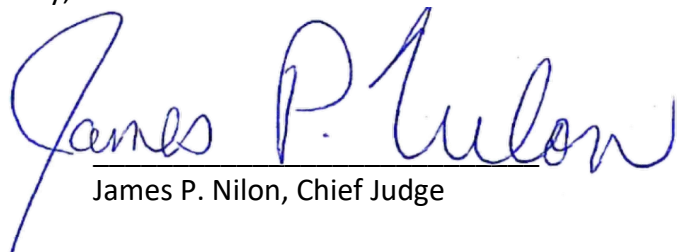
6. **Superseding Prior Orders**

To the extent they may be inconsistent, this Administrative Order supersedes all prior Administrative Orders and Directives entered herein.

7. **Effective Date**

This Order shall take effect on June 1, 2020 and continue until further Order of the Court.

ORDERED ON this 28 day of May, 2020.


James P. Nilon, Chief Judge