

THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 11.33

**PROCEDURES FOR PHASE 2 TRANSITION AND ADDITIONAL
MODIFIED PHASE 1 SAFETY PRECAUTIONS**

WHEREAS, on May 28, 2020 this Court issued Eighth Judicial Circuit AO 11.32, which provided for the circuit's transition to Modified Phase 1 effective June 1, 2020; and

WHEREAS, on June 16, 2020 the Florida Supreme Court issued AOSC20-32 Amendment 1, *Covid-19 Public Health and Safety Precautions for Phase 2*, which sets forth a phased approach to the court's return to full operation and 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 benchmarks have been met within its circuit (see AOSC20-32 Amendment 1, 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 Amendment 1, Attachment, pages 4-12); and

WHEREAS, AOSC20-32 Amendment 1, clarifies that it is the intent of the Florida Supreme Court that the face covering requirement to apply to *everyone, without exceptions, at all times* throughout the public areas of the courthouses*, including the courtrooms; and

WHEREAS, on June 23, 2020 the Eighth Circuit submitted its Operational Plan to the Office of State Court Administrator as required for transition from Phase 1 to Phase 2; and

WHEREAS, the five benchmark criteria identified in AOSC20-32 Amendment 1, Attachment, page 3, which must be met prior to moving to Phase 2 are as follows:

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

1. No confirmed or suspected cases of COVID-19 in the court facility within a 14-day period; or if confirmed or suspected cases have occurred in the court facility, deep cleaning and disinfecting of exposed areas and applicable employee self-quarantine actions have been implemented.
2. Rescission of local and state restrictive movement and/or stay-at-home orders.
3. Improving COVID-19 health conditions over a 14-day period in the community. Factors to consider include, but are not limited to:
 - (a) the number of confirmed COVID-19 cases and related deaths in relation to a community's population density
 - (b) the downward trajectory of positive tests as a percent of total tests
 - (c) the size of particularly vulnerable populations
 - (d) the availability of medical facilities including emergency and intensive care capacity
 - (e) the number of new hospitalizations (or new emergency department visits) for influenza-like or COVID-like symptoms.
4. Adequate testing programs in place, increased availability of COVID-19 tests, and emerging antibody testing.
5. 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); and

WHEREAS, this Court has reviewed the data published by the Florida Department of Health and consulted with local health professionals to determine whether each county of the Eighth Judicial Circuit has met these benchmarks; and

WHEREAS, this Court has determined that Baker, Gilchrist, Levy and Union Counties clearly meet benchmarks 1, 2, 4 and 5, as well as benchmarks 3 (a), (c), (d). While the trajectory of positive tests as a percentage of total tests has varied in these counties (benchmark 3(b)) and has not been on a consistent downward trajectory, these counties continue to have extremely low numbers of confirmed cases, low numbers of hospitalizations, low numbers of deaths, and the number of positive tests as a percentage of total tests falls well below the benchmark percentage established by the CDC. It is therefore determined that these counties meet the necessary benchmarks and are ready to move into Phase 2; and

WHEREAS, this Court has determined that Alachua and Bradford Counties have met most, but not all of the benchmarks necessary to move to Phase 2 at this time; and

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 selections proceedings, criminal jury trials, and civil jury trials shall continue to be suspended until further order of the court.

2. **TRANSITION TO PHASE 2**

A. Alachua and Bradford Counties shall remain in Modified Phase 1 until further Order of the Court and shall continue to conduct in-person court events only in *Essential Court Proceedings and Critical Court Proceedings* as defined in Paragraphs 3 C & D below.

B. Baker, Gilchrist Levy and Union Counties shall move to Phase 2 on July 6, 2020 and are authorized to conduct in-person court events in *Essential Court Proceedings, Critical Court Proceedings, and Phase 2 Court Proceedings* as defined in Paragraphs 3 C, D & E below.

C. This Court will continue to review the medical data furnished by the Department of Health, and will consult with medical health professionals, to determine when it is appropriate for Alachua and Bradford Counties to move to Phase 2. The Court will also consider, in the event of worsening conditions, the necessity of reverting back to Modified Phase 1 in Baker, Gilchrist, Levy, and Union Counties.

3. COURT PROCEEDINGS

- A. Remote Proceedings - All court proceedings regardless of type, with the exception of jury proceedings, which can be effectively conducted remotely, shall continue to proceed by electronic means with no in-person court appearances.
- B. Essential Court Proceedings, Critical Court Proceedings, and Phase 2 Court Proceedings – *Essential Court Proceedings, Critical Court Proceedings, and Phase 2 Court Proceedings*, as defined below, which cannot be effectively conducted remotely, shall proceed with in-person court appearances, provided that all safety precautions set forth in Paragraph 4 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.
- C. Essential Court Proceedings Defined - *Essential Court Proceedings* are defined as:
- i. First Appearance, *all criminal arraignments***, 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.

** All criminal arraignments have been added to the list of essential court proceedings as authorized by AOSC20-32 Amendment 4, Paragraph III D (1).

- 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.
- D. 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.
- E. Phase 2 Court Proceedings Defined – *Phase 2 Court Proceedings* are those proceedings which are specifically authorized by AOSC20-32 Amendment 4, Paragraph III E (3), or those which this Court determines fall within the exceptions set forth in AOSC20-32 Amendment 4, Paragraph III E (4). *Phase 2 Court Proceedings* are defined as:
- i. Non-jury trials in criminal cases, non-dispositive in-custody evidentiary hearings in criminal cases, out-of-custody violation of probation hearings.
 - ii. All juvenile delinquency proceedings.
 - iii. All juvenile dependency proceedings, provided however that in-person attendance is limited to attorneys of record, parents, and one representative from the Department of Children and Families.
- F. Other Court Events – No court event, except those set forth above, shall proceed with in-person court appearances without the express approval of the Chief Judge at the request of the presiding judge.

4. **SAFETY PRECAUTIONS**

Effective July 6, 2020, the following safety precautions shall be employed at all times in all courthouses*, whether the county is operating in Phase 1 or Phase 2:

A. Screening Questions - Each person seeking entry into a courthouse* (excluding judges and court staff) will be asked the following screening questions:

Question 1: Have you tested positive for COVID-19 within the previous 14 days, or are you awaiting a COVID-19 test result?

Question 2: Have you had close contact with someone who has a current COVID-19 diagnosis, or with someone who is awaiting a COVID-19 test result?

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

Question 4: Do you have any of the following COVID-19 symptoms?

- New or worsening cough
- Shortness of breath or difficulty breathing
- Chills
- Muscle pain
- Sore throat
- New loss of taste or smell

Any positive responses will result in the person being denied entry into the courthouse* and alternative arrangements made for that person's court appearance.

B. Self-Screening - All judges and court staff are required to self-screen and shall not enter into a courthouse* if their answer to any of the screening questions would be positive.

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

- C. Temperature Check – Each person seeking entry into a courthouse* (excluding judges) will receive a temperature check. Anyone with a temperature at or above 100.4 will be denied entry and alternative arrangements will be made for that person’s court appearance
- D. Face Masks - As directed by the Florida Supreme Court in AOSC20-32 Amendment 1, face masks covering the nose and mouth are required for everyone entering into a courthouse*, with no exceptions. Face masks must be worn by all persons throughout the public areas of the courthouse*, including the courtroom, if two or more individuals are present.
- i. Disposable face masks will be provided at no cost to courthouse* visitors who do not have a mask.
 - ii. Judges and court staff are not required to wear a mask in their private offices, as long as they remain socially distanced.
 - iii. The presiding judge or judicial officer shall enforce the face covering requirement in the courtroom. Failure or refusal of an individual to comply with this requirement shall result in removal from the courtroom, expulsion from the courthouse, and/or contempt. The presiding judge or judicial officer shall have the discretion to allow a participant in a court proceeding to temporarily lower their face mask in the limited circumstance in which; the wearing of a face mask 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 require that the participant temporarily lowering their face mask be no less than six feet from any other person in the courtroom, and that the face mask be raised as soon as the need for lowering no longer exists.
 - iv. The Chief Judge, or the presiding judge within a courtroom, may authorize the use of a face shield in lieu of a face mask.

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- E. Physical Distancing - All persons in the public areas of the courthouse*, including the courtroom, shall be separated by no less than six feet whenever possible.
- F. Staggered Hearing Times - Hearing times for all court events which include in-person appearances, shall be staggered so that no more than ten (10) people are 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.
- G. Cleaning and Disinfecting - Commonly touched surfaces in the courtroom (i.e. podium, microphone, tables) shall be disinfected before and after individual appearance.
- H. Vulnerable Individuals - 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.
- I. Prohibition from Entering Courthouse* - 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.

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5. **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.

6. **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 11.29 Suspension of Certain Evictions and Mortgage Foreclosure Actions.

7. **SUPERSEDING PRIOR ORDERS**

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

8. **EFFECTIVE DATE**

This Order shall take effect on July 6, 2020.

ORDERED ON this 1 day of July, 2020.


James P. Nilon, Chief Judge