

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order 2021-16-Temp (Amendment 1)

**COURT OPERATIONS & JUDICIAL PROCEEDINGS DURING PHASE 2
OF COVID-19**

(a) Pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.

(b) The Coronavirus Disease 2019 (COVID-19) pandemic continues to have an effect upon the operations of the State Courts System and the lives of Floridians. The Florida state courts have taken measures to mitigate not only the effects of the public health emergency upon the judicial branch and its participants but also the spread of COVID-19.

(c) Because of the COVID-19 outbreak, Governor Ron DeSantis declared a State of Emergency on March 1, 2020, Broward County declared a Local State of Emergency on March 10, 2020, and the World Health Organization declared a global pandemic on March 11, 2020.

(d) Since March 17, 2020, the Florida Supreme Court has issued various emergency administrative orders¹ addressing the judicial branch's response to the COVID-19 pandemic, including establishing the Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19 ("Workgroup").

(e) The State Surgeon General and State Health Office renewed the declaration that a public health emergency exists in Florida on April 20, 2021, the Governor extended the declaration of a state of emergency in Florida on April 27, 2021, and

¹ These administrative orders may be found by visiting the following web page: <https://www.floridasupremecourt.org/Emergency>.

the Secretary of the Department of Health and Human Services renewed the determination that a public health emergency exists in the United States effective as of April 21, 2021.

(f) The Florida Supreme Court has identified four phases of the pandemic relating to court operations and judicial proceedings. It is the intent of the judicial branch to transition to optimal operations in a manner that protects the public's health and safety during each of the following anticipated phases of the pandemic:

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

(g) The Florida Supreme Court has approved revised recommendations of the Workgroup, which outlines certain benchmarks and requirements that need to be memorialized in an operational plan prior to any judicial circuit transitioning from Phase 1 of the COVID-19 pandemic to Phase 2.

(h) The Seventeenth Circuit transitioned to Phase 2 on October 15, 2020, and continues to operate in Phase 2.

(i) The 17th Judicial Circuit's intent is to move toward resuming normal operations and conducting in-person proceedings in all divisions, however, in consideration of the guidelines in AOSC20-23, Amendment 13 (May 6, 2021), most in-person proceedings remain disfavored over remote proceedings. Judges may conduct in-person proceedings on a limited basis after providing notice to their respective administrative judge or the Chief Judge, to ensure such proceedings are conducted in compliance with the Circuit's operational plan and CDC guidelines. Until the Circuit moves to Phase 3, all judges should strive to continue to conduct proceedings remotely, unless otherwise noted or authorized in this Administrative Order.

(j) In accordance with the authority vested in the Chief Judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, Florida Rule of General Practice and Judicial Administration 2.215, AOSC20-23, Amendment 13 (May 6, 2021), and in an effort to promote public safety amidst the current public health emergency it is hereby **ORDERED**:

(1) Grand Jury and Civil and Criminal Jury Proceedings

All non-statewide grand jury proceedings, criminal and civil jury selection and trial proceedings shall be conducted in-person pursuant to AOSC20-32, Amendment 13 (May 6, 2021), and in a manner that is consistent with the Circuit's operational plan and in conformity with CDC guidelines.

Nothing herein prohibits the conduct of any portion of a civil or criminal jury trial using remote technological means so long as the proceedings comply with the guidelines listed in AOSC20-23, Amendment 13 (May 6, 2021).

(2) All Other Trial Court Proceedings

(a) All other court proceedings, whether designated essential or non-essential or critical to the state of emergency or public health emergency as set forth in AOSC20-23, Amendment 13 (May 6, 2021), shall continue to be held using remote technological means (teleconference or videoconference, as appropriate) consistent with Administrative Order 2020-42-Gen, to the extent feasible.

(b) If the presiding judge determines that remote conduct of any proceeding (i) is inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order or (ii) would be infeasible because of a lack of technological resources necessary to conduct the proceeding, the proceeding may be held in-person provided such proceeding is conducted in a manner consistent with the Circuit's operational plan and CDC guidelines. In all instances, the presiding judge shall notify the administrative judge of their division or the Chief Judge prior to conducting the matter in-person.

A. In the event an in-person proceeding is held, entry into courtrooms should be prioritized for actual parties, attorneys, jurors, witnesses, victims, and essential court staff. A parent or guardian may accompany any juvenile or person with a developmental disability who needs to appear personally in a courtroom. Access for additional people in a courtroom may be limited to ensure that appropriate social distancing

is maintained. Professional media representatives may access a courthouse facility to cover an in-person proceeding but access into individual courtrooms may be limited to ensure that appropriate social distancing is maintained. The Division Judge, pursuant to CDC guidelines and the Circuit's operational plan, has control as to the proper implementation of social distancing in their courtroom.

- B. Pursuant to authority of Florida Supreme Court AOSC20-23, (Amendment 13) (May 6, 2021), mental health or related evaluations, including competency evaluations, may be performed in person or using remote technological means. If the presiding judge determines an in-person evaluation is not feasible, the evaluation may be performed using remote technological means. In all cases, judges should first consider an in-person evaluation.

(3) Limited Access to Courthouse Facilities

- i. For purposes of this Administrative Order, the term “courthouse facility” means: any building in which judicial proceedings are conducted, including, but not limited to: the Broward County Central Judicial Complex located at 201 S.E. 6th Street, Fort Lauderdale, Florida 33301; the North Regional Courthouse located at 1600 West Hillsboro Boulevard, Deerfield Beach, Florida 33442; the West Regional Courthouse located at 100 North Pine Island Road, Plantation, Florida 33324; and the South Regional Courthouse located at 3550 Hollywood Boulevard, Hollywood, Florida 33021.
- ii. The following persons may enter a courthouse facility:
Any person with business before the court and/or with the Clerk or other courthouse stakeholder (for example, litigants, including self-represented parties, attorneys, jurors, witnesses, victims and court reporters) may be permitted access to a courthouse facility.
- iii. All persons permitted to enter any courthouse facility should follow CDC guidelines.

(4) First Appearance

Until further order of the court, the Public Defender shall be appointed for all first appearance hearings without the necessity of an affidavit of indigence. The representation shall continue for all indigent defendants who have not retained private counsel until the COVID-19 restrictions are lifted by future administrative order, at which point an affidavit of indigence shall be submitted. This provision shall apply *nunc pro tunc* to March 14, 2020, and continue until further order of the court.

(5) Social Distancing and Face Masks

i. Social Distancing: In the event of an in-person court proceeding, the judge or quasi-judicial officer shall take necessary steps to establish and strictly enforce social distancing guidelines during the proceeding. Such guidelines should be in compliance with current CDC recommendations.

ii. Face masks: Face masks must be worn during in-person court proceedings, with no exceptions. “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 justice, judge, magistrate, or hearing officer if conducted in-person, and other court events conducted in-person as may be determined by the Chief Justice or chief judge. Masks must completely cover the nose and mouth and fit snugly around the nose, chin, and sides of the face. Masks will be provided at no cost to visitors who do not have one. Clear face masks or cloth face masks that have clear plastic panels may be used by a witness testifying in an in-person court proceeding if deemed necessary to afford due process. Notwithstanding, any person may voluntarily choose to wear a face mask in the courthouse when not attending an in-person court proceeding.

(6) Intent to Transition to Phase 3

The 17th Judicial Circuit’s intent is to gradually and safely reopen all courthouse facilities to in-person court proceedings and transition to Phase 3, consistent with CDC guidelines and orders from the Chief Justice of the Florida Supreme Court.

(7) Previous Administrative Order Superseded

This Administrative Order supersedes and vacates Administrative Order 2020-80-Temp.

(8) Effective Date

This Administrative Order is effective immediately, and shall remain in effect until further order of the Chief Judge.

DONE AND ORDERED, in Chambers, Fort Lauderdale, Broward County, Florida, this 18th day of May, 2021.

/s/ Jack Tuter

Jack Tuter, Chief Judge