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

Administrative Order 2020-81-Temp

CONTINUITY OF COURT OPERATIONS & JUDICIAL PROCEEDINGS DURING COVID-19 – TRANSITIONING FROM PHASE 1 TO PHASE 2

(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 Centers for Disease Control and the Florida Department of Health have advised people to take precautions in light of the Coronavirus Disease 2019 (COVID-19) outbreak, and specifically noting that the best way to prevent illness is to avoid exposure to the virus.

(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 orders[1] 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 Florida Supreme Court has identified four phases of the pandemic relating to court operations and judicial proceedings:

> Phase 1 – In-person contact is inadvisable, court facilities are effectively closed to the public, and in-person judicial proceedings are rare;

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

Phase 2 – Limited in-person contact is authorized for certain purposes and requires use of protective measures;

Phase 3 – In-person contact is more broadly authorized and protective measures are relaxed; and

Phase 4 – COVID-19 no longer presents a significant risk to public health and safety.

(f) The Florida Supreme Court has approved revised recommendations of the Workgroup regarding certain benchmarks that must be met and certain 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.

(g) The Seventeenth Judicial Circuit has now met these revised benchmarks and has submitted its operational plan for filing with the Office of the State Courts Administrator in order to transition from Phase 1 to Phase 2.

(h) Although Phase 2 allows for limited in-person contact for authorized purposes with the use of protective measures, complying with CDC protocols and social distancing mandates will be difficult given the size of the courthouse facilities comprising the Seventeenth Judicial Circuit, and therefore, it is the intent of this Administrative Order to have all court proceedings continue using remote technological means, subject to specific delineated exceptions set forth herein.

(i) 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 Judicial Administration 2.215, and Florida Supreme Court Administrative Orders AOSC20-23, Amendment 6 (August 12, 2020) and AOSC20-32, Amendment 3 (August 12, 2020), and in an effort to promote public safety amidst the current public health emergency and after extensive discussions with all courthouses stakeholders who are in agreement as to the timeline for transitioning to Phase 2, it is hereby **ORDERED, <u>effective October 12, 2020</u>:**

1. The Seventeenth Judicial Circuit will transition courthouse operations from Phase 1 to Phase 2.

2. **<u>Grand Jury and Civil and Criminal Jury Proceedings</u>**

A. All grand jury proceedings and criminal jury selection and trial proceedings shall remain suspended for a minimum period of thirty (30) days from the effective date of this Administrative Order or such other time as ordered by the Chief Justice.

B. Civil jury selection and jury trials remain suspended until further order of the chief judge.

3. **All Other Trial Court Proceedings**

A. All other court proceedings, whether designated essential or non-essential as set forth in Florida Supreme Court Administrative Order AOSC20-23, Amendment 6 (Aug. 12, 2020), 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. No court proceeding, whether designated essential or non-essential as set forth in Florida Supreme Court Administrative Order AOSC20-23, Amendment 6 (Aug. 12, 2020), shall be held in person except upon approval of the chief judge and only if the presiding judge makes the specific findings that remotely conducting the proceeding is either:

i. Inconsistent with the United States or Florida Constitution, a statute, or a court rule that has not been suspended by administrative order; or

ii. Infeasible because a participant in the proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the public health emergency, lacks the staff resources necessary to conduct the proceeding, and there is no other reasonable alternative, including continuing the proceeding.

C. In the event an in person proceeding is to be held per Section 3.B. above, entry into courtrooms will be prioritized for actual parties, attorneys, 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.

4. **Limited Access to Courthouse Facilities**

A. 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.

B. Except as otherwise provided herein, no member of the public shall be provided access to any courthouse facility.

C. The following persons may enter a courthouse facility:

i. Individuals with business before the court and/or with the Clerk (litigants, including self-represented parties, attorneys, witnesses, and victims). All individuals should strongly consider conducting any required court business via teleconference or web-based videoconferencing tool rather than physically entering a courthouse facility.

ii. Individuals employed by or who have contractual agreements for services with:
    1. Court Administration
        a. All Court Administration employees shall continue to work remotely, to the extent feasible.
    2. State Attorney
    3. Public Defender
    4. Clerk of Court
    5. Broward Sheriff's Office
    6. Broward County

iii. Any member of law enforcement in the course and scope of their official duties

D. All persons permitted to enter any courthouse facility should exit immediately when their court business has concluded.

E. All persons permitted to enter any courthouse facility must comply with the requirements of Administrative Order 2020-80-Temp (Health & Safety Requirements in Courthouse Facilities During COVID-19).

5. **First Appearance**

A. Appointment of Counsel. 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, 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.

B. Public Health Violations. Any person who violates any rule adopted under section 381.00315, Florida Statutes, any isolation or quarantine, or any requirement adopted by the Department of Health in accordance with a declared public emergency, commits a misdemeanor of the second degree. Due to the danger to the public health for such violation, the bond amount shall be set at "no bond." *See Varholy v. Sweat*, 15 So. 267 (Fla. 1943) ("To grant release on bail to persons isolated and detained on a quarantine order because they have a contagious disease which makes them dangerous to others, or to the public in general, would render quarantine laws and regulations nugatory and of no avail."). This provision does not preclude the judge presiding at first appearance hearings from modifying the "no bond" status, if appropriate. Administrative Order 2019-98-Crim (Establishing a Bond Schedule) remains in place. However, this provision shall control to the extent it may be on conflict with any provision of Administrative Order 2019-98-Crim.

6. **Previous Administrative Order Superseded**. This Administrative Order supersedes and vacates Administrative Order 2020-63-Temp on October 12, 2020.

7. **Effective Date**. This Administrative Order is effective October 12, 2020, and shall remain in effect until further order of the chief judge.

DONE AND ORDERED, in Chambers, Fort Lauderdale, Broward County, Florida, this 25th day of September, 2020.

/s/ Jack Tuter
Jack Tuter, Chief Judge