

**IN THE SECOND JUDICIAL CIRCUIT OF
FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2021-05

**IN RE: COVID-19 HEALTH AND SAFETY PROTOCOLS AND EMERGENCY OPERATIONAL
MEASURES FOR THE SECOND CIRCUIT**

WHEREAS, as a result of the Coronavirus Disease 2019 (COVID-19) pandemic, the State Surgeon General and State Health Officer 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 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; and

WHEREAS, to mitigate the effects of the public health emergency upon the Second Circuit, I issued 16 administrative orders and amendments implementing temporary measures essential to the administration of justice to address the pandemic and to keep the courts operating to the fullest extent consistent with public safety; and

WHEREAS, effective vaccines for COVID-19 are adequately available in Florida for persons ages 12 and older, almost half of this state's population has been partially or fully vaccinated, and government-issued health standards and guidance provide that fully vaccinated persons do not need to wear face masks or physically distance in most indoor and outdoor settings unless required by federal, state, or local laws, rules, or regulations; and

WHEREAS, given these developments, the Second Circuit can now transition to operations where in-person contact is more broadly authorized and may be safely conducted; and

WHEREAS, a new administrative order should establish new, temporary health and safety protocols and emergency operational measures and extend and modify previously enacted temporary emergency operational measures for purposes of mitigating the effects of the public health emergency on the Second Circuit and its participants during and after the emergency;

WHEREAS, by the administrative authority granted in Rule 2.215, Florida Rules of General Practice and Judicial Administration, and Florida Supreme Court Administrative Order AOSC21-17, In Re: COVID-19 Health and Safety Protocols and Emergency Operational Measures For Florida Appellate And Trial Courts, it is therefore **ORDERED** that:

- I. **Implementation Schedule.** The provisions of this order shall take effect as noted below, and remain in effect until amended or terminated by subsequent order.

County or Court Division	Begin in-person court proceedings at the discretion of the presiding judge	Begin in-person jury trials using pre-COVID schedules & procedures
Franklin Circuit Court	July 13, 2021	June 23, 2021
Franklin County Court	June 21, 2021	June 21, 2021
Gadsden Circuit Court	June 21, 2021	June 21, 2021
Gadsden County Court	July 8, 2021	July 19, 2021
Grand Juries (Any County)	June 21, 2021	
Jefferson Circuit Court	July 26, 2021	July 28, 2021
Jefferson County Court	June 21, 2021	June 21, 2021
Leon Circuit Court Criminal Division	June 21, 2021	June 28, 2021
Leon Circuit Court Civil Division	July 2, 2021	July 2, 2021
Leon Family Division	June 21, 2021	
Leon Juvenile Delinquency	July 12, 2021	
Leon Juvenile Dependency & Probate	August 1, 2021	
Leon Domestic Violence	August 1, 2021	
Leon Baker and Marchman Acts	June 21, 2021	
Leon County Court	July 26, 2021	July 23, 2021
Civil Traffic Infractions before Hearing Officers	July 14, 2021	
Liberty Circuit Court	June 21, 2021	June 21, 2021
Liberty County Court	June 21, 2021	June 21, 2021
Wakulla Circuit Court	July 6, 2021	June 21, 2021
Wakulla County Court	July 20, 2021	July 21, 2021
Weekend & Holiday First Appearance	August 2, 2021	

The implementation date to begin in-person court proceedings for any court divisions or case types not identified above shall be at the discretion of the presiding judge, but no sooner than June 21, 2021 or later than August 2, 2021.

- II. **Health and Safety Protocols.** As provided by section 768.38(3)(c)2., Florida Statutes, courts must make "a good faith effort to substantially comply with authoritative or controlling government-issued health standards or guidance" during their operations. To this end, unless required by federal, state, or local laws, rules, or regulations, the wearing of face masks and physical distancing are not required during in-person court proceedings beginning June 21, 2021; however, during in-person court proceedings:

- A. Participants and observers may wear face masks. Upon request, a face mask will be provided to a participant or observer for an in-person court proceeding.
 - B. Participants may request to be physically distanced. The presiding judge will address such requests as appropriate under the circumstances at the time of the request.
- III. EMERGENCY OPERATIONAL MEASURES. The following provisions govern remote and in-person conduct of trial court proceedings. All in-person court proceedings must be conducted in a manner consistent with Section II.

A. Use of Technology.

- (1) Judges are encouraged to continue to remotely conduct trial court proceedings through the use of technology to maximize the availability of facility space for trial court proceedings that must be conducted in-person, in accordance with this administrative order and other applicable standards and guidance promulgated by the Chief Justice or Florida Supreme Court.
- (2) Hybrid court proceedings, with some participants in-person and some appearing remotely, may be conducted at the discretion of the presiding judge. Judges should ensure in advance of a hybrid court proceeding that technological arrangements can support the desired participation and that a sufficient record can be made. If Zoom is not suitable to support a hybrid hearing, judges may still conduct telephonic hearings as authorized pre-COVID. Judges and court participants are cautioned to remain flexible and patient with all requests for hybrid court proceedings.
- (3) Florida Supreme Court AOSC21-17 suspended all rules of procedure, court orders, and opinions applicable to court proceedings that limit or prohibit the use of communication equipment for the remote conduct of proceedings or administration of oaths, except as otherwise stated in this order.

B. Court Proceedings.

- (1) First Appearance. First appearance on business days in Franklin, Gadsden, Jefferson, Liberty, and Wakulla Counties shall be conducted remotely or in-person at the discretion of the county judge. First appearance on business days in Leon County shall be conducted as prescribed by the administrative judge for county court. First appearance and other required court proceedings on weekends and holidays shall continue to be conducted circuit-wide from the Leon County Courthouse as initiated during the pandemic, with participation by counsel required to be in-person except as authorized by the chief judge or presiding judge.

(2) Trials.

- a. Grand jury selection and proceedings, civil jury selection and trial proceedings, and criminal jury selection and trial proceedings must be conducted in-person, unless a remote civil or criminal jury selection and trial proceeding is authorized by the presiding judge using procedures from Florida Supreme Court Administrative Order AOSC21-17. Remote civil or criminal jury selections and trial proceedings are discouraged because of the inordinate use of limited technology resources.
- b. Juror Disqualifications, Excusals, and Postponements. Juror disqualifications, excusals, and postponements shall revert to pre-COVID policies and procedures.
- c. Hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act must be conducted in-person unless that individual waives the right to physical presence at the hearing. In Leon County, Baker and Marchman Act hearings will temporarily be held at the Leon County Courthouse until adequate and secure space is identified and prepared in the Apalachee Center facility. In the outlying counties, the presiding judge shall determine the best location to hold these in-person court proceedings.
- d. Non-jury trials in:
 - i. Criminal cases may be conducted remotely if the requirements for certain statements are satisfied or, if not, must be conducted in-person. These requirements include the defendant providing consent in writing and orally on the record establishing that the defendant has knowingly, voluntarily, and intelligently agreed to the remote conduct of the proceeding; counsel for the defendant, if the defendant is represented, indicating orally on the record that they have discussed the potential advantages and disadvantages of remote conduct of the proceeding with the defendant and have concluded that the defendant has knowingly, voluntarily, and intelligently agreed to the remote conduct of the proceeding; and the prosecutor indicating the State's and, if applicable, the victim's positions orally on the record regarding remote conduct of the proceeding for purposes of consideration by the presiding judge in determining whether to remotely conduct the proceeding.

- ii. Termination of parental rights and juvenile delinquency cases may be conducted remotely if ordered by the chief judge or the presiding judge or, if not, must be conducted in-person.
- iii. All other trial court proceedings may be conducted remotely or in-person, except that a proceeding must be conducted in-person if the chief judge or presiding judge determines that remote conduct of the proceeding is inconsistent with the United States or Florida Constitution, a statute, or a rule of court, a court order, or an opinion that has not been suspended by administrative order.

(3) Priorities for In-person Court Proceedings. The prioritization for use of courthouse facilities, courtrooms, technology resources, and staff support are listed from highest to lowest:

- a. Essential proceedings: first appearance; criminal arraignments; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights.
- b. Circuit and county criminal trials with an in-custody defendant.
- c. Circuit trials for juveniles being tried as an adult.
- d. Juvenile delinquency trials.
- e. Circuit and county criminal trials with an out-of-custody defendant.
- f. Termination of parental rights trials.
- g. Circuit civil jury trials.
- h. County civil jury trials.
- i. All other trial court proceedings.

(4) Case Resolution. To maximize the resolution of all cases:

- a. judges shall strictly comply with rule 2.545(a), (b), and (e), Florida Rules of General Practice and Judicial Administration, which respectively require judges to conclude litigation as soon as it is reasonably and justly possible to do so, take charge of all cases at an early stage and to control the progress of the case thereafter until it is determined, and apply a firm continuance policy allowing continuances only for good cause shown.
- b. lawyers shall strictly comply with rule 2.545(a), Florida Rules of General Practice and Judicial Administration, which requires lawyers to conclude litigation as soon as it is reasonably and justly possible to do so, and that the pandemic alone is not a basis for a lawyer's failure to prepare a case for trial or otherwise actively manage a case.

(5) Speedy Trial and Timeliness of Other Court Proceedings.

a. Criminal Court Proceedings.

- i. All time periods involving the speedy trial procedure in criminal court proceedings remain suspended until the close of business on:

- (a) October 4, 2021, for persons who were taken into custody before March 14, 2020. When the suspension ends and the time periods resume, any time that accrued under the procedure for a person before the suspension began at the close of business on March 13, 2020, must be subtracted from the time periods provided by the procedure.

- (b) January 3, 2022, for persons who were taken into custody on or after March 14, 2020.

- ii. When the time periods involving the speedy trial procedure resume:

- (a) The 10-day time period in Florida Rule of Criminal Procedure 3.191(p)(3) is increased to 30 days; and

- (b) Florida Rule of Criminal Procedure 3.191(l) is modified to authorize a court to order an extension of the time periods provided under the rule for the following exceptional circumstances: general congestion of the court's docket, a lack of courtroom space, an unavailability of jurors, or a personnel shortage for public defenders, state attorneys, clerks of court, or the courts.

- b. **Juvenile Court Proceedings.** All time periods involving the speedy trial procedure in juvenile court proceedings remain suspended until the close of business on October 4, 2021. When the suspension ends and the time periods resume, any time that accrued under the procedure for a juvenile before the suspension began at the close of business on March 13, 2020, must be subtracted from the time periods provided by the procedure.
- c. **Noncriminal Traffic Infraction Court Proceedings.** The time period involving the speedy trial procedure in noncriminal traffic infraction court proceedings remains suspended until the close of business on October 4, 2021. When the suspension ends and the time period resumes, any time that accrued under the procedure for a person before the suspension began at the close of business on March 13, 2020, must be subtracted from the time period provided by the procedure.
- d. **Incompetence to Proceed.** Where exigencies make it impossible to meet the 20-day time period in Florida Rule of Criminal Procedure 3.210(b), presiding judges may hold competency hearings as soon as feasible after the date of filing a motion to determine competency. Experts and attorneys may continue to attend and conduct competency evaluations by remote means.

IV. Miscellaneous Provisions.

- A. **Family Law Forms.** Except as indicated below, the requirement that Florida Family Law Forms be notarized or signed in the presence of a deputy clerk remains suspended, if the filer includes the following statement before the filer's signature: Under penalties of perjury, I declare that I have read this document and the facts stated in it are true. This exception does not apply to Florida Family Law Forms 12.902(f)(1), Marital Settlement Agreement for Dissolution of Marriage with Dependent or Minor Child(ren), 12.902(f)(2), Marital Settlement Agreement for Dissolution of Marriage with Property but No Dependent or Minor Child(ren), 12.902(f)(3), Marital Settlement Agreement for Simplified Dissolution of Marriage, and any other family law form that transfers the ownership of property, which must continue to be notarized or signed in the presence of a deputy clerk prior to filing.
- B. **Objections to In-person Visitation for Children under the Protective Supervision of the Florida Department of Children and Families (DCF).** A caregiver for a child subject to the protective supervision of the DCF may object to the in-person nature of a visitation on grounds that risks due to COVID-19 will negatively affect the health or safety of a person participating in the visitation or of a member of that person's household. The court must consider such objection and responses thereto before entering an order on

visitation. This section applies to parent-child visitation, sibling visitation, and visitation between children and other family members and non-relatives.

- C. Victims. Presiding judges shall make accommodations to ensure that any victim, parent, guardian, or lawful representative of a minor who is a victim, or relative of a homicide victim shall exercise their statutory rights to be present and heard at specified court proceedings.

V. This order rescinds Second Circuit Administrative Orders AO 2020-03, In Re: Close Non-Essential And Non-Critical Court Operations; AO 2020-4, In Re: Closure Procedures In Response To The COVID-19 Pandemic, as amended once; AO 2020-05, In Re: Remote Hearings Required For Essential Proceedings; AO 2020-06, In Re: Juvenile Dependency Visitation In The Time Of COVID-19; AO 2020-07, In Re: Emergency Temporary Standing Order Regarding Parenting in Domestic Relations Cases; AO 2020-13, In Re: Operational Plan For COVID-19 Response, as amended nine times; and provisions of any other administrative orders inconsistent with this order.

DONE and ORDERED in chambers in Tallahassee, Leon County, Florida, this 18th day of June, 2021.



JONATHAN SJOSTROM
Chief Judge

Copies furnished to:
All Circuit and County Judges, 2d Circuit
State Attorney, 2d Circuit
Public Defender, 2d Circuit
All Clerks of the Circuit Court, 2d Circuit
All Sheriffs, 2d Circuit
Local Bar Associations
Office of Court Administration, 2d Circuit

