

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE: **TRANSITION TO ALLOW MORE
IN-PERSON COURT PROCEEDINGS
AND SERVICES, AND TO PHASE-OUT
OPERATIONAL PLAN IMPLEMENTED
IN RESPONSE TO COVID-19**

**ADMINISTRATIVE
NO. 2.41
- Third Amended¹-**

WHEREAS, in response to the outbreak of the Coronavirus Disease 2019 (COVID-19) and the resulting public health emergency, the Chief Justice of the Supreme Court of Florida, since March 2020, has issued a number of 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, the Courts of the Twentieth Judicial Circuit have complied with all administrative orders and direction provided by the Supreme Court of Florida; and

WHEREAS, on March 18, 2020, the Chief Judge of the Twentieth Judicial Circuit initially issued local Administrative Order No. 2.39, *In re: Mitigating Measures in Response to COVID-19 & Operational Plan for Resumption of Court Proceedings and Services*, which was followed by several amendments and several less formal memoranda for the purpose of addressing amendments to the Supreme Court of Florida administrative orders and providing direction to the local judiciary, court participants, and members of the public; and

WHEREAS, on June 4, 2021, recognizing the availability of vaccines, the state's percentage of persons vaccinated, and the updated government-issued health standards and guidance for fully vaccinated persons, the Chief Justice of the Supreme Court of Florida issued new Administrative Order No. AOSC21-17, *In re: COVID-19 Health and Safety Protocols and Emergency Operational Measures for Florida Appellate and Trial Courts*, finding that "the judicial branch can now transition to operations where in-person contact is more broadly authorized;" and

WHEREAS, in issuing Administrative Order No. AOSC21-17, the Chief Justice of the Supreme Court of Florida implemented new protocols and measures and terminated Administrative Order No. AOSC20-23, *Amendment 13*, and Administrative Order No. AOSC20-32, *Amendment 8*, effective June 21, 2021; and

WHEREAS, on June 18, 2021, the Chief Judge of the Twentieth Judicial Circuit issued local Administrative Order No. 2.41, *In re: Transition to Allow More In-Person Court Proceedings and Services, and to Phase-Out Operational Plan Implemented in Response to COVID-19*, to vacate local Administrative Order 2.39 (Fourth Amended) and implement the Supreme Court of Florida's new protocols and measures, and for the primary purpose of discontinuing all mask and social distancing requirements; and

¹ In recognition of the steady decrease in COVID-19 positivity rates and hospitalizations over the past several weeks within all five counties of the Twentieth Judicial Circuit, this third amendment is made for the purpose of withdrawing the previously reinstated mask mandate, effective Wednesday, October 20, 2021.

Filed Lee County Clerk of Courts 10/18/2021

2021 certify this document to
be a true and correct copy of the
record on file in my office
Linda Doggett, Clerk of Circuit/
County Court, Lee County, FL
Dated: 10/18/21

By


Deputy Clerk



WHEREAS, on July 27, 2021, due to increasing new COVID-19 variant cases throughout the nation, the Center for Disease Control and Prevention (CDC) revised and updated its health guidance recommending that all persons, regardless of vaccination status, wear face masks in public indoor settings in areas with high COVID-19 transmission rates; and

WHEREAS, on July 29, 2021, recognizing the newly revised CDC guidelines, the Chief Justice of the Supreme Court of Florida issued Administrative Order No. AOSC21-17, *Amendment 1, In re: COVID-19 Health and Safety Protocols and Emergency Operational Measures for Florida Appellate and Trial Courts*, for the purpose of modifying and extending previously enacted temporary health and safety protocols and emergency operational measures so as to address the most recent developments and continue to mitigate the effects of the public health emergency on the judicial branch and its participants; and

WHEREAS, on August 2, 2021, the Chief Judge of the Twentieth Judicial Circuit issued a first amended version of local Administrative Order No. 2.41, *In re: Transition to Allow More In-Person Court Proceedings and Services, and to Phase-Out Operational Plan Implemented in Response to COVID-19*, to comply with the Supreme Court of Florida Administrative Order No. AOSC21-17, *Amendment 1, In re: COVID-19 Health and Safety Protocols and Emergency Operational Measures for Florida Appellate and Trial Courts*, and for the primary purpose of reinstating the mask mandate for all courthouses within the Twentieth Judicial Circuit; and

WHEREAS, on August 26, 2021, the Chief Judge of the Twentieth Judicial Circuit issued a second amended version of local Administrative Order No. 2.41, *In re: Transition to Allow More In-Person Court Proceedings and Services, and to Phase-Out Operational Plan Implemented in Response to COVID-19*, to adopt and implement recommendations made by the local COVID Criminal Workgroup to further mitigate the effects of COVID-19 on participants in criminal cases while still ensuring due process, and to establish uniformity throughout the Twentieth Judicial Circuit; and

WHEREAS, the Chief Judge and Trial Court Administrator have continued to monitor the weekly data released as it relates to COVID-19 cases within our communities, and the data has consistently reflected a steady and significant decrease in positivity rates and hospitalizations over the past four weeks within all five counties of the Twentieth Judicial Circuit, such as to find that the previously reinstated mask mandate is no longer warranted by local health conditions;

NOW, THEREFORE, in accordance with the authority vested in the Chief Judge pursuant to Fla. R. Jud. Admin. 2.215, and pursuant to Supreme Court of Florida Administrative Order No. AOSC21-17, *Amendment 1*, I, as Chief Judge of the Twentieth Judicial Circuit, hereby issue this third amended local Administrative Order to comport with direction given by Supreme Court of Florida Administrative Order No. AOSC21-17, *Amendment 1*, and with the ongoing goal of transitioning to allow more in-person court proceedings and services, as it becomes appropriate to do so.

IT IS ORDERED as follows:

1. Attached and incorporated herein is Administrative Order No. AOSC21-17, *Amendment 1*, issued by the Chief Justice of the Supreme Court of Florida on July 29, 2021. The



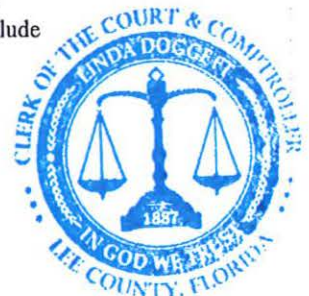
provisions and requirements set forth by the Chief Justice in Administrative Order No. AOSC21-17, *Amendment 1*, over which the Chief Judge of the Twentieth Judicial Circuit has no discretion, shall govern all court proceedings within the Twentieth Judicial Circuit, regardless of whether they are re-stated within the body of this amended local Administrative Order.

2. It is the express intent of this local Administrative Order to facilitate transitioning to operations where in-person contact is more broadly authorized, as it becomes appropriate to do so, while still implementing certain health and safety protocols, as local conditions may require.

3. **Protocols.** Effective Wednesday, October 20, 2021, and based upon current local conditions, the wearing of face masks is no longer required during any in-person court proceedings or within any of the courthouses² of the Twentieth Judicial Circuit.

- a. Participants and observers may wear face masks. Face masks will be available at all courthouse entrances and in all courtrooms, and will be provided to participants and observers upon request.
- b. The use of face masks with clear plastic panel by participants, witnesses and jurors are permitted and will be provided, if available based upon limited supplies.
- c. Participants may request to be physically distanced, and the judicial or quasi-judicial officer shall address such requests as appropriate under the circumstances at the time of the request.
- d. In the case of multi-use facilities serving as courthouses, employees of other non-judicial Constitutional Officers or non-judicial branch agencies are to follow the protocols implemented by their employer, if any, while in their employer's separate enclosed offices, regardless of whether those protocols may deviate from those set forth in this Administrative Order.

² As used in this order, the term "courthouse" means any portion of a facility or building that houses jury assembly rooms, courtrooms, hearing rooms, judicial officers, or court staff or areas where court business is conducted, whether or not that facility or building is formally called a courthouse. In the case of a multi-use facility or building, the term does not include the separate enclosed offices of other non-judicial Constitutional Officers or non-judicial branch agencies, and, as such, the protocols set forth herein are not intended to govern activities inside of the separate offices of other constitutional officers or non-judicial branch agencies. The term, however, does include common, shared, or public areas of the facility or building, including, but not limited to, hallways, elevators, escalators, stairwells, restrooms, and waiting or sitting areas.



4. **In-Person vs. Remote Proceedings.** Court proceedings in the Twentieth Judicial Circuit may be conducted in-person, remotely, or by a hybrid of the two, based upon the following provisions.

- a. The following trial court proceedings **must** be conducted in-person:
 - Grand Jury selection and proceedings.
 - Criminal Jury selection and trial proceedings, and Criminal Non-Jury trial proceedings, **unless** consent for remote proceedings is given in accordance with AOSC21-17, *Amendment 1*, Section II.E.(3)a.ii.
 - Civil Jury selection and trial proceedings, **unless** consent for remote proceedings is given in accordance with AOSC21-17, *Amendment 1*, Section II.E.(3)a.i.
 - Non-Jury trials in Termination of Parental Rights cases and Juvenile Delinquency cases, **unless** remote proceedings are ordered by the Chief Judge or the presiding judge.
- b. Proceedings involving involuntary commitment under the Baker Act or the Marchman Act may be conducted remotely, at the discretion of the presiding judicial or quasi-judicial officer.
- c. All other trial court proceedings:
 - i) **must** be conducted remotely if requested by a party, unless the presiding judicial or quasi-judicial officer determines that the interests of justice require the proceeding to be conducted in person or by a hybrid of the two.
 - ii) **should** be conducted remotely, as appropriate, to facilitate the efficient and expeditious processing of cases, except that a proceeding must be conducted in-person or by a hybrid of the two if the presiding judicial or quasi-judicial officer 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.
- d. The recommendations of the local COVID Criminal Workgroup, balancing the interests of mitigating health and safety concerns while still ensuring due process, are adopted, with only minor modifications. Accordingly, the following provisions shall apply uniformly to all criminal proceedings, both county and circuit, within the Twentieth Judicial Circuit:



- i) Case management, pretrial conferences, and docket soundings shall be conducted remotely so as to allow remote access by parties and attorneys, unless the presiding judge determines on a case-by-case basis that remote conduct of the specific 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. Exceptions to allowing remote access shall be rare. This does not prohibit counsel or parties or members of the public from attending in person, and, as such, cases do not need to be re-noticed. It shall be the responsibility of defense counsel to advise their clients that they may attend remotely. If defense counsel can affirmatively represent that they have been in communication with their client, defense counsel may waive the appearance of that client.
 - ii) Pleas may continue to be taken in-person for the purpose of ensuring due process and the voluntary and knowing nature of the plea. Pleas in absentia in county court may continue to be accepted with a written waiver, at the discretion of the presiding judge and utilizing procedures to ensure the voluntary and knowing nature of the plea as may be established by the presiding judge.
 - iii) VOP or VOCC hearings, trial call, evidentiary hearings, and trials (subject to the exceptions of AOSC21-17 (Amendment 1), Section II.E.(3)) may continue to be conducted in-person for the purpose of ensuring due process and other constitutional rights.
 - iv) Regarding trials expected to last longer than two (2) days, the presiding judge retains discretion to decide on a case-by-case basis, after consultation with counsel/parties, whether proceeding with the trial is appropriate and consistent with both due process and health and safety concerns.
- e. The presiding judicial or quasi-judicial officer in all cases must consider the constitutional rights of crime victims and criminal defendants and the public's constitutional right of access to the courts.
 - f. All court proceedings conducted by a judicial or quasi-judicial officer are to be initiated and conducted from the judicial or quasi-judicial officer's courtroom, regardless of whether the proceeding is to be in-person, remote, or by a hybrid of the two.

5. **Priorities.** Each courthouse within the Twentieth Judicial Circuit has varying levels of limitations as it relates to trial court resources and facility space. In addition, the capacity to conduct in-person court proceedings and jury trials is contingent upon the availability



of jurors summoned by the Clerks, as well as potential staffing shortages on the part of the Clerks, the Public Defender, the State Attorney, the Regional Counsel, other stakeholders, and the Court. These limitations create a requirement for coordination amongst the judiciary in utilizing resources and in scheduling and conducting in-person court proceedings and jury trials. To the extent that there may be conflicting needs, the Chief Judge shall have the discretion to determine how best to utilize available resources (including jurors and staff) and facility space. If applicable, the Chief Judge's determination will be based upon consideration of the following priorities, listed from highest to lowest:

- 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
- Hearings on Petitions for Extraordinary Writs as necessary to protect constitutional rights
- Circuit and County Criminal Trials with an In-Custody Defendant
- Circuit Trials for Juveniles being tried as an Adult
- Juvenile Delinquency Trials
- Circuit and County Criminal Trials with an Out-of-Custody Defendant
- Termination of Parental Rights Trial
- Circuit Civil Jury Trials
- County Civil Jury Trials
- All other trial court proceedings

6. **Case Management.** All Judges within the Twentieth Judicial Circuit are to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), (b), and (e), which respectively require judges to conclude litigation as soon as it is reasonably and justly possible to do so, to take charge of all cases at an early stage and to control the progress of the case thereafter until it is determined, and to apply a firm continuance policy allowing



continuances only for good cause shown.

7. Attorneys. All lawyers practicing within the Twentieth Judicial Circuit are to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), which requires lawyers to conclude litigation as soon as it is reasonably and justly possible to do so. The pandemic alone is not a basis for a lawyer's failure to prepare a case for trial or otherwise actively manage a case.

8. Speedy Trial in Criminal Cases. As per Supreme Court of Florida Administrative Order AOSC21-17, *Amendment 1*, 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.
- c. As per Supreme Court of Florida Administrative Order AOSC21-17, when the time periods involving the speedy trial procedure resume:
 - i) The 10-day time period in Fla. R. Crim. P. 3.191(p)(3) is increased to 30 days; and
 - ii) Fla. R. Crim. P. 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
 - A personnel shortage for public defenders, state attorneys, clerks of court, or the courts

9. Speedy Trial in Juvenile Cases. As per Supreme Court of Florida Administrative Order AOSC21-17, *Amendment 1*, 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.

10. **Competency Hearings in Criminal Cases.** As per Supreme Court of Florida Administrative Order AOSC21-17, *Amendment 1*, when exigencies make it impossible to meet the 20-day time period for holding a hearing to determine a defendant's mental competency to proceed pursuant to Fla. R. Crim. P. 3.210(b), the presiding judge is to hold the competency hearing as soon as feasible after the date of filing a motion to determine competency. Experts and attorneys may conduct and attend competency evaluations by remote means, if feasible.

11. **Speedy Trial in Noncriminal Traffic Cases.** As per Supreme Court of Florida Administrative Order AOSC21-17, *Amendment 1*, 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.

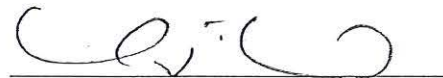
12. **Court Personnel Regulations.** The Human Resources Policy previously included as part of local Administrative Order No. 2.39, *In re: Mitigating Measures in Response to COVID-19 & Operational Plan for Resumption of Court Proceedings and Services (Fourth Amended)* related to COVID-19, and any other related policies, has been incorporated as a supplement to the Administrative Office of the Courts' Personnel Regulations and shall remain applicable to the COVID-19 pandemic, as well as future pandemics, subject to revision by the Chief Judge or the Trial Court Administrator as the Chief Judge's designee.

13. This local Administrative Order shall be effective Wednesday, October 20, 2021, and shall remain in effect until otherwise vacated or superseded by further order of this Court or the Supreme Court of Florida.



14. To the extent that this local Administrative Order may conflict with any rule or order issued by the Supreme Court of Florida, the rule or order issued by the Supreme Court of Florida shall prevail.

DONE AND ORDERED in chambers in Fort Myers, Lee County, Florida, this 15th day of Oct., 2021.


Michael T. McHugh
Chief Judge

History. – Administrative Order 2.39 (March 18, 2020); Administrative Order 2.39 (amended May 8, 2020); Administrative Order 2.39 (second amended May 29, 2020); Administrative Order 2.39 (third amended August 21, 2020); Administrative Order 2.39 (fourth amended May 14, 2021); Administrative Order 2.41 (June 18, 2021); Administrative Order 2.41 (first amended August 2, 2021); Administrative Order 2.41 (second amended August 26, 2021).



Supreme Court of Florida

No. AOSC21-17
*Amendment 1*¹

IN RE: COVID-19 HEALTH AND SAFETY PROTOCOLS AND
EMERGENCY OPERATIONAL MEASURES FOR FLORIDA
APPELLATE AND TRIAL COURTS

ADMINISTRATIVE ORDER

As a result of the Coronavirus Disease 2019 (COVID-19) pandemic, the Secretary of the United States Department of Health and Human Services renewed the determination that a public health emergency exists in the United States effective as of July 20,

1. This amended administrative order updates the introductory paragraphs to delete references to certain declarations of emergencies in this state that have expired; reflect the latest status for the declaration of a national public health emergency and the latest change in health guidance by the CDC; state the purpose for the amended order; and delete provisions specifying an effective date and terminating certain administrative orders, which are now obsolete due to the passage of time. This amended administrative order also deletes provisions that are now obsolete due to the passage of time in Sections I.A. and II.; modifies the health and safety protocols in Section I.B. and expands their application to a courthouse, rather than during an in-person court proceeding only; creates an exception to these protocols in Section I.C.; and modifies provisions governing the conduct of Baker Act and Marchman Act hearings and other trial court proceedings in Sections II.E.(2) and (4).



2021. Further, due to increasing new COVID-19 variant cases throughout the nation, the Centers for Disease Control and Prevention (CDC) revised its health guidance for vaccinated and unvaccinated persons on July 27, 2021.

To mitigate the effects of the public health emergency upon the judicial branch and its participants during and after the emergency, I have issued administrative orders 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.² In order to address the most recent

2. *In re: COVID-19 Emergency Procedures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-13 (March 13, 2020); *In re: COVID-19 Essential and Critical Trial Court Proceedings*, Fla. Admin. Order No. AOSC20-15 (March 17, 2020); *In re: COVID-19 Emergency Procedures for the Administering of Oaths via Remote Audio-Video Communication Equipment*, Fla. Admin. Order No. AOSC20-16 (March 18, 2020); *In re: COVID-19 Emergency Measures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-17 (March 24, 2020); *In re: COVID-19 Emergency Procedures in Relation to Visitation for Children Under the Protective Supervision of the Department of Children and Families*, Fla. Admin. Order No. AOSC20-18 (March 27, 2020); *In re: COVID-19 Emergency Procedures for Speedy Trial in Noncriminal Traffic Infraction Court Proceedings*, Fla. Admin Order No. AOSC20-19 (March 30, 2020); *In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*, Fla. Admin. Order No. AOSC20-23 (April 6, 2020) and as amended thereafter; *In re: COVID-19 Public Health and Safety*



developments and continue to mitigate the effects of the public health emergency on the judicial branch and its participants during and after the emergency, this amended order is issued to modify and extend previously enacted temporary health and safety protocols and emergency operational measures. These protocols and measures shall remain in effect until amended or terminated by subsequent order.

Under the administrative authority conferred upon me by article V, section 2(b) of the Florida Constitution, by Florida Rules of General Practice and Judicial Administration 2.205(a)(2)(B)(iv) and 2.205(a)(2)(B)(v), and by Rule Regulating The Florida Bar 1-12.1(j),

IT IS ORDERED that:

I. HEALTH AND SAFETY PROTOCOLS

A. Implementation. The health and safety protocols under Section I.B. or I.C. must be implemented by all courts by August 2, 2021. Each court must continue operating pursuant to its Phase 2

Precautions for Phase 2, Fla. Admin. Order No. AOSC20-32 (May 21, 2020) and as amended thereafter; and *In re: Comprehensive COVID-19 Emergency Measures for Florida Appellate Courts*, Fla. Admin. Order No. AOSC20-109 (Nov. 23, 2020) and as amended thereafter.



operational plan, established under Fla. Admin. Order No. AOSC20-32, Amendment 8, until such implementation occurs.

B. Protocols.³ Unless required by federal, state, or local laws, rules, or regulations or unless authorized by Section I.C., a court may not require the wearing of face masks⁴ or physical distancing in a courthouse;⁵ however, a person in a courthouse may choose to wear a face mask. Further, during an in-person court proceeding:⁶

(1) A face mask must be provided upon request to a participant or observer. The Chief Justice or a chief judge may

3. In the case of a multi-use facility or building, the protocols in Sections I.B. and I.C. are not intended to govern activities inside of the separate offices of other constitutional officers.

4. As used in this order, the term “face mask” refers to face masks that completely cover the nose and mouth and that fit snugly around the nose, chin, and sides of the face as described by the CDC. *See Your Guide to Masks*, CDC (June 29, 2021).

5. As used in this order, the term “courthouse” means any portion of a facility or building that houses jury assembly rooms, courtrooms, hearing rooms, judicial officers, or court staff or areas where court business is conducted, whether or not that facility or building is formally called a courthouse.

6. As used in this order, the term “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.



adopt a policy addressing the use of face masks with clear plastic panels during in-person court proceedings. If adopted, the policy must apply consistently across all in-person court proceedings in the same courthouse.

(2) Participants may request to be physically distanced. The court will address such requests as appropriate under the circumstances at the time of the request.

C. Exception.

(1) If warranted by local health conditions, the Chief Justice or a chief judge may require either or both of the following health and safety protocols:

a. The wearing of face masks by all persons in a courthouse or in any portion thereof. As determined by the Chief Justice or a chief judge, such requirement may apply at all times or during certain periods only.

b. Physical distancing during an in-person court proceeding.

(2) Notice of a protocol required under Section I.C.(1) must be prominently displayed on the court's website. When local health conditions no longer warrant either or both of the requirements, the



court must return to implementation of the applicable protocol under Section I.B.

II. EMERGENCY OPERATIONAL MEASURES

The following provisions govern remote and in-person conduct of appellate and trial court proceedings, as applicable. All in-person court proceedings must be conducted in a manner consistent with Section I.

A. Use of Technology.

(1) The presiding judge in all cases must consider the constitutional rights of crime victims and criminal defendants and the public's constitutional right of access to the courts.⁷

(2) To maximize the availability of facility space for trial court proceedings that must be conducted in person, each chief judge of a judicial circuit should take all necessary steps to support the remote conduct of other trial court proceedings with the use of technology, in accordance with this administrative order and other

7. Similar measures initially went into effect in Fla. Admin. Order No. AOSC20-17 on March 24, 2020, and were subsequently also addressed in Fla. Admin. Order No. AOSC20-23 and Fla. Admin. Order No. AOSC20-109.



applicable standards and guidance as may be adopted by the Chief Justice or supreme court.⁸

(3) Participants who have the capability of participating by electronic means in remote appellate or trial court proceedings must do so.⁹ For purposes of this administrative order, “remote conduct,” “remotely conduct,” or “conducted remotely” means the conduct, in part or in whole, of a court proceeding using telephonic or other electronic means.¹⁰

(4) 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 shall remain suspended.¹¹

8. *Id.*

9. This measure initially went into effect in Fla. Admin. Order No. AOSC20-23, Amendment 2, on May 21, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC20-109.

10. This measure initially went into effect in Fla. Admin. Order No. AOSC 20-23, Amendment 4, on June 16, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC20-109.

11. This measure initially went into effect in Fla. Admin. Order No. AOSC 20-13 at the close of business on March 13, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC 20-17, Fla. Admin. Order No. AOSC20-23, and Fla. Admin. Order No. AOSC20-109.



(5) The Chief Justice and chief judges remain authorized to establish procedures for the use, to the maximum extent feasible, of communication equipment for the remote conduct of proceedings to facilitate the efficient and expeditious processing of cases.¹²

B. Administration of Oaths.

(1) Notaries and other persons qualified to administer an oath in the State of Florida may swear a witness remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the witness.¹³

(2) If a witness is not located within the State of Florida, a witness may consent to being put on oath via audio-video communication technology by a person qualified to administer an oath in the State of Florida.¹⁴

12. A similar measure initially went into effect in Fla. Admin. Order No. AOSC 20-13 on Friday, March 13, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC 20-17, Fla. Admin. Order No. AOSC20-23, and Fla. Admin. Order No. AOSC20-109.

13. This measure initially went into effect in Fla. Admin. Order No. AOSC 20-16 on March 18, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC 20-17 and in Fla. Admin. Order No. AOSC20-23.

14. *Id.*



(3) All rules of procedure, court orders, and opinions applicable to remote testimony, depositions, and other legal testimony, including the attestation of family law forms, that can be read to limit or prohibit the use of audio-video communication technology to administer oaths remotely or to witness the attestation of family law forms shall remain suspended.¹⁵

(4) Notaries and other persons qualified to administer an oath in the State of Florida may swear in new attorneys to The Florida Bar remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the new attorney.¹⁶

(5) For purposes of the provisions regarding the administering of oaths, the term “positively identify” means that the notary or other qualified person can both see and hear the witness or new attorney via audio-video communication technology for purposes of readily identifying the witness or new attorney.¹⁷

15. *Id.*

16. This measure initially went into effect in Fla. Admin. Order No. AOSC 20-23 on April 6, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC20-109.

17. *Id.*



C. Law School Practice Programs.¹⁸

(1) A supervising attorney in a law school practice program, under Rule 11-1.2(b) of the Rules Regulating The Florida Bar, may utilize audio-video communication technology to remotely supervise the law student in satisfaction of the requirement that the supervising attorney be physically present. The supervising attorney and law student must maintain a separate, confidential communication channel during the proceedings.

(2) In a law school practice program, the requirement in Rule 11-1.2(b) of the Rules Regulating The Florida Bar that an indigent person and the supervising attorney must consent in writing to representation by a supervised law student may be satisfied by the judge receiving the consent verbally under oath.

18. These measures initially went into effect in Fla. Admin. Order No. AOSC 20-23, Amendment 5, on July 2, 2020, and were subsequently also addressed in Fla. Admin. Order No. AOSC20-109.



D. Appellate Court Proceedings. Oral argument and other court proceedings and events may be conducted remotely or in person at the discretion of the Chief Justice or chief judge.¹⁹

E. Trial Court Proceedings.²⁰

(1) Juror Disqualifications, Excusals, and Postponements.²¹

Each chief judge of a judicial circuit may authorize the remote conduct of a proceeding in which disqualifications or excusals pursuant to section 40.013, Florida Statutes, or postponements pursuant to section 40.23, Florida Statutes, may be considered for persons who are summoned as a pool for possible juror service as described in section 40.011(5)(b), Florida Statutes.

19. Measures relating to appellate court proceedings initially went into effect in Fla. Admin. Order No. AOSC20-13 on March 13, 2020, and were subsequently also addressed in Fla. Admin. Order No. AOSC20-17, Fla. Admin. Order No. AOSC20-23, and Fla. Admin. Order No. AOSC20-109.

20. Measures relating to trial court proceedings initially went into effect in Fla. Admin. Order No. AOSC20-13 on March 13, 2020, and were subsequently also addressed in Fla. Admin. Order No. AOSC20-15, Fla. Admin. Order No. AOSC20-16, Fla. Admin. Order No. AOSC20-17, Fla. Admin. Order No. AOSC20-18, Fla. Admin. Order No. AOSC20-19, and Fla. Admin. Order No. AOSC20-23.

21. This measure initially went into effect in Fla. Admin. Order No. AOSC20-23, Amendment 8, on November 23, 2020.



(2) Jury and Other Proceedings. Non-statewide grand jury selection and proceedings, civil jury selection proceedings and trial proceedings, and criminal jury selection proceedings and trial proceedings must be conducted in person, unless a remote civil or criminal jury selection proceeding or trial proceeding is authorized under Section II.E.(3).

(3) Remote Civil and Criminal Jury Selection Proceedings and Trial Proceedings.²²

a. A judicial circuit may remotely conduct:

i. Civil jury selection proceedings or trial proceedings if all parties consent to participating in the remote proceeding.

ii. Criminal jury selection proceedings or trial proceedings if:

1. The defendant provides consent in writing and orally on the record establishing that the defendant has

22. The measure authorizing remote civil jury proceedings initially went into effect in Fla. Admin. Order No. AOSC20-23, Amendment 3, on June 8, 2020, and the measure authorizing remote criminal jury proceedings initially went into effect in Fla. Admin. Order No. AOSC20-23, Amendment 9, on February 17, 2021.



knowingly, voluntarily, and intelligently agreed to the remote conduct of the proceeding;

2. Counsel for the defendant, if the defendant is represented, indicates 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
3. The prosecutor indicates 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.

b. A court proceeding to obtain the statements required to be provided orally on the record pursuant to Section II.E.(3)a.ii. may be remotely conducted.



c. The cases selected for a remote jury proceeding must be based upon the case being conducive to a remote proceeding and conducted pursuant to the requirements specified in the report titled *Requirements and Evaluation Criteria – Remote Civil and Criminal Jury Trials* and other applicable standards and guidance as may be adopted by the Chief Justice or supreme court.

d. Within 30 days after the remote conduct of a jury selection proceeding or trial proceeding for the first time in a judicial circuit, the circuit must present the results of the proceeding and report its findings and recommendations to the Chief Justice through the state courts administrator.

(4) Other Trial Court Proceedings.²³ Trial court proceedings that are not addressed under Section II.E.(1), (2), or (3) may be conducted as follows:

a. Non-jury trials in:

i. Criminal cases may be conducted remotely if the requirements for certain statements specified in Section

23. Similar measures initially went into effect in Fla. Admin. Order No. AOSC20-23, Amendment 1, on May 4, 2020.



II.E.(3)a.ii. are satisfied or, if not, must be conducted in person.

- 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.

b. Hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act may be conducted remotely if ordered by the chief judge or presiding judge or, if not, must be conducted in person.

c. All other trial court proceedings:

- i. Must be conducted remotely if requested by a party unless the chief judge or presiding judge determines that the interests of justice require the proceeding to be conducted in person.
- ii. Should be conducted remotely, as appropriate, to facilitate the efficient and expeditious processing of cases, 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.

(5) In-Person Trial Court Proceedings.²⁴ It is the responsibility of the chief judge to ensure that trial court proceedings that must be in person pursuant Section II.E.(2) or (4) are conducted to the fullest extent feasible consistent with Section I. Chief judges shall have the discretion to determine how best to utilize available trial court resources and facility space to conduct in-person proceedings, but before making such determination should consider the following priorities listed from highest to lowest:

- a. Essential proceedings as previously identified in Section III.D.(1) of Fla. Admin. Order No. AOSC20-23, Amendment 13.
- 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.

24. Similar measures initially went into effect in Fla. Admin. Order No. AOSC20-23, Amendment 8, on November 23, 2020.



- 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.

(6) Case Resolution.²⁵ To maximize the resolution of all cases, chief judges:

a. Must direct all judges within their circuits to strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), (b), and (e), which respectively require judges to conclude litigation as soon as it is reasonably and justly possible to do so, to take charge of all cases at an early stage and to control the progress of the case thereafter until it is determined, and to apply a firm continuance policy allowing continuances only for good cause shown.

b. Are encouraged, where consistent with public health and safety, to:

25. *Id.*



- i. Use non-traditional facilities or underutilized courthouse space to increase the court's capacity for in-person proceedings.
- ii. Reassign judges and court staff to proceedings having the highest priority.
- iii. Implement scheduling practices that promote the conduct of as many jury trials as feasible. Consistent with Section II.E.(5), the scheduling of trials in criminal cases should be prioritized to facilitate the prompt resolution of these cases.
- iv. Communicate to the local Bar that lawyers must strictly comply with Florida Rule of General Practice and Judicial Administration 2.545(a), 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.



(7) Civil Case Management.²⁶ To maximize the resolution of civil cases, chief judges were required to have issued an administrative order applicable to each county within the judicial circuit, except as provided in Section II.E.(7)b., that took effect on April 30, 2021, to require the presiding judge for each civil case²⁷ to actively manage civil cases in the manner specified below.

26. These measures initially went into effect in Fla. Admin. Order No. AOSC20-23, Amendment 10, on March 9, 2021.

27. As used in Section II.E.(7), the term "civil case" means actions to which the Florida Rules of Civil Procedure apply, as identified in Florida Rule of Civil Procedure 1.010, and actions in which the court has ordered that the action proceed under one or more of the Florida Rules of Civil Procedure pursuant to Florida Small Claims Rule 7.020(c) if the deadline for the trial date specified in Florida Small Claims Rule 7.090(d) no longer applies in the action, but does not include actions subject to section 51.011, Florida Statutes, post-judgment proceedings, and writs to which Florida Rule of Civil Procedure 1.630 applies. See Florida Rule of Civil Procedure 1.010 (stating that the Florida Rules of Civil Procedure "apply to all actions of a civil nature and all special statutory proceedings in the circuit courts and county courts except those to which the Florida Probate Rules, the Florida Family Law Rules of Procedure, or the Small Claims Rules apply."); Florida Small Claims Rule 7.020(c) (stating that "In any particular action, the court may order that action to proceed under 1 or more additional Florida Rules of Civil Procedure on application of any party or the stipulation of all parties or on the court's own motion."); Florida Small Claims Rule 7.090(d) (providing that the trial in a small claims action must be set not more than 60 days from the date of the pretrial conference except as otherwise specified); Florida Rule of Civil Procedure 1.630 (addressing actions



- a. The administrative order must have:
 - i. Required review of each civil case to determine whether it is complex, streamlined, or general.
 - 1. Complex civil cases are actions that have been or may be designated by court order as complex under Florida Rule of Civil Procedure 1.201. Upon such designation, the action must proceed as provided in the rule.
 - 2. Streamlined civil cases must be identified based on criteria determined by the chief judge and specified in the administrative order. Criteria that the chief judge may wish to consider for the identification of streamlined cases include whether the case involves:
 - few parties; non-complex issues related to liability and damages; few anticipated pretrial motions; limited need for discovery; few witnesses; minimal

for the issuance of writs of mandamus, prohibition, quo warranto, and habeas corpus); and section 51.011, Florida Statutes (providing a summary procedure for the resolution of certain actions when specified by statute or rule).



documentary evidence; and an anticipated trial length of less than two days.

3. General civil cases are all other civil cases.

ii. Required the presiding judge to issue a case management order for each streamlined and general civil case that at a minimum specifies the deadlines for service of complaints, service under extensions, and adding new parties and the deadlines by which: fact and expert discovery must be completed; all objections to pleadings and pretrial motions must be resolved; and mediation must have occurred. The case management order must also specify the projected date of trial; indicate that the deadlines established in the order will be strictly enforced by the court; indicate that a firm trial date will be ordered by the presiding judge when the case is at issue pursuant to Florida Rule of Civil Procedure 1.440; and address any other matters required by the chief judge. If the streamlined or general civil case is:

1. Subject to dismissal for a lack of prosecution pursuant to Florida Rule of Civil Procedure 1.420(e), a case



management order is required only if the court determines that the action should remain pending and must be issued within 30 days after such determination.

2. Subject to a statutory stay or a moratorium preventing the prosecution of the case, the case management order must be issued in a case filed:

- On or after April 30, 2021, within 45 days after the stay or the moratorium ends or within 30 days after service of the complaint on the last of all named defendants, whichever date is later; or
- Before April 30, 2021, by December 3, 2021, within 45 days after the stay or the moratorium ends, or within 30 days after service of the complaint on the last of all named defendants, whichever date is later. The case management order must address each deadline identified under Section II.E.(7)a.ii. and the projected date for trial if such event has not yet occurred in the



case or has not yet been specified by other court order.

3. Not subject to a statutory stay or a moratorium, the case management order must be issued in a case filed:

- On or after April 30, 2021, within 30 days after service of the complaint on the last of all named defendants; or
- Before April 30, 2021, the case management order must be issued by December 3, 2021. The case management order must address each deadline identified under Section II.E.(7)a.ii. and the projected date for trial if such event has not yet occurred in the case or has not yet been specified by other court order.

iii. Established maximum periods within which the deadlines required by Section II.E.(7)a.ii. and the projected date of trial must be set in the case management order. The maximum periods must be differentiated based on whether the civil case is streamlined or general and must be consistent with the



time standards specified in Florida Rule of General Practice and Judicial Administration 2.250(a)(1)(B) for the completion of civil cases.

b. If a judicial circuit or county within the judicial circuit was implementing a written civil case management protocol as of March 9, 2021, that required the entry of a case management order for each civil case that addressed each deadline identified under Section II.E.(7)a.ii. and the projected date for trial, the chief judge is authorized to continue to use the protocol in the judicial circuit or county instead of issuing the administrative order required by this section.

c. Each administrative order issued by the chief judge pursuant to this section and written civil case management protocol described in Section II.E.(7)b. was required to be submitted to the chair of the Workgroup on the Improved Resolution of Civil Cases, as established by *In Re: Workgroup on Improved Resolution of Civil Cases*, Fla. Admin. Order No. AOSC19-73 (Oct. 31, 2019), by May 7, 2021. If subsequently amended, the administrative order or protocol must be submitted to the chair of the workgroup within seven days after the amendment is issued.



(8) Speedy Trial in Criminal Court Proceedings.²⁸

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

- i. October 4, 2021, for persons who were taken into custody²⁹ 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. *See, e.g., Sullivan v. State*, 913 So. 2d 762 (Fla. 5th DCA 2005), and *State v. Hernandez*, 617 So. 2d 1103 (Fla. 3rd DCA 1993).
- ii. January 3, 2022, for persons who were taken into custody on or after March 14, 2020.

28. This measure initially went into effect in Fla. Admin. Order No. AOSC20-13 at the close of business on March 13, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC20-17 and in Fla. Admin. Order No. AOSC20-23.

29. As used in Section II.E.(8)a., the term “taken into custody” has the same meaning as provided in Florida Rule of Criminal Procedure 3.191(d).



b. When the time periods involving the speedy trial procedure resume under Section II.E.(8)a.:

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

(9) Speedy Trial in Juvenile Court Proceedings.³⁰ 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

30. This measure initially went into effect in Fla. Admin. Order No. AOSC20-13 at the close of business on March 13, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC 20-17 and in Fla. Admin. Order No. AOSC20-23.



before the suspension began at the close of business on March 13, 2020, must be subtracted from the time periods provided by the procedure. *See, e.g., Sullivan v. State*, 913 So. 2d 762 (Fla. 5th DCA 2005), and *State v. Hernandez*, 617 So. 2d 1103 (Fla. 3rd DCA 1993).

(10) Incompetence to Proceed.³¹ Where exigencies make it impossible to meet the 20-day time period in Florida Rule of Criminal Procedure 3.210(b), chief judges of the circuit courts remain authorized to direct judges to hold competency hearings as soon as feasible after the date of filing a motion to determine competency. Chief judges also remain authorized to allow experts and attorneys to conduct and attend competency evaluations by remote means, if feasible.

(11) Defendants Arrested on Warrant or Capias from Another Florida Jurisdiction.³² To mitigate the health risks associated with the incarceration and transportation of defendants during the

31. This measure initially went into effect in Fla. Admin. Order No. AOSC20-17 on March 24, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC20-23.

32. These measures initially took effect in Fla. Admin. Order No. AOSC20-17 on March 24, 2020, and were subsequently also addressed in Fla. Admin. Order No. AOSC20-23.



pandemic, when a defendant is arrested on a warrant or capias from another Florida jurisdiction, chief judges of the circuit courts remain encouraged to facilitate communication between the circuit or county where the case originated ("home court") and the circuit or county where the defendant is incarcerated ("holding court"), for the handling of matters on a temporary basis, as follows:

a. Pretrial Release and First Appearance Hearings. Chief judges remain authorized to direct judges conducting pretrial release and first appearance hearings to address detention and monetary bond or other conditions of pretrial release in the county of arrest, regardless of whether the case is transferred, rather than requiring transport of the defendant to the county where any warrant or capias originated.

For capiases and violation of probation warrants, before setting monetary bond or other conditions of pretrial release, the first appearance judge, in order to make a proper decision regarding monetary bond or other conditions of pretrial release, must rely on relevant information from the following individuals in the county that issued the capias or warrant: the issuing judge, defense counsel if any, and the state attorney.



Action taken by the holding court at first appearance and any pretrial release hearing should be promptly reported to the home court and reflected in the record of the case.

Any provision of Florida Rule of Criminal Procedure 3.131 inconsistent with these measures remains suspended.

b. Pleas. Judges remain encouraged to coordinate with prosecutors, attorneys, defendants, and victims in order to utilize section 910.035, Florida Statutes, which allows for pleas of guilty or nolo contendere for persons arrested in counties outside of the county of prosecution, upon the consent of the defendant and the state attorney in the county where the crime was committed.

c. Rights of Parties. In cases that are not handled by a plea or pretrial release such that the defendant will continue to be detained in the jurisdiction of the holding court for an indefinite period of time, chief judges are directed to ensure that the due process rights of the defendant are protected by facilitating the temporary transfer of the case to the holding court, if necessary; by having a judge from the holding court designated by the Chief Justice, or designated by the chief judge if the home and holding court are within the same circuit, as a judge of the home court to handle



emergency or other necessary matters in the case; or by other appropriate means.

d. Victims. The constitutional rights of crime victims must also be considered in all cases by the presiding judge.

(12) Speedy Trial in Noncriminal Traffic Infraction Court Proceedings.³³ 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.

(13) Family Law Forms.³⁴ Except as indicated below, the requirement that Florida Family Law Forms be notarized or signed

33. This measure initially went into effect in Fla. Admin. Order No. AOSC20-19 at the close of business on March 13, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC20-23.

34. This measure initially took effect in Fla. Admin. Order No. AOSC 20-17 on March 24, 2020, and was subsequently also addressed in Fla. Admin. Order No. AOSC20-23.



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.

(14) 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

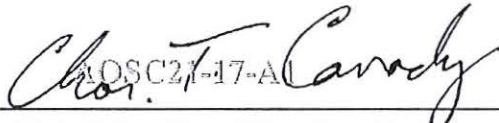


consider such objection and responses thereto before entering an order on visitation. This section applies to parent-child visitation, sibling visitation, and visitation between children and other family members and non-relatives.

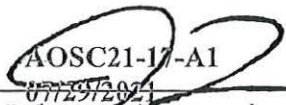
* * *

Additional orders extending or modifying these measures will be issued as warranted to mitigate the effects of the public health emergency on the judicial branch and its participants.

DONE AND ORDERED at Tallahassee, Florida, on July 29, 2021.


AOSC21-17-A1
Chief Justice Charles T. Canady
AOSC21-17-A1 07/29/2021

ATTEST:


AOSC21-17-A1
07/29/2021
John A. Tomasino, Clerk of Court
AOSC21-17-A1 07/29/2021

