

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

**IN RE: MITIGATING MEASURES IN
 RESPONSE TO COVID-19 &
 OPERATIONAL PLAN FOR
 RESUMPTION OF COURT
 PROCEEDINGS AND SERVICES**

**ADMINISTRATIVE
ORDER
NO. 2.39
- Second Amended -**

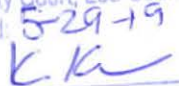
WHEREAS, in response to the outbreak of the Coronavirus Disease 2019 (COVID-19), the Governor of the State of Florida issued Executive Order No. 20-52 on March 9, 2020, declaring a state of emergency, and, subsequently, on April 1, 2020, the Governor of the State of Florida entered his "Safer at Home" Executive Order Number 20-91; and

WHEREAS, in AOSC20-12 (issued March 11, 2020) and AOSC20-13 (issued March 16, 2020), the Florida Supreme Court expressed that preparing for the impact of COVID-19 on court operations is a high priority for the Florida State Court System, and directed that all chief judges of the circuit courts take such mitigating measures as may be necessary to address the effects of the COVID-19 outbreak on their respective courts, while keeping the courts open to the fullest extent consistent with public safety; and

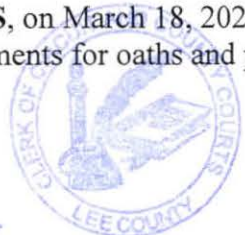
WHEREAS, in AOSC20-13, the Florida Supreme Court temporarily suspended grand jury proceedings, jury selection proceedings, and criminal and civil jury trials, and temporarily suspended all time periods involving the speedy trial procedure, in criminal and juvenile court proceedings; and

WHEREAS, in AOSC20-13, the Florida Supreme Court temporarily suspended all rules of procedure, court orders, and opinions applicable to court proceedings that limit or prohibit the use of communication equipment for the conducting of proceedings by remote electronic means; and

WHEREAS, on March 17, 2020, the Florida Supreme Court issued AOSC20-15, which: (1) required that all circuit and county courts continue to perform specifically designated essential court proceedings and proceedings critical to the state of emergency or the public health emergency, and permitted the chief judge to determine that additional proceedings are essential or critical to the state of emergency or the public health emergency; (2) required circuits to employ all methods practicable to minimize the risk of COVID-19 exposure to individuals involved in essential court proceedings and proceedings critical to the state of emergency or the public health emergency, or the general public; and (3) directed that all non-essential and non-critical court proceedings and events be rescheduled, postponed, or cancelled unless the chief judge determines that such other specific proceedings or events can be effectively conducted remotely using telephonic or other electronic means available without the necessity of in-person court appearances; and

I certify this document is a true and correct copy of the original as recorded and filed in my office.
Linda Doggett, Clerk Circuit/
County Court, Lee County, FL.
Dated: 5-29-19
By: 
Deputy Clerk

WHEREAS, on March 18, 2020, the Florida Supreme Court issued AOSC20-16, which relaxed the requirements for oaths and permitted parties and witnesses to be sworn in remotely; and



FILED

MAY 29 2020

**Linda Doggett, Clerk Circuit
Court Lee County, Florida**

WHEREAS, on March 18, 2020, in response to the prior Florida Supreme Court Administrative Orders, I, as Chief Judge, issued local Administrative Order 2.39, *In re: Mitigating Measures in Response to COVID-19*, to establish essential and critical court proceedings and the manner in which to handle them, preferably remotely, but, if not possible, in person with precautions taken. Also, in accordance with the prior Florida Supreme Court Administrative Orders, local Administrative Order 2.39 directed that all non-essential and non-critical court proceedings be suspended, *unless* the matter could effectively be conducted remotely using communication equipment and *with the approval of the Chief Judge*; and

WHEREAS, on March 24, 2020 the Florida Supreme Court issued AOSC20-17, which was intended to combine and extend the temporary measures implemented in the previous Administrative Orders involving COVID-19, specifically AOSC20-13, AOSC20-15, and AOSC20-16. In AOSC-17, the Florida Supreme Court included a section entitled “MAINTAINING WORKFLOW AS FEASIBLE,” which stated that “[t]o maintain judicial workflow to the maximum extent feasible, chief judges are directed to take all possible steps to facilitate conducting proceedings with the use of technology,” and further stating that “[t]hese emergency measures are necessary to ensure public health and safety during this unprecedented pandemic; however, the constitutional right of access to the courts by the public must be considered by the presiding judge in all cases.” (emphasis added); and

WHEREAS, subsequent to issuing local AO 2.39, and being mindful of the subsequently issued Florida Supreme Court Administrative Orders, I, as Chief Judge, issued memorandums dated March 20, 2020 (*Re: COVID-19 – Essential Court Proceedings – Jail Management*), March 27, 2020 (*Re: COVID-19 – Courts Remain Open with Limitations to Mitigate effects of COVID-19*), April 16, 2020 (*Re: COVID-19 – Courts Remain Open with Limitations to Mitigate effects of COVID-19 – AMENDED*), and April 24, 2020 (*Re: COVID-19 – Courts Remain Open with Limitation to Mitigate effects of COVID-19 – SECOND AMENDED*), for the purpose of clarifying and modifying the prior list of essential or critical court proceedings, as well as non-essential and non-critical proceedings, with updated instructions as to how those proceedings should be handled; and

WHEREAS, subsequent to issuing AOSC20-17, the Florida Supreme Court issued several more Administrative Orders related to COVID-19, which culminated in the issuance on April 6, 2020, of AOSC20-23, *In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*; and

WHEREAS, on April 29, 2020, the Governor of the State of Florida issued Executive Order 20-112, initiating Phase 1 of the “Safe. Smart. Step-by-Step. Plan for Florida’s Recovery,” which lifted many restrictions on individual activities and businesses previously imposed (except for in Miami-Dade, Broward, and Palm Beach counties), with limitations and precautions to be taken, while still strongly encouraging senior citizens and individuals with a significant underlying medical condition to stay at home; and

WHEREAS, on May 4, 2020, the Florida Supreme Court issued an amended version of AOSC20-23, *In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*, which revised portions of the original AOSC20-23; and



WHEREAS, on May 8, 2020, in response to the Florida Supreme Court's amended version of AOSC20-23, I, as Chief Judge, issued an amended version of local Administrative Order 2.39, *In re: Mitigating Measures in Response to COVID-19*, so as to comport with the amendments made by the Florida Supreme Court; and

WHEREAS, and on May 14, 2020, the Governor of the State of Florida issued Executive Order 20-123, bringing all Florida counties into Full Phase 1 recovery.

WHEREAS, on May 21, 2020, the Florida Supreme Court issued a second amended version of AOSC20-23, *In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*, with the intent to extend, refine, and strengthen previously enacted temporary remedial measures; and

WHEREAS, on May 21, 2020, the Florida Supreme Court issued AOSC20-32, *In re: COVID-19 Public Health and Safety Precautions for Phase 2*, establishing four (4) phases of the pandemic specifically related to the Florida State Court System, adopting findings and recommendations on the continuation of all court operations and proceedings statewide in a manner that protects health and safety, and, providing guidance for protective measures that will allow the progressive and safe return of judges, personnel, parties, counsel, jurors, and the public to court facilities; and

WHEREAS, in AOSC20-32, the Florida Supreme Court ordered that (1) Court reopening protocols and practices shall be guided by Centers for Disease Control and Prevention (CDC) recommendations and align with guidance provided by the Florida Department of Health, county health departments, and local medical professionals, and (2) In order to transition to Phase 2 and expand in-person activities in a manner consistent with AOSC20-23, Amendment 2, each appellate court and each trial court must: (a) have met the five benchmark criteria provided in Workgroup's report, *Requirements, Benchmarks, and Guidelines Governing the Transition to Limited In-Person Contact (Phase 2)*, (b) have developed an operational plan addressing, at a minimum, implementation of the requirements identified in the Workgroup's report, (c) have consulted with judges, court administrators, justice partners, county administrators, other building occupants, if any, and county health departments or local health experts in developing the operational plan, and (d) have filed the operational plan with the Office of the State Courts Administrator once finalized by the chief judge; and

WHEREAS, the Courts of the Twentieth Judicial Circuit have been and are currently in that which is essentially equivalent to the Florida Supreme Court's description of Phase I of resuming court proceedings and services, with the intent of proceeding to Phase II on or after June 1, 2020, and

WHEREAS, in accordance with the Florida Supreme Court's AOSC20-32, and for the benefit of the citizens of the Twentieth Judicial Circuit, and for the purpose of ensuring due process and access to the courts to the greatest extent possible while still ensuring safety from the threat of COVID-19, an operational plan has been established herein setting forth the benchmarks and phases for the resumption of court proceedings and services to Phase II;

NOW, THEREFORE, in accordance with the authority vested in the Chief Judge pursuant to Fla. R. Jud. Admin. 2.215, and pursuant to the Florida Supreme Court's Administrative Order AOSC20-32, I, as Chief Judge of the Twentieth Judicial Circuit hereby



adopt the below Operational Plan formally establishing Phase I and Phase II of operation and resumption of court proceedings and services, with the intent that court operations and proceedings shall proceed to Phase II, upon having met all Phase II benchmarks as required by the Florida Supreme Court, effective on or after June 1, 2020.

COURTS OF THE TWENTIETH JUDICIAL CIRCUIT
OPERATIONAL PLAN
FOR RESUMPTION OF COURT PROCEEDINGS AND SERVICES:
PHASE I & PHASE II

I. **PHASE I** – The Courts of the Twentieth Judicial Circuit have been and are currently in that which is essentially Phase I, where in-person contact is inadvisable, access to court facilities is extremely limited, and in-person proceedings are limited to essential or critical court proceedings that cannot otherwise be conducted remotely.

A. **PHASE I - ESSENTIAL OR CRITICAL COURT PROCEEDINGS** – The following matters are deemed essential or critical court proceedings which the circuit and county courts are required to continue performing during Phase I:

1. First appearance hearings;
2. Criminal arraignments, as necessary;
3. Hearings on motions to set or modify monetary bail for individuals who are in custody;
4. Juvenile dependency shelter and arraignment hearings, including shelter reviews;
5. Juvenile delinquency detention and arraignment hearings, as necessary;
6. Hearings on petitions for temporary injunctions relating to safety of an individual;
7. Hearings on petitions for risk protection orders;
8. Hearings on petitions for the appointment of an emergency temporary guardian;
9. Hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act;
10. Hearings on petitions for extraordinary writs as necessary to protect constitutional rights;
11. Hearings on petitions for judicial waiver of notice pursuant to section 390.01114(4), Florida Statutes; and
12. Hearings related to the state of emergency or the public health emergency, including but not limited to proceedings related to violation of quarantine or isolation, violation of orders to limit travel, violation of orders to close public or private buildings, and enforcement of curfew orders.
13. For Jail Management Purposes:
 - In-custody change of plea hearings that may result in a release from incarceration.
 - In-custody hearings on motions to modify a sentence that may result in a release from incarceration.
 - In-custody VOP Advisement hearings that may result in a plea and release from incarceration.



B. PHASE I - HANDLING OF ESSENTIAL OR CRITICAL COURT PROCEEDINGS

1. Essential or critical court proceedings shall be handled by the divisional judge, magistrate, hearing officer, or duty judge who would normally hear the matter.
2. When possible, essential court proceedings shall be held remotely using communication equipment.
3. However, these essential or critical court proceedings do allow for in-person court appearances as long as all available methods of "*social distancing*" are being taken to minimize the risk of COVID-19 exposure to individuals involved in the proceedings or the general public.
4. For essential court proceedings involving in-custody defendants, the in-custody defendants shall appear remotely utilizing communication equipment. No inmate housed in any jail facility is to be transported to any courthouse or court facility absent a written order from the Chief Judge.
5. Baker Act and Marchman Act proceedings may be conducted remotely utilizing communication equipment, as long as the judicial or quasi-judicial officer finds that holding the hearing remotely would not cause a violation of a party's right to due process.
6. For in-person hearings, the only persons allowed in the courtrooms are attorneys, parties, witnesses, court personnel (including deputy clerks and bailiffs) and the media, subject to the approval of the presiding judge and subject to all available "*social distancing*" methods.
7. In addition, at this time, the only persons (other than employees) allowed entry into the courthouse itself or court facility, for in-person hearings or otherwise, are attorneys, parties, witnesses, court reporters, court interpreters, the media, and persons with official court business. No one shall be permitted to accompany persons who are otherwise allowed in the courthouse, and there shall be no loitering. At a minimum, and in accordance with CDC guidelines, all persons entering any public area of the courthouse or court facility, without exception, shall wear a face mask or appropriate face covering and all efforts shall be made to ensure six-feet of social distancing between all persons (with the exception of persons with children or within a single family unit). Any person, regardless of status, who is exhibiting symptoms consistent with COVID-19, or any person who has traveled or has knowingly been in contact with another person who is suffering from the effects of the COVID-19 virus, is prohibited from entering any court facility. Court Bailiffs and local Sheriff Deputies are hereby granted the authority to conduct health screens, conduct no-contact temperature checks, and enforce all social distancing guidelines and to eject persons from courtrooms, courthouses, or court facilities in accordance with this Administrative Order. (The requirements and procedures for screening, social distancing, and face masks/coverings under Phase II shall apply equally to Phase I.)



C. **PHASE I - NON-ESSENTIAL OR NON-CRITICAL COURT**

PROCEEDINGS – The following non-essential or non-critical court proceedings are deemed amendable to being conducted remotely during Phase I:

1. Alternative dispute resolution proceedings;
2. Status, case management, and pretrial conferences in all case types;
3. Non-evidentiary and evidentiary motion hearings in all case types;
4. Arraignments and pleas in absentia in county court misdemeanor cases;
5. Hearings in juvenile delinquency cases;
6. Hearings in noncriminal traffic infraction cases;
7. Hearings in involuntary commitment of sexually violent predator cases;
8. Problem-solving court staffings, hearings, and wellness checks; and
9. Non-jury trials in all case types, except for:
 - Criminal cases unless the parties in such case agree to the remote conduct of a non-jury trial; or
 - Termination of parental rights or juvenile delinquency cases, unless the chief judge or the presiding judge in the case determines that the non-jury trial should proceed remotely.

D. **PHASE I - HANDLING OF NON-ESSENTIAL OR NON-CRITICAL PROCEEDINGS**

1. Non-essential or non-critical court proceedings shall be handled by the divisional judge, magistrate, hearing officer, or duty judge who would normally hear the matter.
2. All of the above-listed non-essential or non-critical court proceedings *shall* proceed and shall be held to the fullest extent possible.
3. In accordance with the directive of the Florida Supreme Court, each of the above-listed non-essential or non-critical proceedings *shall* be conducted using telephonic or other electronic means available, unless a judge determines that remote conduct of the proceeding 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 would be infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceedings or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.
4. The above-listed non-essential or non-critical proceedings *shall not* be conducted through in-person hearings.

- E. **PHASE I – JURIES** – In accordance with the directives of the Florida Supreme Court, all grand jury proceedings, jury selection proceedings, and criminal and civil jury trials are to remain suspended through July 2, 2020, or through such other date established by further order of the Florida Supreme Court.



II. **PHASE II** – Upon meeting the five benchmarks established in AOSC20-32, the courts of the Twentieth Judicial Circuit shall transition to Phase II, where limited in-person contact is authorized for certain purposes and/or requires use of protective measures. To the extent possible, the courts of the Twentieth Judicial Circuit will continue to use technology, such as teleconferencing and videoconferencing, and will continue to explore additional technology to facilitate the remote conduct of proceedings as an alternative to in-person proceedings so as to limit and minimize person-to-person contact.

A. **PHASE II – TRANSITIONING CRITERIA – FIVE BENCHMARKS** –

In accordance with the five benchmarks established by the Florida Supreme Court in AOSC20-32, which is consistent with the criteria utilized by the White House (Opening Up America Again plan), Governor DeSantis (Re-Open Florida), the CDC, and the U.S. Courts, the following criteria shall be met prior to the Courts of the Twentieth Judicial Circuit transitioning to Phase II.

1. No confirmed or suspected cases of COVID-19 in the court facility within a 14-day period; or confirmed or suspected cases have occurred in the court facility but deep cleaning of exposed areas and applicable employee self-quarantine actions have been taken.
 - Lee County – there have been no confirmed or suspected cases of COVID-19 in the court facility within the past 14 days, or in response to any confirmed or suspected cases, deep cleaning of exposed areas and applicable employee self-quarantine actions have been taken – CRITERIA MET.
 - Collier County – there have been no confirmed or suspected cases of COVID-19 in the court facility within the past 14 days, or in response to any confirmed or suspected cases, deep cleaning of exposed areas and applicable employee self-quarantine actions have been taken – CRITERIA MET.
 - Charlotte County – there have been no confirmed or suspected cases of COVID-19 in the court facility within the past 14 days, or in response to any confirmed or suspected cases, deep cleaning of exposed areas and applicable employee self-quarantine actions have been taken – CRITERIA MET.
 - Hendry County – there were 2 confirmed or suspected cases of COVID-19 in a non-court entity within the Hendry County Courthouse, and deep cleaning of exposed areas is expected to take place on Friday, May 29th or Saturday, May 30th. If this action is completed as required, this criteria will be deemed met. If not, Hendry County courts are not permitted to proceed to Phase II until this criteria is confirmed to have been met – CRITERIA CONDITIONALLY MET.
 - Glades County – there have been no confirmed or suspected cases of COVID-19 in the court facility within the past 14 days, or in response to any confirmed or suspected cases, deep cleaning of exposed areas and applicable employee self-quarantine actions have been taken – CRITERIA MET.



2. Rescission of local and state restrictive movement and/or stay-at-home orders.

- Lee County – on April 29, 2020, the Governor of the State of Florida issued Executive Order 20-112, initiating Phase 1 of the “Safe. Smart. Step-by-Step. Plan” for Florida’s Recovery, and on May 14, 2020, the Governor of the State of Florida issued Executive Order 20-123, bringing all Florida counties into Full Phase 1. There are currently no state or local orders that would restrict movement and there are currently no stay-at-home orders in place – CRITERIA MET.
- Collier County – on April 29, 2020, the Governor of the State of Florida issued Executive Order 20-112, initiating Phase 1 of the “Safe. Smart. Step-by-Step. Plan” for Florida’s Recovery, and on May 14, 2020, the Governor of the State of Florida issued Executive Order 20-123, bringing all Florida counties into Full Phase 1. There are currently no state or local orders that would restrict movement and there are currently no stay-at-home orders in place – CRITERIA MET.
- Charlotte County – on April 29, 2020, the Governor of the State of Florida issued Executive Order 20-112, initiating Phase 1 of the “Safe. Smart. Step-by-Step. Plan” for Florida’s Recovery, and on May 14, 2020, the Governor of the State of Florida issued Executive Order 20-123, bringing all Florida counties into Full Phase 1. There are currently no state or local orders that would restrict movement and there are currently no stay-at-home orders in place – CRITERIA MET.
- Hendry County – on April 29, 2020, the Governor of the State of Florida issued Executive Order 20-112, initiating Phase 1 of the “Safe. Smart. Step-by-Step. Plan” for Florida’s Recovery, and on May 14, 2020, the Governor of the State of Florida issued Executive Order 20-123, bringing all Florida counties into Full Phase 1. There are currently no state or local orders that would restrict movement and there are currently no stay-at-home orders in place – CRITERIA MET.
- Glades County – on April 29, 2020, the Governor of the State of Florida issued Executive Order 20-112, initiating Phase 1 of the “Safe. Smart. Step-by-Step. Plan” for Florida’s Recovery, and on May 14, 2020, the Governor of the State of Florida issued Executive Order 20-123, bringing all Florida counties into Full Phase 1. There are currently no state or local orders that would restrict movement and there are currently no stay-at-home orders in place – CRITERIA MET.

3. Improving COVID-19 health conditions over a 14-day period in the community, including conditions such as the number of confirmed COVID-19 cases and related deaths in relation to a community’s population density, downward trajectory of positive tests as a percent of total tests, size of particularly vulnerable populations, and availability of medical facilities including emergency and intensive care capacity.



- Lee County – Having tracked available COVID-19 data from the Florida Department of Health dashboard, the Daily Florida Disaster Report, and the daily DOH reports for Lee County over a 15-day period from May 13, 2020 through May 27, 2020, there appears to be an overall downward trajectory of new cases and positive cases as a percent of total tests administered in Lee County, hence reflecting improved COVID-19 health conditions – CRITERIA MET.
 - Collier County – Having tracked available COVID-19 data from the Florida Department of Health dashboard, the Daily Florida Disaster Report, and the daily DOH reports for Collier County over a 15-day period from May 13, 2020 through May 27, 2020, there appears to be an overall downward trajectory of new cases and positive cases as a percent of total tests administered in Collier County, hence reflecting improved COVID-19 health conditions – CRITERIA MET.
 - Charlotte County – Having tracked available COVID-19 data from the Florida Department of Health dashboard, the Daily Florida Disaster Report, and the daily DOH reports for Charlotte County over a 15-day period from May 13, 2020 through May 27, 2020, there appears to be an overall downward trajectory of new cases and positive cases as a percent of total tests administered in Charlotte County, hence reflecting improved COVID-19 health conditions – CRITERIA MET.
 - Hendry County – Having tracked available COVID-19 data from the Florida Department of Health dashboard, the Daily Florida Disaster Report, and the daily DOH reports for Hendry County over a 15-day period from May 13, 2020 through May 27, 2020, there appears to be an overall downward trajectory of new cases and positive cases as a percent of total tests administered in Hendry County, hence reflecting improved COVID-19 health conditions – CRITERIA MET.
 - Glades County – Having tracked available COVID-19 data from the Florida Department of Health dashboard, the Daily Florida Disaster Report, and the daily DOH reports for Glades County over a 15-day period from May 13, 2020 through May 27, 2020, there appears to be an overall downward trajectory of new cases and positive cases as a percent of total tests administered in Glades County, hence reflecting improved COVID-19 health conditions – CRITERIA MET.
4. Adequate testing programs in place, increased availability of COVID-19 tests, and emerging antibody testing.
- Lee County – Current Testing Sites – CRITERIA MET.
 - CenturyLink Sports Complex in Fort Myers (State supported testing site)
 - Lee Convenient Care - Page Field in Fort Myers
 - Walmart on Lee Blvd. in Lehigh Acres
 - Lee County Department of Health on Michigan Avenue in Fort



- Myers
 - Walmart parking lot located on Pine Island Road in North Fort Myers
 - Walmart parking lot located on Colonial Boulevard in Fort Myers
 - Collier County – Current Testing Sites – CRITERIA MET.
 - Physicians Regional - Collier Boulevard in Naples
 - EPN Urgent Care in Naples
 - Telford Auditorium in downtown Naples
 - Charlotte County – Current Testing Sites – CRITERIA MET.
 - Charlotte Sports Park in Port Charlotte
 - MedExpress in Port Charlotte
 - Hendry and Glades Counties – Current Testing Sites – CRITERIA MET.
 - Hendry County Health Department in Clewiston
 - Hendry County Health Department in LaBelle
 - Glades County Health Department in Moore Haven
 - Forbes Family Medicine in Clewiston
 - Hendry Convenient Care in LaBelle
 - Florida Community Health Centers in Clewiston
 - Hendry Regional Medical Center in Clewiston
5. Consultation with other building occupants and with justice system partners (including, but not limited to, clerk of court, state attorney, public defender, law enforcement, local bar, and others necessary to resume certain case types, such as the Department of Children and Families).
- Since mid-March, the Chief Judge of the Twentieth Judicial Circuit has held weekly telephone conferences every Friday at noon to provide information and to discuss pandemic related issues and solutions, most recently including the transition from Phase I to Phase II. Participants include, representatives from all five counties, including Administrative Judges, court managers, the State Attorney, the Public Defender, the Regional Counsel, Clerks, County staff/administrators, County Sheriffs, Department of Children and Families, Department of Corrections, and representatives of the private bar. A subcommittee was created to make recommendations to the Chief Judge, and the subcommittee included the State Attorney, the Public Defender, the Regional Counsel, representatives of the private bar, the Clerks, and the Trial Court Administrator. Prior to the weekly telephone conference held on Friday, May 22, 2020, participants were provided with a copy of AOSC20-32, and the telephone conference included discussions of preparations for proceeding to Phase II, and questions and input were invited. Recommendations by the subcommittee have been made throughout this process and, most recently, have been made as to which limited in-person hearings should be prioritized once the Courts transition to Phase II – CRITERIA MET.



B. **PHASE II – OPERATIONAL PLAN** – In developing this operational plan, the following county health departments and/or local health experts have been consulted as to the content of this Operational Plan and have indicated no objections:

- Lee County – Angela M. Smith, BS, MHA, Administrator of the Florida Department of Health in Lee County (DOH-Lee).
- Collier County – Kristine Hollingsworth, Assistant to the Administrator, on behalf of Stephanie Vick, M.S., B.S.N., R.N. Administrator of the Florida Department of Health in Collier County (DOH-Collier).
- Charlotte County – Dr. Joseph Pepe, Ed. D., MSA, Administrator of the Florida Department of Health in Charlotte County (DOH-Charlotte).
- Hendry County - Dr. Joseph Pepe, Ed. D., MSA, Administrator of the Florida Department of Health in Hendry County (DOH-Hendry).
- Glades County Dr. Joseph Pepe, Ed. D., MSA, Administrator of the Florida Department of Health in Glades County (DOH-Glades).

1. **Remote Hearings** – To the extent possible, all essential/critical and non-essential/non-critical proceedings shall be conducted remotely via teleconferencing, videoconferencing, or other means, unless litigants or other court participants are unable to successfully participate in a remote hearing for reasons beyond the court’s control. Hybrid hearings (concurrently in-person and remotely) may be conducted, if appropriate. To the extent possible and for the purpose of promoting consistency, judges within the same division should make every effort to establish uniform procedures and forms necessary for conducting remote hearings.
2. **Remote Work** – The Administrative Office of the Courts of the Twentieth Judicial Circuit is unique in that it manages more programs and offers more comprehensive self-help programs than most other circuits. Resources to allow remote work are limited. Accordingly, the Trial Court Administrator will necessarily consider requests from employees to work-from-home on a limited and case-by-case basis, with particular consideration given to employees who are vulnerable based on health conditions or age. The Administrative Office of the Courts fully complies with the new federal Families First Coronavirus Response Act (FFCRA), the Emergency Paid Sick Leave Act (EPSLA), and the Emergency Family and Medical Leave Expansion Act (EFMLEA), and information has been provided to all employees of the Administrative Office of the Courts on these new leave types. Employees with questions are encouraged to contact Human Resources for further guidance.
3. **Health and Safety Screening**
 - a) The Administrative Office of the Courts of the Twentieth Judicial Circuit will take all reasonable precautions to ensure that no one enters the courthouses or court facilities of the Twentieth Judicial Circuit when there is a likelihood that they may have COVID-19.



- b) The CDC lists the most common symptoms of COVID-19 to include:
- Cough
 - Shortness of breath or difficulty breathing
 - Fever
 - Chills
 - Muscle pain
 - Sore throat
 - New loss of taste or smell.
- c) The CDC has defined “fever” as subjective fever (feeling feverish) or a measured temperature of 100.4 degrees F (38 degrees C) or higher.
- d) All judges, judicial staff, and employees who work within any courthouse or court facility, regardless of the agency or entity for which they work, shall self-check for symptoms of COVID-19. If any such person presents any of the symptoms of COVID-19, they must not report to work within any courthouse or court facility, and should contact their supervisor and should consult their doctor or other medical professional.
- e) All others entering any courthouse or court facility, without exception, are required to undergo a health screening with a no-contact temperature check. The screening shall be conducted by court security (either employees or contract court security representatives) or by deputies responsible for the normal screening of persons entering the courthouse or court facility. In addition to a no-contact temperature check, the screening shall include the following questions:
- Question 1: Do you have any of the following symptoms (excluding those due to a known medical reason):
 - Cough
 - Shortness of breath or difficulty breathing
 - Chills
 - Muscle pain
 - Sore throat
 - New loss of taste or smell
 - Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19?
 - Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?
 - Question 4: Have you had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19?
 - Question 5: Have you travelled to an area with a notably high concentration of COVID-19 cases?
- f) Any person who has a fever of 100.4 degrees F or greater, answers affirmatively to any of the symptoms in Question 1, or answers affirmatively to Questions 2, 3, 4 or 5 shall not be allowed to enter the courthouse or court facility. Likewise, any person who fails to



cooperate by refusing to allow a no contact temperature screening, refusing to answer any of the questions, or otherwise refusing to comply with any other requirements or guidelines (i.e. wearing a face mask or appropriate face covering), shall not be allowed to enter the courthouse or court facility. Such persons refused entry shall be re-directed to a designated employee of the Administrative Office of the Courts stationed at or near the entrance to the facility for the purpose of assisting the person in making alternative arrangements in lieu of entry into the facility. The designated employee assisting shall first complete a form identifying the person denied entry, the reason given for seeking entry into the facility, and, to safeguard against the release of sensitive health information, solely whether the person was denied entry (1) based on refusal to cooperate or otherwise comply with the guidelines, or (2) based on the screening/ temperature check. Further details as to the reason for denial of entry shall not be included on the form. The designated employee shall then offer to assist the person refused entry with alternative arrangements, such as providing phone numbers or contact information so that the person denied entry can handle their business over the phone or remotely, contacting the courtroom or judicial office to report that the person has been denied entry, rescheduling a hearing, or other means as may be appropriate.

- g) Inmates or detainees from jail and juvenile facilities who may be transported to a courtroom are to be screened as above by the jail or juvenile facility prior to transport to any courthouse or court facility. No inmate or detainee who fails to pass the screening questions or temperature check, or who refuses to cooperate or otherwise comply with the guidelines, shall be admitted into any courthouse or court facility, and the jail or juvenile facility shall notify the court.
- h) Court Bailiffs and local Sheriff Deputies are hereby granted the authority to screen and eject persons from courtrooms, courthouses, or court facilities in accordance with this Administrative Order.

4. **Social Distancing**

- a) Current CDC social distancing guidelines recommend staying at least six feet from other people.¹
- b) The Administrative Office of the Courts of the Twentieth Judicial Circuit will take all reasonable precautions and efforts to ensure that the CDC recommendation of maintaining six feet of social distance is enforced within all courthouses and court facilities.
- c) Social distancing requirements shall apply in all areas of courthouses and court facilities, including areas of private circulation. Specifically, social distancing shall be practiced in

¹ Social distancing guidelines shall not be strictly applied to persons of a single family unit or household.



public common areas, galleries and wells of the courtrooms, hallways, elevators, restrooms, or other locations where the public may gather.

- d) Where practicable and appropriate, areas of the courthouse or court facility will be reconfigured and chairs, benches or other furniture will be removed or taped off so as to facilitate and enforce social distancing. Likewise, in areas where people may be required to stand in lines, such as security screening areas or self-help offices maintained by the Administrative Office of the Courts, markings will be placed on the floor so as to designate the required six feet of social distancing.
- e) The galleries of all courtrooms in the Twentieth Judicial Circuit have been measured and the seating has been marked so as to ensure the required six feet of social distancing. In addition, a revised maximum capacity has been established and posted for all courtrooms and provides the maximum number of people allowed in the gallery of each courtroom at any one given time so as to allow for proper social distancing. This maximum capacity applies specifically to the gallery of each courtroom, and does not include judges, deputy clerks, bailiffs, court reporters or others within the well or bench area of the courtroom (i.e. attorneys and parties before the court at that time). The revised maximum capacities for the galleries of all courtrooms shall be strictly enforced. People scheduled to appear in person before the court may be asked to wait outside of the courtroom until their case is called. Social distancing while waiting outside of a courtroom shall also be strictly enforced.
- f) So as to further facilitate social distancing, persons allowed in the courtrooms will be limited to those essential to the proceedings. Family members and friends who are not essential to the proceedings will not be allowed into the courtrooms, and are encouraged to not enter the courthouse or court facility at all.
- g) All efforts shall be taken to schedule in-person hearings on a staggered schedule so as to minimize the potential of exceeding the social distancing capacity in common areas such as hallways, restrooms, and elevators.
- h) Court Bailiffs and local Sheriff Deputies are hereby granted the authority to enforce all social distancing guidelines and to eject persons from courtrooms, courthouses, or court facilities in accordance with this Administrative Order.

5. **Hygiene Protocols and Personal Protective Equipment (PPE)**

- a) Hygiene protocols such as hand washing and covering coughs and sneezes will be encouraged and enforced.
- b) Visible signage in, at a minimum, English and Spanish and in compliance with the ADA, will be readily posted through all courthouses and court facilities reminding individuals of hygiene protocols, including hand washing, as well as social distancing, directional guidance and any changes to processes due to the



pandemic.

- c) Hand sanitizer will be widely available for use throughout the courthouses and court facilities, including inside courtrooms.
- d) Face masks or appropriate face coverings are required for everyone entering the courthouse or court facilities, including judges, court staff, and employees of all other occupants of the courthouse or court facility, with no exceptions. Face masks or appropriate face coverings shall be worn at all times throughout the courthouse and court facilities, including inside courtrooms.
- e) Judges, court staff, and employees of all other occupants of the courthouse or court facility do not have to wear a mask in their private chambers or office as long as social distancing is possible. If they do not have a private office, and ample social distancing is not observed, a face mask or appropriate face covering shall be worn while at their desk.
- f) If visitors with official court business do not have a face mask or appropriate face covering, one will be provided to them at no cost, for as long as supplies last. The Administrative Office of the Courts will continue to diligently seek and procure an adequate supply of face masks, but there is much uncertainty as to the availability of all PPE. If the supply of masks has been exhausted and the visitor does not otherwise have a face mask or appropriate face covering, admittance will be denied. Admittance will likewise be denied to any person who refuses to wear a face mask or appropriate face covering.
- g) Face shields will be available for those participants involved in a court proceeding where facial expressions or features must be observed or where audio is hampered and jeopardizes the creation of an accurate court record.
- h) To the extent that health experts have noted that proper hand hygiene is generally preferable to gloves, the wearing of protective gloves is not required within the courthouses or court facilities, though it is encouraged for certain tasks requiring direct contact, such as bailiffs taking fingerprints of a defendant.
- i) CDC guidance on cleaning and disinfecting public spaces, workplaces, and other public locations shall be followed in all areas of the courthouses and court facilities publically accessible. This CDC guidance is available at:
<https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html>.
- j) Other agencies or entities within the courthouses or court facilities will be responsible for enforcing these hygiene protocols within their own areas of operation. The Administrative Office of the Courts will not provide signage, hand sanitizer, or face masks for other agencies or entities, or the employees or agents of those other agencies or entities.
- k) Contractors of the Administrative Office of the Courts will be responsible for providing their own face mask or appropriate face covering.



6. **Judge and Court Staff Training** – To the extent that training or other technical assistance to judges and court staff is necessary on changes required by the operational plan, such training or technical assistance will be provided by the Administrative Office of the Courts.
7. **Vulnerable Populations**
- a) Vulnerable individuals are those over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy.
 - b) If an in-person hearing is scheduled, and a person who meets the above definition of a “vulnerable individual” wishes to request an accommodation to avoid an in-person appearance, that person shall file a motion with a copy to the appropriate judicial office and all counsel or parties of record. The parties may stipulate to the granting of the motion, or a telephonic or videoconference hearing on the motion should be scheduled by the judicial office.
 - c) When feasible and where due process rights are not negatively impacted, and if good cause is shown, a motion requesting accommodations should be granted to reduce the need for vulnerable individuals to appear in-person at the courthouse.
 - d) If good cause is shown, but granting the requested accommodation is not feasible or would impact the right to due process, a non-essential or non-critical hearing should be continued. If the hearing is essential or critical, the judge and parties, with the assistance of the Administrative Office of the Courts, shall make every effort to schedule and conduct the in-person hearing in a manner so as to provide the maximum available safety precautions and social distancing, for example, providing a special set hearing, eliminating all other persons from the gallery of the courtroom, or providing a hybrid-type of accommodation.
8. **Courthouse Facility and Security**
- a) Exterior
 - Queuing areas will be established outside of the entrances of courthouses and court facilities with markings at six-foot intervals to serve as social distancing aids.
 - Directional signage will be provided, if necessary.
 - b) Interior
 - If necessary, interior queuing areas at security checkpoints will be reconfigured so as to facilitate social distancing.
 - Interior queuing areas at security checkpoints will have markings at six-foot intervals to serve as social distancing aids.
 - Only persons with scheduled proceedings, appointments or official court business will be allowed into the courthouses or court facilities. Family members or friends who are not essential to the proceeding or court business are strongly



discouraged from entering the courthouses or court facilities, and should preferably wait outside. Bringing children to the courthouses or court facilities is likewise discouraged, if possible. Depending upon capacity and the number of people already in the courthouse or court facility, family members or friends may be denied entrance so as to ensure social distancing within the courthouse or court facility for those who are essential to the proceedings or court business.

- Persons with scheduled proceedings or appointments shall not enter the courthouse or court facility more than ten minutes prior to their scheduled proceeding or appointment, and shall immediately leave the building upon conclusion of their scheduled proceeding or appointment or other court business. There shall be no loitering within any courthouse or court facility.
- Social distancing shall be observed by employees in all break rooms or lunch rooms. If social distancing cannot be achieved, the use of break rooms or lunch rooms may be limited or prohibited at the discretion of the Trial Court Administrator.
- Physical barriers, such as sneeze guards and partitions already exist or shall be installed in spaces where an employee might come into close contact with large numbers of people, such as information desks or self-help windows.
- The number of persons allowed in shared restrooms at any given time, both public and employee, shall be limited by the number of enclosed stalls. Persons shall not wait or loiter within any shared restroom, and shall, to the extent possible, practice social distancing of six-feet. If an adult or adults have children with them, the persons allowed in any shared restroom shall be limited to that single family group.
- The number of persons allowed in any elevator at any given time, both public and employee, shall be limited to two adults. If an adult or adults have children with them, the persons allowed in any elevator shall be limited to that single family group.

c) **Security**

- If needed, security screening stations shall be reconfigured so as to facilitate social distancing requirements.
- Health screenings and no-contact temperature checks shall be conducted by court security (either employees or contract court security representatives) or by deputies responsible for the normal screening of persons entering the courthouse or court facility.
- Court Bailiffs and local Sheriff Deputies are hereby granted the authority to enforce all social distancing guidelines and the wearing of face masks or appropriate face covers and to



eject persons from courtrooms, courthouses, or court facilities in accordance with this Administrative Order.

9. **Cleaning and Disinfecting**

- a) The Administrative Office of the Courts shall maintain a supply of hand sanitizer and disinfecting wipes and shall make them available to employees and throughout the courthouse, including courtrooms.
- b) Each county of the Twentieth Judicial Circuit has contractors to provide cleaning services to the buildings in which the courthouses or court facilities are located. Those contractors are to clean and disinfect high traffic areas and frequently touched surfaces multiple times per day, including restrooms, elevators, and entry doors, with enhanced nightly cleaning and disinfecting of public areas.
- c) Employees are encouraged to clean or disinfect shared equipment, such as copiers, before every use.
- d) Disinfecting wipes will be available in the courtrooms at counsel tables and podiums to be used by counsel or parties to clean shared surfaces.

C. **PHASE II - PRIORITY OF NON-ESSENTIAL OR NON-CRITICAL PROCEEDINGS** – To the extent possible, during Phase II, all essential/critical and non-essential/non-critical proceedings shall be conducted remotely via teleconferencing, videoconferencing, or other means. However, where non-essential court proceedings cannot be effectively or successfully conducted remotely, below is the priority in which the trial court should conduct in-person or hybrid hearings.² Prior to scheduling in-person non-essential or non-critical court proceedings, judges shall consult with their Administrative Judge, who shall review and coordinate the priority of requested in-person dockets within their division to avoid contemporaneous court events, minimize overcrowding, and ensure social distancing measures to the fullest extent possible.

1. **Civil**

- a) Petitions to determine incapacity and other guardianship matters.
- b) Authorized ex parte matters, e.g., administrative, emergency, or settlement matters.
- c) Cases in which a statutory timeframe may soon expire.
- d) Actions subject to summary procedure under Chapter 51, Florida Statutes.
- e) Claims of exemption from a garnishment of wages.
- f) Approvals of settlements, structured settlements (e.g., annuities), and transfers of structured settlement payment rights.

² Each case is often unique on its own facts and, similarly, each of the proceedings listed may be qualitatively different from one case to the next. For these reasons, the priority of any given case listed herein may be dictated by factors including, but not limited to, the nature of the underlying charge, the stage of the case, or the potential consequences based on the outcome of the proceeding. Accordingly, the presiding judge shall have discretion in altering the priority of any given case listed herein based on the above referenced factors.



2. **Family Law/Unified Family Court**

- a) Termination of parental rights trials, advisory hearings, and dependency arraignment hearings. The presiding judge shall have discretion as to the order in which the cases are tried with considerations that include, but are not limited to, the length of time the child has been in care, the age of the child, or the number of people involved in the case.
- b) Juvenile delinquency trials. The presiding judge shall have discretion as to the order in which the cases are tried.
- c) Child Support Contempt Hearings. Efforts shall be made to limit the number of cases that are set for each docket with the appropriate amount of time set between each hearing in order to limit congestion in the courtroom or hallways.
- d) Other family law court hearings that do not use mass calendar docketing, e.g., final judgments for dissolution of marriage, name changes, adoptions, or evidentiary hearings.

3. **Criminal**³

- a) Sentencings or violation of probation or violation of community control hearings.
- b) Pleas, including out-of-custody pleas.
- c) Evidentiary hearings.
- d) Motions to dismiss (e.g., C4, double jeopardy, or defect).
- e) Motions related to custody (e.g., pretrial detention, non-adversarial probable cause, adversarial preliminary hearings, 33-day motions, or post-trial release).
- f) Motions to suppress, if dispositive.
- g) Motions related to evidence, if dispositive (e.g., Williams rule/sex crimes, motions in limine, or Daubert issues)
- h) Stand Your Ground hearings.
- i) Motions and hearings (except status hearings) related to incompetence, mental health experts, intellectual disability, or insanity.
- j) Motions relating to indigent for costs or to appoint mitigation experts.
- k) Jimmy Ryce Act Proceedings (except for trial proceedings)

³The local workgroup provided recommendations as to which non-essential in-person criminal proceedings should be given the highest priority. The top three priorities should be given to: Violation of Probation Hearings, Out-of-Custody Pleas, and all Evidentiary hearings. Even though the Florida Supreme Court workgroup also created a recommended list for proceedings of medium and low importance, those proceedings are not at this time included as part of the Operation Plan for the Courts of the Twentieth Judicial Circuit for Phase II.



III. GENERAL PROVISIONS

- A. All other remedial measures established by the Florida Supreme Court or by this local Administrative Order shall remain in effect until vacated or superseded by subsequent order by either this Court or the Florida Supreme Court.
- B. This second amended Administrative Order supersedes the original and first amended Administrative Order and all of this Court's subsequently issued memorandums relating to COVID-19, and shall be effective immediately and shall remain in effect until the dates established herein or until superseded by further order of this Court or the Florida Supreme Court.

DONE AND ORDERED in chambers in Fort Myers, Lee County, Florida, this 29th
day of May, 2020.



Michael T. McHugh
Chief Judge

History. – Administrative Order 2.39 (March 18, 2020); Administrative Order 2.39 (amended May 8, 2020)

