

IN THE SUPERIOR COURTS FOR THE ATLANTIC JUDICIAL CIRCUIT
STATE OF GEORGIA

ORDER ESTABLISHING GUIDELINES FOR IN PERSON COURT PROCEEDINGS
ATLANTIC JUDICIAL CIRCUIT

D. Hendrix
CLERK OF COURTS

On May 11, 2020, the Honorable Chief Justice Harold D. Melton of the Supreme Court of Georgia issued the Second Order Extending Declaration of Statewide Judicial Emergency addressing continuation of essential court services and the re-opening of non-essential court services. Paragraph numbered 4 of said Order states:

Except for jury and grand jury proceedings as discussed in Section 2 above, courts have discretion to conduct essential and non-essential in person judicial proceedings, but only in compliance with public health guidance and with the requirements of the United States and Georgia constitutions and applicable statutes and court rules, including the public's right of access to judicial proceedings and a criminal defendant's rights to confrontation and open courtrooms.

Before conducting extensive in-person proceedings, particularly in non-essential matters, each court should develop written guidelines as to how in-court proceedings generally and particular types of proceedings will be conducted to protect the health of litigants, lawyers, judges, court personnel, and the public. Guidelines should specify who should be admitted to the courthouse and courtroom and how public health guidance will be followed regarding such matters as health screening of court personnel and visitors, social distancing (including by capping the occupancy of courthouses, interior areas, and courtrooms based on their size), availability and use of personal protective equipment (PPE) by court personnel and visitors, and sanitization practices. Guidelines should provide for accommodations for high-risk individuals. Courts should consider the use of staggered, smaller proceedings to conduct proceedings involving many cases or participants, such as calendar calls and arraignments. Guidelines should be prominently posted at courthouse entrances and on court and government websites to provide advance notice to litigants, lawyers, and the public.

Support for the development of guidelines will be provided by the Judicial COVID-19 Task Force discussed in Section 7 below, as well as by the councils for each class of court. Courts of different classes that share courthouse facilities or operate in the same county should seek to coordinate their guidelines.

Based upon the authority granted to the Superior Courts of the Atlantic Judicial Circuit, in the exercise of judicial discretion, the court issues the following order establishing guidelines to

protect the health of litigants, lawyers, judges, court personnel, and the public (hereafter referred to as the "Guidelines") for in person court proceedings.

1.

The health of each litigant, lawyer, judge, court personnel, and the public is first and foremost the responsibility of each person. The court cannot guarantee, nor does it attempt to guarantee, that strict adherence to the guidelines will prevent the contraction or spreading of any infectious disease, including but not limited to COVID-19. If any person has an objection to attendance or participation in an in person court proceeding, then such objection shall be made known to the court at least three days prior to the scheduled court proceeding, or as soon as is practicable, and shall accompany such objection with a proposed reasonable accommodation to such attendance. The court will consider the request, and in its discretion, will rule as to which accommodation, if any, is appropriate.

2. Number of Persons Admitted to the Courthouse and Courtroom

A. Courthouse.

Other constitutional officers, Magistrate and Probate Judges, and other occupants such as tax assessors, elections office, county commissioners, and other governmental entities that maintain office space in the courthouse should develop occupancy guidelines consistent with public health guidelines, courthouse safety plans and other relevant factors. Admittance to the courthouse will be in the discretion of the Sheriff of each county, consistent with public health guidelines, courthouse safety plan, the guidelines established by varying occupants of each courthouse, and other relevant factors in the discretion of each Sheriff.¹

¹ All references to "Sheriff" in this order shall include any deputy, bailiff or other designee acting under the authority of the Sheriff.

B. Courtroom

The term "Courtroom" shall include, but not be limited to, the common areas of the courthouse immediately adjacent to a courtroom, jury rooms, jury assembly rooms, witness sequestration rooms, judge's chambers, law libraries attendant to the courtroom, attorney lounges attendant to the courtroom, and any other room regularly used when court is in session.

Admittance to the Courtroom shall be governed by public health guidelines, specifically but not by way of limitation, social distancing guidelines. In each courtroom, the number of persons allowed in the visitor section shall not exceed the number that can be admitted in the visitor section of the courtroom while exercising social distancing guidelines. The Sheriff or his designee shall place a marker designating where a person may be seated in accordance with social distancing guidelines. A person may be seated only on a marker. However, if persons in the visitor section reside in the same household, they may be allowed to sit together. Then, the next visitor must be seated on a marker at an appropriate social distance. Once the visitor section is fully occupied using such social distancing guidelines, then no additional persons may enter the courtroom.² If an attorney is not engaged in a hearing in progress, she or he shall sit in the visitor section of the courtroom, or may remain outside the courtroom awaiting the calling of her or his case for trial/hearing.

In the front of courtroom, where the hearing/trial is conducted, all persons, including but not limited to the judge, court reporter, clerk, and attorneys and her or his client shall exercise

² Each court is encouraged, but not mandated, to provide an overflow room where the proceedings may be watched via a live video feed. The court is aware that based upon the physical attributes of some facilities, this may be easily accomplished, and that based upon the physical limitations of some facilities, this may be more difficult, if not impossible to accomplish. In criminal proceedings, the constitutional right of the Defendant to an open proceeding shall not be abridged, and the application of these guidelines shall not be construed to in any way limit this constitutional right. Furthermore, in all proceedings, the goal is to provide an open forum for public viewing, while at the same time attempting to provide a safer environment based upon existing public health guidelines, and these guidelines shall be interpreted and implemented consistent with such goals.

social distancing guidelines. If an attorney and client need closer contact for confidential matters, they may request to be excused from the courtroom or may otherwise confer privately with the court's approval. Sequestered witnesses shall observe social distancing guidelines, and the Sheriff is ordered to find sufficient rooms to sequester witnesses while maintaining social distancing guidelines. Furthermore, while court is in session, the Sheriff shall assure that social distancing is being followed by all persons in the courtroom, as the term courtroom is defined in 2(b) above.

3. Health Screening

Health Screening personnel are not trained medical professionals. If anyone has any questions or concerns about his or her health or potential COVID-19 exposure, then such person should contact his or her personal physician, Georgia Department of Public Health, or other qualified medical professional.

On days when court hearings are scheduled, a Health Screening shall be conducted on each person entering the courthouse. The Sheriff of each county shall conduct a health screening on each person entering the courthouse by using the tool provided as Exhibit A to this Order. The Sheriffs of each county shall make best efforts to procure sufficient no-contact thermometers for use in measuring the temperature of persons entering the courthouse. If a Sheriff is unable to locate sufficient no-contact thermometers for use by health screening personnel, then the Sheriff shall not be required to take the temperature of those entering the courthouse, but shall ask all questions and document all responses of all persons entering the courthouse on the tool provided on the attached Exhibit A. If any of the questions on the screening tool is answered in the affirmative, then such person shall not be allowed to enter the courthouse. If the person who is not allowed into the courthouse is a litigant or witness in a case scheduled for an in person hearing,

then the Sheriff shall immediately notify the court (presiding judge or staff) of the person not so admitted.

4. Personal Protective Equipment

Personal Protective Equipment (“PPE”), including but not limited to masks (paper or cloth) and gloves, may be worn by all who enter the courthouse and all who enter a courtroom. All persons who enter the courthouse for court proceedings are STRONGLY ENCOURAGED, but not required to wear PPE, including but not limited to facemasks covering the nose and mouth. Court personnel and litigants may use PPE in their discretion. The court has a limited supply of PPE for use by court personnel. Each county has a limited supply of PPE for use by visitors to a courtroom. If a visitor desires to use a PPE and does not have access to PPE, then he or she shall notify the health screening personnel of such need, and PPE shall be provided to such visitors for so long as limited supplies last.

5. Sanitization practices.

The county commissioners of each county shall ensure that custodial or other personnel are sufficiently trained in the method and manner for sanitizing a courtroom, as the term courtroom is defined in paragraph numbered 2 herein. Persons tasked with sanitization practices shall follow guidelines established by the United States Centers for Disease Control (“CDC”), the Georgia Department of Public Health, and/or the county health department. Please see attached hereto Exhibit B, a potential resource document entitled “Cleaning Guidance for COVID-19” from the Georgia Department of Public Health.

Courtrooms shall be cleaned and disinfected after each use. To provide as much time after cleaning and disinfecting prior to the next use, such cleaning and disinfecting shall take place as soon after use as is practically and reasonably possible. Certain high traffic areas in the courtroom

may need cleaning more often (e.g. between hearings or witnesses), in accordance with public health guidelines.

Each county shall supply hand sanitizer for use in the courtroom, which shall be available for use by court personnel. Writing instruments shall be personal, disposable, or sanitized after each use and before use by another person in the courtroom.

6. Accommodations for high risk individuals.

The following persons are defined as high risk individuals:

- a. Those persons who are 65 years of age or older.
- b. Those persons who live in a nursing home or long-term care facility, including inpatient hospice, assisted living communities, personal care homes, intermediate care homes, community living arrangements, and community integration homes.
- c. Those persons who have chronic lung disease.
- d. Those persons who have moderate or severe asthma.
- e. Those persons who have severe heart disease.
- f. Those persons who are immunocompromised. Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medication.
- g. Those persons, of any age, with class III or severe obesity.
- h. Those persons diagnosed with the following underlying medical conditions: diabetes, liver disease, and persons with chronic kidney disease undergoing dialysis.

If any lawyer, party, or witness falls into one of the above categories of high risk individuals, then the lawyer for such party or lawyer who subpoenaed such witness shall notify the

presiding judge or presiding judge's staff of such condition at least three days prior to the scheduled court proceeding, or as soon as is practicable, and shall accompany such notification with a proposed reasonable accommodation for such lawyer, party, or witness. If a party is self-represented, then such party shall follow the same procedure as an attorney for a party. The court will consider the request, and in its discretion, will rule as to which accommodation is appropriate.

7. Resources.

All individuals should educate themselves about the relative dangers of attending gatherings of people, including in person court proceedings. The CDC, Georgia Department of Public Health, and county health departments are excellent resources for use in such educational process. Each individual is responsible for his or her education in this matter.

8. Implementation.

Except as otherwise specified herein, the Sheriff of each county, in the exercise of his discretion, shall be responsible for implementation of these guidelines.

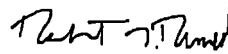
9. Publication and Dissemination of Guidelines.

This order and guidelines shall be published on the website for the Superior Courts of Georgia First Administrative District, on the website of each Clerk of Court and County Government (if such websites exist), and at the entrance to each courthouse. A copy of this order shall be available at the Clerk of Superior Court office of each county within the Atlantic Judicial Circuit, and shall be prominently posted in each courthouse where similar public announcements are posted. Furthermore, the Clerk of Court is ordered to email a copy of this order to each attorney who has an office within the respective counties according to the latest directory of the State Bar of Georgia.

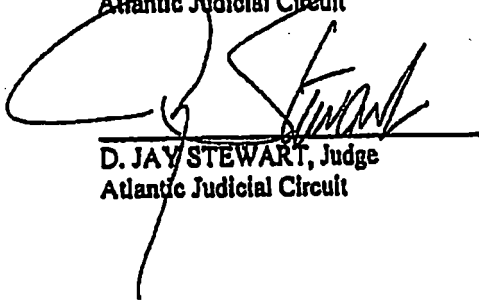
10. Duration

This order shall be effective June 15, 2020 and shall remain in full order and effect until further notice.

SO ORDERED on this the 29th day of May, 2020.



ROBERT L. RUSSELL, III, Chief Judge
Atlantic Judicial Circuit



D. JAY STEWART, Judge
Atlantic Judicial Circuit



CHARLES P. ROSE, Jr., Judge
Atlantic Judicial Circuit



GLEN A. CHENEY, Judge
Atlantic Judicial Circuit