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CLERK SUPREME COURT

In the Iowa Supreme Court

In the Matter of Resuming In Person Court Services During COVID-19) **July 9, 2020 Order**

The Iowa Judicial Branch is balancing the need to take measures to reduce the spread of COVID-19 with its commitment to conduct the important work of the courts. To help the planning needed to resume in-person court services, the court sought guidance from public health experts and established the Jumpstart Jury Trask Force and the Jumpstart Family Law Trials Task Force. Members of both task forces agreed that it is essential for the judicial branch to provide information to Iowans on preparations the branch is taking to mitigate the spread of the virus as in-person court proceedings resume. Both task forces recommended safety measures the judicial branch and counties should consider for the safety of court staff and the public.

This supervisory order consolidates all the information regarding the measures taken by the branch to reduce Iowans' exposure to COVID-19 when in court-controlled spaces, and provides the policies and procedures that courts and court staff shall follow as in-person court proceedings resume.

In order to inform Iowans about the safety measures the judicial branch is taking to ensure the health and safety of judges, court staff, attorneys, parties, and all Iowans who access court services, the judicial branch has shared information on the steps that each court shall complete to resume in-person court services before July 13. This information, as well as all the supreme court's supervisory orders, weekly updates, and press releases are found on the Iowa Judicial Branch's dedicated COVID-19 webpage at https://www.iowacourts.gov/iowa-courts/covid-19-information-and-updates/.

The judicial branch gratefully acknowledges the information and recommendations provided by the Jumpstart Jury Task Force, the Jumpstart Family Law Trials Task Force, Judicial Council, the University of Iowa College of Public Health, the Iowa Department of Public Health, and the Centers for Disease Control and Prevention. Implementation of many of the protocols set forth below will vary based on physical layout, local needs, and available resources, and the judicial branch expresses its continued appreciation for the strong, critical partnerships between individual counties and local court officials.

I. Preparing the court-controlled areas of the courthouse

a. *Entrance*: The entrances and travel paths for court participants shall be planned and clearly marked.

b. *Hallways and queuing areas*: Courts, in consultation with county boards of supervisors, are encouraged to place physical distancing markers and signage throughout hallways and queuing areas indicating where individuals should stand or sit to maintain physical distancing.

c. *Restrooms*: Physical distancing markers shall be placed inside and outside court-controlled restrooms, with occupancy limits established for restrooms.

    i. To limit congregating inside or outside restrooms, courts as necessary may stagger breaks and provide longer breaks to accommodate potential restroom use delays.

    ii. Courts, in consultation with county boards of supervisors, are encouraged to implement frequent restroom sanitizing procedures and to place signage about the importance of hand washing.

d. *Elevators*: Courts, in consultation with county boards of supervisors, are encouraged to place physical distancing markers in and near elevators.

Elevator use in court-controlled areas shall be limited to accommodate physical distancing of six feet. Stairwells may be encouraged as alternatives to elevators (as appropriate) and marked with proper signage.

e. *Courtrooms*: Courts shall mark courtrooms to ensure physical distancing, including markings showing where participants should sit or stand to ensure six feet of distance from others. Courts shall also ensure, to the greatest extent possible, that individuals enter and exit courtrooms in patterns that maintain physical distancing.
    i. Courtrooms shall be reconfigured as necessary to accommodate physical distancing, including as appropriate placing participants in the gallery or relocating the witness stand (table, box, or seat).
    ii. Attorneys shall not approach witnesses, court reporters, or judges during evidentiary hearings and trials absent specific permission from the judge.
    iii. Courts shall adjust or move courtroom microphones to permit adequate sound amplification.
f. *Cleansing*:
    i. Courts shall provide participants in court proceedings (including parties, counsel, and court staff) hand sanitizer and disinfectant wipes to self-clean high-touch surfaces in their personal space such as chairs, tables, or railings.
    ii. Court staff are encouraged regularly to clean with disinfectant wipes high-touch surfaces in common areas such as door handles, stair railings, elevator buttons, and microphones.
g. *Air purification and flow*: Courts, in consultation with county boards of supervisors, are encouraged to consult with industrial hygiene specialists about air flow and ventilation in court-controlled areas, including

potential use of appropriately-sized HEPA (High Efficiency Particulate Air) purifiers in courtrooms or opening windows and doors to facilitate ventilation.

h. *Signs*: Signs shall be posted in all court-controlled public areas stating:

   i. *"Do NOT enter if any of the following apply:*

      1. *You have recently been in close contact with someone who has COVID-19.*

      2. *You have tested positive for COVID-19 in the last 14 days.*

      3. *You are experiencing symptoms of COVID-19 per CDC guidelines."*

   ii. "*A mask must be worn when entering this space.*"

   iii. *"Upon entering, please maintain 6 feet of distance in all directions between yourself and others."*

   iv. *"The number of people permitted in the courtroom/office is (X)."*

i. *Courtroom admittance*: Courts shall institute courtroom admittance policies to limit the number of people permitted in the courtroom. Courts shall ensure sufficient space for people whose presence is essential to the evidentiary hearing or trial—parties, attorneys, witnesses, and court staff—with six feet of physical distancing. Family members, the public, and others whose presence is not essential to the evidentiary hearing or trial may be permitted into the courtroom as physically-distanced space permits.

j. *Live feeds or streaming*: If the courtroom doesn't have sufficient space to seat spectators with appropriate physical distancing, courts shall set up

live feeds of public court proceedings in another room in the courthouse (or, as necessary, streaming online or by videoconference) to permit simultaneous viewing by anyone unable to attend because of space or health limitations. Courts may prohibit hearing or trial witnesses who ordinarily would be sequestered from viewing live feeds or streams of courtroom proceedings.

k. *Access to Technology*: State Court Administration shall work with each judicial district on a plan to provide access to remote conferencing technology and confidential space for individuals to participate in video court proceedings if the individual does not have separate access to remote conferencing technology.

l. *Enforcement of protocols*: Judges, court staff, and courthouse security personnel (including bailiffs and deputies) shall enforce physical distancing, face coverings, and admittance policies as necessary.

m. *Consulting with public health officials*: Court personnel are encouraged to consult with local public health officials or medical professionals for assistance with physical distancing requirements and other recommended safety practices.

n. *Reporting concerns*: Courts shall provide contact information for members of the public to contact the district court administrator to report lack of compliance with required protocols.

II. <u>Personal protective equipment</u>

a. Courts shall require everyone entering court-controlled areas to wear coverings (face masks or face shields) covering the nose and mouth, and to wear them consistently while in court-controlled areas. Exceptions to wearing face coverings may be considered by judges upon request on an individualized basis. Requests by any individual requiring an exception

to wearing a face covering in court-operated areas may be considered by judges on an individualized basis.

b. Courts shall provide a face covering to any person entering court-controlled areas who does not have one.

III. Non-evidentiary hearings and pretrial preparations

a. *Preference for video conferencing*: **Courts and counsel are encouraged to handle non-evidentiary proceedings, including pretrial conferences, by video conference to the greatest extent possible.** Courts shall indicate on orders the means for conducting the proceeding (whether by video conference, phone, or in person) and, if by video conference, shall include in the order the video conferencing platform it will use. State Court Administration shall make available training concerning the video conference platform to be used.

b. *Timing of pretrial conferences*: Courts are encouraged to schedule pretrial conferences further in advance of trials than typical to help parties better determine earlier whether cases will in fact be proceeding to trial.

c. *Briefing on COVID-19 challenges for trials:* Prior to the final pretrial conference, courts are encouraged to require counsel to brief legal issues related to any anticipated extraordinary or particularized challenges in conducting the trial because of the COVID-19 pandemic.

d. *Coordinating evidentiary hearings and trials with other courthouse operations*: Courts are encouraged to coordinate schedules with other county officials to minimize congestion in the courthouse on specific dates or times to accommodate physical distancing.

e. *Interactions necessitating less than six feet of distancing:* For interactions where less than six feet of distancing is possible (for example, service

points or counters where encounters will not permit distancing), courts shall install temporary plexiglass dividers.

IV. Conducting in-person proceedings, including evidentiary hearings and trials

a. *Physical Distancing*: Courts shall reconfigure courtrooms as necessary to accommodate proper physical distancing. Courts shall space seats at least six feet apart in all directions. Staff are encouraged to use tape or similar indicators to mark seats for use or non-use and to mark the ground to show where counsel may stand.

b. *Exceptions to physical distancing requirement*: Attorneys and their clients may mutually agree not to adhere to physical distancing between themselves (thus enabling them, for example, to sit within six feet of each other), but are still required to wear their face coverings consistently while in court-controlled areas.

c. *Sight lines and sound*: Courts shall ensure adequate sight lines and sufficient sound amplification to enable participants to hear and see all proceedings. Courts shall test lines of sight and sound amplification in advance of evidentiary hearings and trials. Courts shall instruct all participants to advise the court if they cannot hear or see any part of the proceedings.

d. *Acceptance on setup*: For evidentiary hearings and trials, courts are encouraged to request that counsel for all parties accept on the record the setup for the courtroom, or that counsel lodge specific objections for the court to address as appropriate.

e. *Transparent face shields*: Courts shall provide transparent face shields (enabling a full view of the face) to all persons speaking during evidentiary hearings and trials, including the judge, attorneys, and witnesses. Courts shall instruct participants to continue wearing the transparent face

shields throughout the proceedings. Courts may instruct participants to take home the face shields at end of each day for cleaning, and to bring them back for the next day's proceedings.

f. *Time limits*: Courts should exercise reasonable control over the time spent on in-court activities to expedite the proceedings.

g. *Addressing the court and witnesses:* Courts shall instruct attorneys to address the court and question witnesses while physically distanced at counsel tables.

h. *Exhibits*:

   i. Courts may require that parties present exhibits electronically using a computer or document camera, and not pass exhibits hand-to-hand during evidentiary hearings and trials, including from counsel to witnesses, court reporters, or judges.

   ii. To the extent participants shall receive physical copies of documentary evidence during evidentiary hearings and trials, courts may require the documents be sanitized (to the extent possible) and left in a designated spot where the participants can access them without hand-to-hand passing.

   iii. Courts may require any original exhibits necessary for physical receipt by the court reporter to be pre-marked, sanitized (to the extent possible), and left in a designated spot where the court reporter can retrieve them without hand-to-hand passing.

   iv. Courts shall encourage parties to present exhibits, to the greatest extent possible, by screen or video to minimize physical contacts and ensure distancing while permitting sufficient examination of the exhibits.

i. *Special considerations for identification of defendants in criminal cases:* Courts are encouraged to require parties to brief whether they intend to elicit testimony from witnesses on in-court identification of individuals wearing face coverings and, if so, how it will be performed.

j. *Witness holding:* Courts shall determine where witnesses will wait (with appropriate physical distancing) before they testify, including outside the building (in their vehicles or elsewhere close by) until contacted to come inside.

k. *Witness testimony by video*: By agreement of the parties, courts may permit remote testimony from witnesses through live video streaming. If the court permits remote testimony, the court shall consider:

    i. Any evidentiary concerns or objections raised by the parties prior to the testimony;

    ii. How to verify the witness's identity;

    iii. How to identify documents or exhibits used with the witness during testimony;

    iv. How documents or exhibits will be provided to the witness; and

    v. How to ensure that the witness will be alone and not subject to the influence or instruction of other people or sources while testifying. Courts may consider requiring the witness to report to a secure location and to testify in the presence of an authorized court agent if courts have concerns about these issues.

l. *Break timing:* Courts are encouraged to consider the best manner in which restroom breaks may proceed with proper physical distancing based on the number of available restrooms.

m. *Private attorney-client communications:* Courts may permit attorneys and clients to speak confidentially while physicallydistanced in court using a

closed-circuit phone system, headphones with microphones, or in a private space outside the courtroom.

i. After each break in the evidentiary hearing or trial, courts are encouraged to ask defendants in criminal cases on the record whether they were able to speak to their counsel.

ii. To the extent attorney-client conferences shall be conducted in the courtroom with others present, courts are encouraged to consider use (or expanded use) of white noise machines to mask the participants' voices.

iii. Courts are encouraged to consider use of real-time electronic messaging feeds between counsel and clients that allow them to communicate during the evidentiary hearing or trial.

n. *Symptomatic participants:* If any participant experiences COVID-19 symptoms during evidentiary proceeding or trial, courts shall excuse the participant immediately, send the person home, and ask the person to seek medical help. Courts shall immediately consider further action necessary based on contacts the affected person had with other court attendees, including contacting local public health officials relating to contact tracing, disinfection, and related measures.

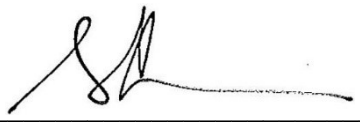
o. *Report of post-hearing or post-trial COVID-19 positive test*: If, after the conclusion of an evidentiary hearing or trial, courts learn that any attendee has tested positive for COVID-19, courts shall immediately consider further action necessary based on contacts the affected person had with other court attendees, including contacting local public health officials relating to contact tracing, disinfection, and related measures.

p. *Advance planning with local public health officials*: Courts are encouraged to establish lines of communication with local public health officials prior

to conducting evidentiary hearings and trials to facilitate timely responses in the event the court learns any attendee experiences COVID-19 symptoms or tests positive for COVID-19 either during or after an evidentiary hearing or trial.

The court will continue to monitor circumstances and update this order as necessary.

THE SUPREME COURT OF IOWA

By 

Susan Larson Christensen, Chief Justice

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