IN THE COURT OF APPEALS OF MARYLAND

FIFTH ADMINISTRATIVE ORDER

CLARIFYING COVID-19 HEALTH MEASURES

IN COURTHOUSES AND JUDICIAL BRANCH FACILITIES

WHEREAS, Pursuant to the Maryland Constitution, Article IV, § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, Title 16, Chapter 1000 of the Maryland Rules of Practice and Procedure sets forth emergency powers of the Chief Judge of the Court of Appeals; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control and Prevention, an emergency exists; and

WHEREAS, The COVID-19 emergency continues to require comprehensive measures to protect the health and safety of Maryland residents and Judiciary personnel; and

WHEREAS, Sections (s) and (t) of the *Seventh Administrative Order Restricting Statewide Judiciary Operations Due to the COVID-19 Emergency*, filed December 22, 2020, require any person seeking entry to a courthouse or judicial facility to comply with the guidelines of the Centers for Disease Control and Prevention, the Maryland Department of Health, and local health departments, including social distancing and the wearing of face masks; and

WHEREAS, Inconsistent interpretations and compliance have resulted in health concerns being raised by Judiciary personnel, justice system stakeholders, and members of the public; and

WHEREAS, The efficacy of wearing face masks and social distancing together having been accepted by the medical community as the single best mitigation strategy in the suppression of the spread of COVID-19, and full compliance being necessary for the protection of health while administering justice during the COVID-19 emergency; and

WHEREAS, the *Seventh Administrative Order Restricting Statewide Judiciary Operations Due to the COVID-19 Emergency*, having been filed on December 22, 2020, extending Phase II operations in light of the surge in COVID-19 infection rates throughout Maryland, technical amendments to the cross-references are necessary in related administrative orders,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order, this 22nd day of December 2020, effective immediately and for the duration of the COVID-19 emergency period, that:

(a) In all courthouses and judicial facilities, masks shall be worn at all times, including during in-person court proceedings, except as noted in Sections (e), (f), and (g) of this Order, by all judges, Judiciary personnel, and any other person over the age of two (2) years, with masks to cover the nose, mouth, and chin completely, without vents; and

(b) In instances in which members of the public or personnel arrive at a courthouse or judicial facility without such a mask, they shall be provided with a disposable mask, if available, or given alternative means for remote access, if appropriate and possible; and

(c) Barriers, including clear personal barrier shields, are not a substitute for and shall not fulfill the masking requirement in Section (a) of this Order; and

(d) Social distancing of six feet or more shall be maintained throughout the courthouses and judicial facilities, including offices and courtrooms, but will not be a substitute for the masking requirement; and

(e) With appropriate social distancing, masks may be lowered to eat, drink, or take oral or nasal medications, but shall be replaced upon completion; and

(f) Throughout courtroom proceedings, all participants shall wear masks as required in Section (a) of this Order unless, for good cause shown, the presiding judge or magistrate may require any participant to use a disposable mask, a clear mask, or wear a personal barrier shield in lieu of a mask for a limited duration to ensure that the participant can be heard or observed, with due consideration given to social distancing and other public health guidelines; and

(g) Where judiciary personnel are assigned to single-occupancy enclosed offices, masks may be lowered when the occupant is alone and the door is closed; however, masks shall be worn as described in Section (a) of this Order when any other person enters the office or the occupant leaves the office; and

(h) Where judiciary personnel are assigned to common area workspaces, including cubicles, masks shall be worn as described in Section (a) of this Order; and

(i) Any person who does not comply with this emergency order shall be subject to removal from the courthouse or judicial facility and disciplinary action as appropriate; and

(j) This Order shall be modified as appropriate; and

(k) This Order shall not be construed to prohibit additional health measures that have been or may be adopted in compliance with new or enhanced guidelines of the Centers for Disease Control and Prevention, the Maryland Department of Health, and local health departments; and

(l) The *Fourth Administrative Order Clarifying COVID-19 Health Measures in Courthouses and Judicial Branch Facilities*, filed on November 24, 2020, shall be and hereby is rescinded.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: December 22, 2020

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal Materials Act (§§ 10-1601 et seq. of the State Government Article) this document is authentic.

Suzanne Johnson
2020-12-22 15:40-05:00

Suzanne C. Johnson, Clerk