FILED
02/12/2021
Clerk of the
Appellate Courts

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: COVID-19 PANDEMIC

No. ADM2020-00428

ORDER MODIFYING AND PARTIALLY LIFTING SUSPENSION OF IN-PERSON COURT PROCEEDINGS

On December 22, 2020, the Court extended the State of Emergency and the suspension of jury trials and reinstated the suspension of in-person court proceedings. On January 15, 2021, the Court further extended the suspension of jury trials and of in-person court proceedings. In light of the recent and continuing decline in the number of COVID-19 cases and hospitalizations in Tennessee, see Executive Order 75, and under the constitutional, statutory, and inherent authority of the Tennessee Supreme Court, the Court adopts the following provisions:

1) The suspension of in-person court proceedings in termination of parental rights cases is lifted effective Monday, March 1, 2021.

2) The suspension of all other in-person court proceedings in all state and local courts in Tennessee, including but not limited to municipal, juvenile, general sessions, trial, and appellate courts, is lifted effective Monday, March 15, 2021.

3) The suspension of all jury trials remains in effect through the close of business on Wednesday, March 31, 2021, subject only to exceptions which may be granted by the Chief Justice on a case-by-case basis.

4) All in-person court proceedings shall be conducted in accordance with the approved comprehensive written plan for the judicial district within which the court is located, which plans shall continue in full force and effect, https://www.tncourts.gov/node/6042449, and in accordance with the following:

a) Any permitted in-person court proceedings shall be limited to attorneys, parties, witnesses, security officers, court clerks, and other necessary persons, as determined by the judge and should be scheduled and conducted in a

manner to minimize wait time in courthouse hallways. If other persons or media want to request access to a courtroom for an in-person hearing, they must contact the office of the judge presiding over the case at least forty-eight (48) hours before the scheduled proceeding. Judges and their staff shall ensure that social distancing and other such measures are strictly observed.

b) Except as otherwise expressly provided herein, all persons entering a courthouse or other building in which court facilities are located for the purpose of court business, including but not limited to those persons inside a courtroom located within a courthouse or other building, shall wear a face covering over the nose and mouth.

Children aged twelve (12) years or less are not required to wear a face covering, and children age two (2) years or less shall not wear a face covering because of the risk of suffocation. Parents or caregivers shall supervise the use of face coverings by children to avoid misuse.

Persons who have trouble breathing due to an underlying health condition or who have another bona fide medical or health-related reason are not required to wear a face covering.

Face coverings are not required in situations in which a face covering poses a safety or security risk.

c) Individuals who have come into close contact with someone who has COVID-19 should quarantine until the tenth (10th) day following the exposure without testing or until the seventh (7th) day following the exposure with a negative test result.
See https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html

Individuals who think or know they had COVID-19 and who had symptoms should isolate for at least ten (10) days after symptoms first appeared, and for at least twenty-four (24) hours with no fever without fever-reducing medication, and until other symptoms of COVID-19 are improving.

See https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/isolation.html

Individuals who have tested positive for COVID-19 but had no symptoms should isolate for ten (10) days following their positive test.
See https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/isolation.html

5) Courts that have been conducting business by means other than in-person court proceedings should continue to do so. Courts that are not utilizing technology available to them to conduct business by means other than in-person court proceedings need to implement the use of telephone, teleconferencing, email, video conferencing or other means that do not involve in-person contact. All of these methods should be the preferred option over in-person court proceedings to competently, promptly, and diligently perform judicial and administrative duties.

6) Judges and attorneys have an ethical obligation to strictly adhere to the approved comprehensive written plans of judicial districts and to the provisions of all applicable orders of this Court related to COVID-19.

7) Judges are charged with the responsibility of ensuring that core constitutional functions and rights are protected. Additionally, court clerks are charged with ensuring that court functions continue. See Tenn. Code Ann. §§ 18-1-101 (2009); 18-1-105 (Supp. 2019). Court clerks are to work cooperatively and at the direction of the presiding judge of each judicial district to fulfill the court clerks' obligation to facilitate continuing court function. Nevertheless, all judges and court clerks should continue to minimize in-person contact by utilizing available technologies, including alternative means of filing, teleconferencing, email, and video conferencing.

8) Any Tennessee state or local rule, criminal or civil, that impedes a judge's or court clerk's ability to utilize available technologies to limit in-person contact is suspended until further order of this Court. See, e.g., Tenn. R. Civ. P. 43.01. With respect to plea agreements for non-incarcerated individuals, this suspension expressly applies to those provisions of Tenn. R. Crim. P. 11 which otherwise would require the proceeding to be in person in open court. See, e.g., Tenn. R. Crim. P. 11(b)(1) and (2), 11(c)(2)(A). For purposes of implementing procedural matters during this time, the provisions of Rule 18(c) of the Rules of the Tennessee Supreme Court are suspended to allow judges to issue general orders.

9) Judges' offices and court clerks' offices may limit in-person contact with the public during the period of suspension, but must remain functional. If it becomes

necessary to close judges' or court clerks' physical offices during the period of suspension, these offices shall remain accessible by telephone, email and fax to the extent possible during regular business hours. If available, drop boxes should be used for conventionally filed documents.

10) Attorneys and judges are encouraged to utilize the "Online Notary Public Act," Tenn. Code Ann. § 8-16-301, et seq., and the regulations promulgated by the Secretary of State at Sec. of State, Tenn. Comp. R. and Reg. 1360-07-03-.01. Additionally, Executive Order No. 26 issued by Governor Lee on April 9, 2020, and most recently extended by Executive Order No. 72 issued December 22, 2020, addresses notary issues. With regard to court filings, declarations under penalty of perjury may be used as an alternative to a notary. The use of electronic signatures as provided under Rule 5B of the Tennessee Rules of Civil Procedure and Rules 46 and 46A of the Rules of the Tennessee Supreme Court is extended to any pleadings or documents to be filed or served by conventional means during the time that the state of emergency for the Judicial Branch remains in place.

This order applies statewide to all courts and court clerks' offices except administrative courts within the Executive Branch and federal courts and federal court clerks' offices located in Tennessee.

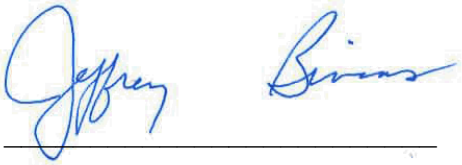
Under the terms of this order, the courts of Tennessee remain open, consistent with the Judicial Branch's obligation to mitigate the risks associated with COVID-19. Judges should work with local law enforcement and other county officials to ensure that, to the extent possible, courthouses remain accessible to carry out essential constitutional functions and time-sensitive proceedings.

This order is intended to be interpreted broadly for protection of the public from risks associated with COVID-19.

Unless otherwise noted herein, the provisions of this order shall remain in place until further order of this Court.

It is so ORDERED.

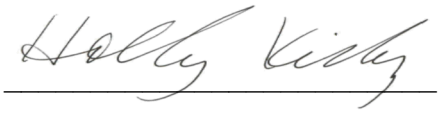
FOR THE COURT:



Jeffrey S. Bivins, Chief Justice

Cornelia A. Clark, Justice

Sharon G. Lee, Justice



Holly Kirby, Justice

Roger A. Page, Justice