MONTANA SUPREME COURT

FOR IMMEDIATE RELEASE

Date: December 21, 2020

TO: Montana District Court Judges and Clerks
Montana Water Court
Montana Courts of Limited Jurisdiction Judges
Judicial Branch Employees

FROM: Mike McGrath
Chief Justice

RE: Updated Judicial Branch Covid-19 Protocols

Again, thank you for your efforts during this extraordinary time. The Judicial Branch has continued to meet its constitutional and statutory obligations despite the most significant public health emergency in more than a hundred years. Individual judges, court staff, and our court partners are to be commended for their efforts.

Considering the ongoing public health risk, pursuant to state and federal public health recommendations, and on behalf of the Supreme Court, I am updating and ordering the following minimum requirements:

1. Face masks or face covering are required in all courtrooms and shared spaces in court-related offices and rooms. This includes, but is not limited to, hallways outside of courtrooms serving as waiting areas, Youth Court offices, Self-Help Law Centers, and court meeting rooms. Face-coverings are not required in private offices or for anyone under the age of five. Judges maintain discretion to allow a party to remove a face covering or face mask while addressing the court or testifying in court.
2. Courts will continue using remote-hearing or telephonic hearings for cases, which will allow a limit to the number of people in a courthouse and in a courtroom.

Attorneys or litigants who are considered to be at high-risk if exposed to COVID-19 should be allowed to appear remotely if requesting to do so. The Center for Disease Control's guidance should guide these decisions People Who Are at Higher Risk for Severe Illness | CDC. [1]

3. Physical distancing in courthouses, courtrooms, and offices must be maintained. A minimum of six feet between individuals must be maintained. Courts are required to coordinate with local public health authorities about any group size limitations.
4. Courts should continue working with local public health officials to determine how to screen individuals entering the courthouse. At a minimum, extensive signage should be posted requiring people to adhere to all recommended hygiene practices recommended by the CDC and to not enter the building if they are ill. Screening may also include temperature checks if supported and recommended by local public health officials.
5. Hand sanitizer must be widely available in public spaces and in courtrooms and other locations throughout the buildings.
6. Judges must continue planning locally for jury trials. This planning should include consultation with the attorneys involved in the cases, local law enforcement, and local public health entities. Jury trials must be conducted in such a manner as to maintain social distance and protect the health of jurors and others. At a minimum, courts must:

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[1] https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fpeople-at-increased-risk.html

a. Manage voir dire through enhanced questionnaires to the degree possible;

b. Excuse jurors in advance who may be at high-risk or have other appropriate reason to not report (lack of childcare, caring for a high-risk person, etc.);

c. Work closely with local public health officials to manage the number of jurors called for voir dire;

d. Seat jurors in compliance with physical distancing during the trial and deliberations;

e. Limit any in-court spectators and provide public access through streaming, when available; and,

f. Make hand sanitizer and masks available to jurors and others in the courtroom.

7. The state Judicial Branch will continue to limit non-essential travel for all staff. This may result in cancellation of non-essential meetings. Each judge locally will need to make decisions about what is non-essential.

This order allows local public health officials to impose more stringent requirements, thus requiring judges to stay in contact with local public health officials. I continue to strongly recommend local discussions include all courts and clerks located in shared buildings to provide consistency to litigants, attorneys, and others.

This directive shall remain in effect until further notice from the Supreme Court.

Again, I remain extremely impressed by the Judicial Branch's ability to adapt and to show leadership in this unprecedented situation. Be well.