Supreme Court of Florida

No. AOSC20-23
Amendment 9[1]

IN RE: COMPREHENSIVE COVID-19 EMERGENCY MEASURES FOR FLORIDA TRIAL COURTS

ADMINISTRATIVE ORDER

As a result of the Coronavirus Disease 2019 (COVID-19) pandemic, the State Surgeon General and State Health Officer on March 1, 2020, declared that a public health emergency exists in Florida, and the Governor on March 9, 2020, declared a state of emergency for the entire state. The Florida state courts have taken measures to mitigate the effects of this public health emergency upon the judicial branch and its participants. To that end, I have issued several administrative orders implementing temporary measures essential to the administration of justice during the COVID-19 pandemic.[2] The overarching intent

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1. This administrative order is issued to technically clarify Section I.B. to include the term "remotely conduct," amend Section III.B. to authorize the conduct of remote criminal jury trials, conform an internal cross-reference in Section III.E., and amend the requirements for the conduct of remote criminal bench trials in Section III.E.(2)a.

2. *In re: COVID-19 Emergency Procedures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-13 (March 13, 2020); *In re: COVID-19 Essential and Critical Trial Court Proceedings,* Fla. Admin. Order No. AOSC20-15 (March 17, 2020); *In re: COVID-19 Emergency Procedures for the Administering of Oaths via Remote Audio-Video Communication Equipment,* Fla. Admin. Order No. AOSC20-

of those orders has been to mitigate the impact of COVID-19, while keeping the courts operating to the fullest extent consistent with public safety.

It is the intent of the judicial branch to transition to optimal operations in a manner that protects the public's health and safety during each of the following anticipated phases of the pandemic:

a) Phase 1 – in-person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare;

b) Phase 2 – in-person contact is authorized for certain purposes but requires use of protective measures;

c) Phase 3 – an effective vaccine is adequately available and in use and in-person contact is more broadly authorized; and

d) Phase 4 – COVID-19 no longer presents a significant risk to public health and safety.

This order extends, refines, and strengthens previously enacted temporary remedial measures. The measures shall remain in effect until *In re: COVID-19*

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16 (March 18, 2020); *In re: COVID-19 Emergency Measures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-17 (March 24, 2020); *In re: COVID-19 Emergency Procedures in Relation to Visitation for Children Under the Protective Supervision of the Department of Children and Families*, Fla. Admin. Order No. AOSC20-18 (March 27, 2020); and *In re: COVID-19 Emergency Procedures for Speedy Trial in Noncriminal Traffic Infraction Court Proceedings*, Fla. Admin Order No. AOSC20-19 (March 30, 2020).

Public Health and Safety Precautions for Operational Phase Transitions, Fla. Admin. Order No. AOSC20-32, as amended, is terminated or as may be provided by subsequent order.

Under the administrative authority conferred upon me by article V, section 2(b) of the Florida Constitution, by Florida Rules of Judicial Administration 2.205(a)(2)(B)(iv) and 2.205(a)(2)(B)(v), and by Rule Regulating the Florida Bar 1-12.1(j),

IT IS ORDERED that:

I. GUIDING PRINCIPLES

A. The presiding judge in all cases must consider the constitutional rights of crime victims and criminal defendants and the public's constitutional right of access to the courts.

B. To maintain judicial workflow to the maximum extent feasible, chief judges shall take all necessary steps to support the remote conduct of proceedings with the use of technology, in accordance with this administrative order and other applicable standards and guidance as may be adopted by the Chief Justice or supreme court. For purposes of this administrative order, "remote conduct," "remotely conduct," or "conducted remotely" means the conduct, in part or in whole, of a court proceeding using telephonic or other electronic means.

C. Nothing in this order is intended to limit a chief judge's authority to conduct court business or to approve additional court proceedings or events that are required in the interest of justice, if doing so is consistent with this administrative order and protecting the health of the participants and the public.

D. Judges and court personnel who can effectively conduct court and judicial branch business from a remote location shall do so. Participants who have the capability of participating by electronic means in remote court proceedings shall do so.

II. USE OF TECHNOLOGY

A. All rules of procedure, court orders, and opinions applicable to court proceedings that limit or prohibit the use of communication equipment for the remote conduct of proceedings shall remain suspended.[3]

B. The chief judge of each judicial circuit remains authorized to establish procedures for the use, to the maximum extent feasible, of communication equipment for the remote conduct of proceedings, as are necessary in their respective circuit due to the public health emergency.[4]

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3. This measure initially went into effect at the close of business on March 13, 2020. (AOSC20-13).

4. This measure initially went into effect on Friday, March 13, 2020. (AOSC20-13).

C. Administering of Oaths

(1) Notaries and other persons qualified to administer an oath in the State of Florida may swear a witness remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the witness.[5]

(2) If a witness is not located within the State of Florida, a witness may consent to being put on oath via audio-video communication technology by a person qualified to administer an oath in the State of Florida.[6]

(3) All rules of procedure, court orders, and opinions applicable to remote testimony, depositions, and other legal testimony, including the attestation of family law forms, that can be read to limit or prohibit the use of audio-video communications equipment to administer oaths remotely or to witness the attestation of family law forms shall remain suspended.[7]

(4) Notaries and other persons qualified to administer an oath in the State of Florida may swear in new attorneys to The Florida Bar remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the new attorney.

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5. This measure initially went into effect on March 18, 2020. (AOSC20-16).
6. This measure initially went into effect on March 18, 2020. (AOSC20-16).
7. This measure initially went into effect on March 18, 2020. (AOSC20-16).

(5) For purposes of the provisions regarding the administering of oaths, the term "positively identify" means that the notary or other qualified person can both see and hear the witness or new attorney via audio-video communications equipment for purposes of readily identifying the witness or new attorney.

D. Law School Practice Programs.

(1) A supervising attorney in a law school practice program, under Rule 11-1.2(b) of the Rules Regulating The Florida Bar, may utilize audio-video communication technology to remotely supervise the law student in satisfaction of the requirement that the supervising attorney be physically present. The supervising attorney and law student must maintain a separate, confidential communication channel during the proceedings.

(2) In a law school practice program, the requirement in Rule 11-1.2(b) of the Rules Regulating The Florida Bar that an indigent person and the supervising attorney must consent in writing to representation by a supervised law student may be satisfied by the judge receiving the consent verbally under oath.

III. TRIAL COURT PROCEEDINGS

The following provisions govern the conduct of trial court proceedings during Phases 1 through 3, except as modified by Section IX., addressing reversions to a previous phase by a circuit or a county within the circuit.

A. Jury Proceedings and Jury Trials.

(1) Statewide grand jury proceedings were suspended through July 26, 2020.

a. After the suspension, the proceedings shall be conducted remotely or, if one of the following criteria is satisfied, may be conducted in person:

i. The presiding judge for the statewide grand jury, in consultation with the county health department or local health expert, determines that the in-person proceeding can be conducted in a manner that protects the health and safety of all participants if the circuit is operating in Phase 1; or

ii. The circuit is operating in Phase 2 or Phase 3 pursuant to Fla. Admin. Order No. AOSC20-32, as amended, and the proceeding is conducted in a manner that is consistent with the circuit's operational plan.

b. If the presiding judge for the statewide grand jury determines that the proceedings of the statewide grand jury cannot proceed remotely or in person in Phase 1, the presiding judge may issue a local administrative order suspending the proceedings for a specified period of time not to exceed 30 days after the circuit returns to Phase 2.

(2) Non-statewide grand jury selection and proceedings, civil jury selection and trial proceedings, and criminal jury selection and trial proceedings shall remain

suspended until 30 days after the chief judge of a judicial circuit has determined that the circuit or a county within the circuit has transitioned to Phase 2 pursuant to Fla. Admin. Order No. AOSC20-32, as amended.[8]

(3) Additional days equal to the number of days for which grand jury proceedings are suspended shall be restored to the term of the impaneled statewide grand jury or other impaneled grand jury; however, the number of days restored may not exceed the number of days the impaneled grand jury had remaining in its term when the suspension began.

B. Remote Civil and Criminal Jury Trials.

(1) Notwithstanding any other provision in this administrative order, a judicial circuit may remotely conduct:

a. Civil jury trials if all parties consent to participating in the remote trial.

b. Criminal jury trials if:

i. The defendant provides consent in writing and orally on the record establishing that the defendant has knowingly, voluntarily, and intelligently agreed to the remote conduct of the trial;

ii. Counsel for the defendant, if the defendant is represented, indicates orally on the record that they have discussed the potential advantages and disadvantages of remote conduct of the trial with the defendant

8. This measure initially went into effect on March 16, 2020. (AOSC20-13).

and have concluded that the defendant has knowingly, voluntarily, and intelligently agreed to the remote conduct of the trial; and

iii. The prosecutor indicates the State's and, if applicable, the victim's positions orally on the record regarding remote conduct of the trial for purposes of consideration by the presiding judge in determining whether to remotely conduct the trial.

(2) A court proceeding to obtain the statements required to be provided orally on the record pursuant to Section III.B.(1)b. may be remotely conducted.

(3) The cases selected for a remote jury trial must be:

a. Based upon the case being conducive to a remote proceeding; and

b. Conducted pursuant to the requirements specified in the report titled *Requirements and Evaluation Criteria – Remote Civil and Criminal Jury Trials* and other applicable standards and guidance as may be adopted by the Chief Justice or supreme court.

(4) Within 30 days after the remote conduct of a jury trial for the first time in a judicial circuit, the circuit shall present the results of the trial and report its findings and recommendations to the Chief Justice through the state courts administrator.

(5) To conduct any portion of a remote jury trial in person:

a. The chief judge, in consultation with the county health department or local health expert, must determine that the in-person proceeding can be conducted in a manner that protects the health and safety of all participants if the circuit or a county within the circuit is operating in Phase 1; or

b. The circuit or a county within the circuit must be operating in Phase 2 or Phase 3 pursuant to Fla. Admin. Order No. AOSC20-32, as amended, and the proceeding must be conducted in a manner that is consistent with the circuit's operational plan.

C. Juror Disqualifications, Excusals, and Postponements. For purposes of limiting in-person contact to mitigate the spread of COVID-19 and of addressing hardships related to the pandemic, each chief judge of a judicial circuit:

(1) May authorize the remote conduct of a proceeding in which disqualifications or excusals pursuant to section 40.013, Florida Statutes, or postponements pursuant to section 40.23, Florida Statutes, may be considered for persons who are summoned as a pool for possible juror service as described in section 40.011(5)(b), Florida Statutes.

(2) Shall create a process whereby the:

a. Excusal of a potential juror shall be considered pursuant to section 40.013(5) and (6), Florida Statutes, if the potential juror indicates, subject to penalty of perjury, that he or she:

i. Does not meet the court's Phase 2 or Phase 3 screening requirements for courthouse entry as established in the circuit's operational plan;

ii. Is a person at higher risk for severe illness due to COVID-19 infection as identified by the Centers for Disease Control and Prevention and requests to be excused;

iii. Must care for a child or relative whose regular care provider is closed or unavailable for reasons related to COVID-19; or

iv. Is receiving leave pursuant to the Families First Coronavirus Response Act.

b. Postponement of the service of a potential juror for up to six months shall be considered pursuant to section 40.23(2), Florida Statutes, if the potential juror indicates, subject to penalty of perjury, that he or she:

i. Has recently returned to work after being unemployed due to COVID-19; or

ii. Has suffered a financial or personal loss due to COVID-19 that makes it a hardship to perform jury service.[9, 10]

D. Essential and Critical Trial Court Proceedings.[11]

(1) All trial courts shall continue to perform essential trial court proceedings, including but not limited to: first appearance; criminal arraignments; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights.

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9. Postponements are subject to the six-month statutory maximum specified in section 40.23(2), Florida Statutes. If granting a postponement based on one or both of these reasons would exceed the statutory maximum because of a previous postponement granted to a potential juror, the chief judge or the presiding judge is encouraged to consider whether to grant an excusal based on either reason.

10. For clarification purposes, the statutory provisions authorizing the reasons listed for excusals and postponements, which are necessitated by the pandemic, have been cited in Section III.C.(2). This clarification is effective as of June 16, 2020, *nunc pro tunc*.

11. These measures initially went into effect on March 17, 2020. (AOSC20-15).

(2) In addition to essential trial court proceedings, all trial courts shall perform, as necessary and applicable, critical trial court proceedings related to the state of emergency or the public health emergency, including but not limited to proceedings related to: violation of quarantine or isolation; violation of orders to limit travel; violation of orders to close public or private buildings; and enforcement of curfew orders.

(3) In Phase 1 and Phase 2, essential and critical trial court proceedings shall be conducted remotely, unless the chief judge or presiding judge, in consultation with the chief judge, determines that it is necessary to conduct the proceeding in person. If the circuit or county within a circuit is operating in Phase 1, in-person conduct of a proceeding may occur if the chief judge, in consultation with the county health department or local health expert, determines that the in-person proceeding can be conducted in a manner that protects the health and safety of all participants. If the circuit or county within a circuit is operating in Phase 2, in-person conduct of a proceeding must be consistent with the circuit's operational plan.

(4) It is recognized that certain essential or critical trial court proceedings in some jurisdictions may in extraordinary, limited circumstances be unavoidably delayed due to the exigencies of the ongoing emergency. When this occurs, chief judges are required to take all steps feasible to minimize the delay.

E. Other Trial Court Proceedings.[12] Trial court proceedings that are not addressed under Section III.A.(1) or III.D. shall be conducted as follows during Phase 1 and Phase 2. If in-person conduct of the proceeding is required below, the proceeding may be conducted in person only if the circuit or a county within the circuit is operating in Phase 2 pursuant to Fla. Admin. Order No. AOSC20-32, as amended, in a manner that is consistent with the circuit's operational plan, or as otherwise authorized under Section III.B(5)a. or IX.A.(2).

(1) Non-statewide grand jury selection and proceedings, civil jury selection and trial proceedings, and criminal jury selection and trial proceedings shall be conducted in person after the suspension of these proceedings ends pursuant to Section III.A.(2).

(2) Non-jury trials in:

a. Criminal cases may be conducted remotely if the requirements for certain statements specified in Section III.B.(1)b.i., ii., and iii. are satisfied or, if not, shall be conducted in person.

b. Termination of parental rights and juvenile delinquency cases shall be conducted remotely if ordered by the chief judge or the presiding judge or, if not, shall be conducted in person.

12. A measure related to these proceedings initially went into effect on March 17, 2020. (AOSC20-15).

(3) All other trial court proceedings shall be conducted remotely, except that a proceeding shall be conducted in person if the chief judge or presiding judge, in consultation with the chief judge, determines that remote conduct of the proceeding:

a. Is inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order; or

b. Would be infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.

Chief judges shall take all necessary steps to ensure that the above-listed proceedings are conducted to the fullest extent feasible, consistent with the guidance established in this section.

F. In-Person Conduct of Trial Court Proceedings in Phase 2. While a circuit or county within a circuit is operating in Phase 2, it is the responsibility of the chief judge to ensure that trial court proceedings that must be in person pursuant Section III.D. or E. are conducted to the fullest extent feasible, consistent with the circuit's operational plan. Chief judges shall have the discretion to determine how best to

utilize available trial court resources and facility space to conduct in-person proceedings, whether criminal or non-criminal, but before making such determination should consider the following priorities listed from highest to lowest:

(1) Essential and critical trial court proceedings.

(2) Circuit and county criminal trials with an in-custody defendant.

(3) Circuit trials for juveniles being tried as an adult.

(4) Juvenile delinquency trials.

(5) Circuit and county criminal trials with an out-of-custody defendant.

(6) Termination of parental rights trials.

(7) Circuit civil jury trials.

(8) County civil jury trials.

(9) All other trial court proceedings.

G. Case Resolution. To maximize the resolution of cases, chief judges:

(1) Shall direct all judges within their circuits to strictly comply with Florida Rule of Judicial Administration 2.545(a), (b), and (e), which respectively require judges to conclude litigation as soon as it is reasonably and justly possible to do so, to take charge of all cases at an early stage and to control the progress of the case thereafter until it is determined, and to apply a firm continuance policy allowing continuances only for good cause shown.

(2) Are encouraged, where consistent with public health and safety and the circuit's operational plan, to:

a. Use non-traditional facilities or underutilized courthouse space to increase the court's capacity for in-person proceedings;

b. Reassign judges and court staff to proceedings having the highest priority;

c. Implement scheduling practices that promote the conduct of as many jury trials as feasible; and

d. Communicate to the local Bar that lawyers must strictly comply with Florida Rule of Judicial Administration 2.545(a), which requires lawyers to conclude litigation as soon as it is reasonably and justly possible to do so, and that the pandemic alone is not a basis for a lawyer's failure to prepare a case for trial or otherwise actively manage a case.

H. In-person Conduct of Trial Court Proceedings in Phase 3.[13] All trial court proceedings may be conducted in person if the circuit or a county within the circuit is operating in Phase 3 pursuant to Fla. Admin. Order No. AOSC20-32, as

13. This measure initially went into effect on March 17, 2020. (AOSC20-15).

amended, and the proceeding is conducted in a manner that is consistent with the circuit's operational plan.

IV. SUSPENSION OF TIME PERIODS IN CERTAIN RULES OF CRIMINAL PROCEDURE

A. Speedy Trial.[14]

(1) All time periods involving the speedy trial procedure in criminal and juvenile court proceedings shall remain suspended until 90 days after the Chief Justice has approved the certification of a chief judge of a judicial circuit that the circuit or a county within the circuit has transitioned to Phase 3 pursuant to Fla. Admin. Order No. AOSC20-32, as amended.

(2) When the suspension ends and the time periods resume in a circuit or county within a circuit:

a. Any time that accrued under the procedure for a person before the suspension began on March 13, 2020, shall be subtracted from the time periods provided by the procedure. *See, e.g.*, *Sullivan v. State*, 913 So. 2d 762 (Fla. 5th DCA 2005), and *State v. Hernandez*, 617 So. 2d 1103 (Fla. 3rd DCA 1993).

b. Each of the 10-day time periods in Fla. R. Crim. P. 3.191(p)(3) and Fla. R. Juv. P. 8.090(m)(3) shall be increased to 30 days until such time as the circuit or county within a circuit has transitioned to Phase 4.

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14. This measure initially went into effect at the close of business on March 13, 2020. (AOSC20-13 and AOSC20-17).

B. Persons Arrested for First Degree Murder.[15] With regard to persons arrested for first degree murder, all time periods under Florida Rules of Criminal Procedure 3.133(b) and 3.134 shall:

(1) Remain suspended until such time as grand jury proceedings are resumed pursuant to Section III.A. When the suspension ends and the time periods resume, any time that accrued under the rules for a person before the suspension began on March 13, 2020, shall be subtracted from the time periods provided by the rules.

(2) Be suspended during any period of time in which grand jury proceedings are suspended under Section III.A.(1)b. or IX.B. When the suspension ends and the time periods resume, any time that accrued under the rules for a person before the suspension began on March 13, 2020, shall be subtracted from the time periods provided by the rules.

C. Incompetence to Proceed.[16] Where exigencies make it impossible to meet the 20-day time period in Florida Rule of Criminal Procedure 3.210(b), chief judges of the circuit courts remain authorized to direct judges to hold competency hearings as soon as feasible after the date of filing a motion to determine

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15. This measure initially went into effect at the close of business on March 13, 2020. (AOSC20-17).

16. This measure initially went into effect on March 24, 2020. (AOSC20-17).

competency. Chief judges also remain authorized to allow experts and attorneys to conduct and attend competency evaluations by remote means, if feasible.

V. DEFENDANTS ARRESTED ON WARRANT OR CAPIAS FROM ANOTHER FLORIDA JURISDICTION[17]

To mitigate the health risks associated with the incarceration and transportation of defendants during the pandemic, when a defendant is arrested on a warrant or capias from another Florida jurisdiction, chief judges of the circuit courts remain encouraged to facilitate communication between the circuit or county where the case originated ("home court") and the circuit or county where the defendant is incarcerated ("holding court"), for the handling of matters on a temporary basis, as follows:

A. Pretrial Release and First Appearance Hearings. Chief judges remain authorized to direct judges conducting pretrial release and first appearance hearings to address detention and monetary bond or other conditions of pretrial release in the county of arrest, regardless of whether the case is transferred, rather than requiring transport of the defendant to the county where any warrant or capias originated.

For capiases and violation of probation warrants, before setting monetary bond or other conditions of pretrial release, the first appearance judge, in order to

17. These measures initially took effect on March 24, 2020. (AOSC20-17).

make a proper decision regarding monetary bond or other conditions of pretrial release, must rely on relevant information from the following individuals in the county that issued the capias or warrant: the issuing judge, defense counsel if any, and the state attorney.

Action taken by the holding court at first appearance and any pretrial release hearing should be promptly reported to the home court and reflected in the record of the case.

Any provision of Florida Rule of Criminal Procedure 3.131 inconsistent with these measures remains suspended.

B. Pleas. Judges remain encouraged to coordinate with prosecutors, attorneys, defendants, and victims in order to utilize section 910.035, Florida Statutes, which allows for pleas of guilty or nolo contendere for persons arrested in counties outside of the county of prosecution, upon the consent of the defendant and the state attorney in the county where the crime was committed.

C. Rights of Parties. In cases that are not handled by a plea or pretrial release such that the defendant will continue to be detained in the jurisdiction of the holding court for an indefinite period of time, chief judges are directed to ensure that the due process rights of the defendant are protected by facilitating the temporary transfer of the case to the holding court, if necessary; by having a judge from the holding court designated by the Chief Justice, or designated by the chief

judge if the home and holding court are within the same circuit, as a judge of the home court to handle emergency or other necessary matters in the case; or by other appropriate means.

D. Victims. The constitutional rights of crime victims must also be considered in all cases by the presiding judge.

VI. SPEEDY TRIAL PROCEDURE IN NONCRIMINAL TRAFFIC INFRACTION COURT PROCEEDINGS[18]

The time period involving the speedy trial procedure in noncriminal traffic infraction court proceedings shall remain suspended. When the suspension ends and the time period resumes, any time that accrued under the procedure for a person before the suspension began on March 13, 2020, shall be subtracted from the time period provided by the procedure.

VII. FAMILY LAW FORMS[19]

Except as indicated below, the requirement that Florida Family Law Forms be notarized or signed in the presence of a deputy clerk remains suspended, if the filer includes the following statement before the filer's signature:

> Under penalties of perjury, I declare that I have read this document and the facts stated in it are true.

18. This measure initially took effect on March 13, 2020. (AOSC20-19).
19. This measure initially took effect on March 24, 2020. (AOSC20-17).

This exception does not apply to Florida Family Law Forms 12.902(f)(1), Marital Settlement Agreement for Dissolution of Marriage with Dependent or Minor Child(ren), 12.902(f)(2), Marital Settlement Agreement for Dissolution of Marriage with Property but No Dependent or Minor Child(ren), 12.902(f)(3), Marital Settlement Agreement for Simplified Dissolution of Marriage, and any other family law form that transfers the ownership of property, which must continue to be notarized or signed in the presence of a deputy clerk prior to filing.

VIII. VISITATION FOR CHILDREN UNDER THE PROTECTIVE SUPERVISION OF THE FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES (DCF)[20]

Requirements for in-person visitation pursuant to circuit court orders entered under chapter 39, Florida Statutes, remain suspended. This order does not affect in-person visitations when all parties and the caregiver agree that the visitation can take place in a manner that does not pose a health threat.

In lieu of in-person visitation, visitation shall be conducted through electronic means with video communication as the preferred means, although telephonic contact is permitted if video communication is not feasible.

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20. These measures initially took effect on March 27, 2020. (AOSC20-18).

The suspension of in-person visitation applies to parent-child visitation, sibling visitation, and visitation between children and other family members and non-relatives.

If a party seeks to reinstate in-person visitation while the suspension of in-person visitation requirements remains in effect, such reinstatement shall be determined on a case-by-case basis by the circuit court with jurisdiction over that party's case. Reinstatement of in-person visitation may be ordered if the court determines that it will not jeopardize the health, safety, and well-being of all children and adults (including caregivers) who will be affected by the in-person visitation.

Nothing in these provisions regarding visitation for children under the protective supervision of the DCF overrides existing circuit administrative orders to the extent that those orders are not in conflict with this order. Circuits may enter additional administrative orders addressing visitation and contact pursuant to chapter 39, Florida Statutes, to the extent that they are not in conflict with this order.

IX. REVERSION TO A PREVIOUS PHASE

If a circuit or a county within the circuit reverts to a previous phase, as addressed in Fla. Admin. Order No. AOSC20-32, as amended, the following provisions govern.

A. Certain Jury Proceedings and Jury Trials. If a circuit or a county within the circuit reverts to Phase 1, juror selection and proceedings for a non-statewide grand jury and juror selection and trial proceedings for a civil or criminal case that:

(1) Were not commenced before the reversion are suspended until the circuit or county returns to Phase 2, at which time such proceedings may be commenced in person in a manner consistent with the circuit's operational plan.

(2) Were commenced before the reversion may proceed to completion in person if the chief judge determines that completion of the proceeding without delay is required by the interests of justice and determines, in consultation with the county health department or local health expert, that the in-person proceeding can be conducted in a manner that protects the health and safety of all participants. The requirements of the double jeopardy clause must be considered in criminal proceedings.

B. Suspension of Impaneled Non-statewide Grand Jury. If the chief judge determines that the proceedings of an impaneled non-statewide grand jury cannot continue in Phase 1, the chief judge may issue a local administrative order suspending the proceedings for a specified period of time not to exceed 30 days after the circuit or county within the circuit returns to Phase 2. The provisions of Section III.A.(3) apply with respect to the restoration of time to the term of the impaneled non-statewide grand jury during such suspension.

C. Speedy Trial. If a circuit or a county within the circuit reverts from Phase 3 to Phase 1 or Phase 2, all time periods involving the speedy trial procedure in criminal and juvenile court proceedings are suspended until 90 days after the Chief Justice has approved the recertification of a chief judge of a judicial circuit that the circuit or county within the circuit has returned to Phase 3 pursuant to Fla. Admin. Order No. AOSC20-32, as amended. When the suspension ends and the time periods resume:

(1) Any time that accrued under the speedy trial procedure for a person before the initial suspension of the procedure began on March 13, 2020, and while the procedure was in effect during Phase 3 shall be subtracted from the time periods provided by the procedure. *See, e.g.*, *Sullivan v. State*, 913 So. 2d 762 (Fla. 5th DCA 2005), and *State v. Hernandez*, 617 So. 2d 1103 (Fla. 3rd DCA 1993).

(2) Each of the 10-day time periods in Fla. R. Crim. P. 3.191(p)(3) and Fla. R. Juv. P. 8.090(m)(3) shall be increased to 30 days until such time as the circuit or county within a circuit has transitioned to Phase 4.

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Additional orders extending or modifying these measures will be issued as warranted by changing circumstances during the public health emergency.

DONE AND ORDERED at Tallahassee, Florida, on February 17, 2021.

AOSC20-23 A9

Chief Justice Charles T. Canady

AOSC20-23 A9 2/17/2021

ATTEST:

AOSC20-23 A9 2/17/2021

John A. Tomasino, Clerk of Court

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