Supreme Court of Arkansas

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Re: Preparation for Returning to In-Person Proceedings

Dear Judges:

While the Supreme Court has extended the suspension of in-person proceedings in all appellate, circuit, and district courts through May 15, and may extend it further as circumstances warrant, preparations to transition to in-person proceedings should begin now.

Protecting the health of all who enter our courts—litigants, attorneys, court staff, and members of the public—is the highest priority. Avoiding exposure to infected individuals is key to stopping the spread of COVID-19. As we plan for the return to in-person proceedings, it will be critical to minimize the potential for exposure to the extent possible. To accomplish this, the Department of Health recommends a two-pronged approach:

1. Screen to identify symptomatic individuals and those who have been exposed to others with COVID-19.
    - Take temperature of individuals entering the courthouse
    - Have individuals complete a brief questionnaire regarding symptoms and potential exposure

2. Protect against exposure from asymptomatic people.
    - Social distancing—maintaining a minimum of 6 feet between people
    - Wear a mask
    - Avoid contracting the virus from hard surfaces

Now is the time to begin acquiring the supplies and equipment needed to implement these recommendations, and to assess what role each staff member of your court will play in implementing them.

1. Purchase masks, gloves, and hand sanitizer for use by staff and persons entering the courthouse.

2. Acquire a medical grade thermometer, identify staff who will be taking temperatures and ensure they know how to properly use the equipment.

3. Determine screening questions to be used and how the screening will be done. A sample questionnaire is attached to this email.

4. Assess facilities to determine how many people may be admitted while maintaining social-distancing recommendations; decide where to place any signage and spacing markers.

5. Coordinate with county officials to ensure that the facilities are sanitized regularly throughout the day.

6. Create a list of free wi-fi hot spots in your county.

To assist courts as they work to implement the recommendations, the Supreme Court created a task force of circuit and district judges to develop guidelines and recommendations that may be implemented during the transition to in-person proceedings. Attached is a document containing the initial recommendations. As additional information and resources become available it will be provided to you.

I express my thanks to Judge Cindy Thyer for her preparation of the outline of guidelines and recommendations for "Preparation of Returning to In-Person Proceedings."

Sincerely,

John Dan Kemp

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PHASE 1 OF REOPENING PLAN

STANDARD BUILDING ENTRY GUIDELINES FOR ALL COURTHOUSES

- Temperature screening at each entry
- Maintain social distancing upon entry
- Require visitors to answer the same types of questions presently utilized by medical facilities upon entry. For example:
    * Have you run a temperature of over 99.6 degrees in the last 14 days
    * Do you have a cough/shortness of breath
    * Have you had pneumonia/Flu recently
    * Have you traveled out of the country in the last 14 days to a level 2 or 3 country as determined by the CDC? A list of countries can be found at www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html
    * Have you traveled to a high-risk state in the last 14 days: High-risk states currently include: Tennessee (INCLUDING MEMPHIS), Washington, California, Colorado, Texas, Louisiana, Illinois, Georgia, Flordia, Michigan, Pennsylvania, New York, New Jersey, Connecticut, or Massachusetts?
    * Have you had contact with a confirmed or suspected Covid-19 patient within the last 14 days?
- Visitors advised in advance to wear masks
    * Have access to masks to be able to provide for those who don't have any.
- Hand sanitizer readily available
- Custodial staff continue at least twice daily sanitization efforts

GENERAL COURT PROCEDURES FOR ALL DIVISIONS

- Consider a staggering of court appearances either as timed hearings when appropriate or on large criminal days divide the group reporting times alphabetically. For example, if the defendant's last name begins with A-L, reporting time is at 9 a.m. and if the last name begins with M-Z, the reporting time is at 1 p.m.
- Keep court events at the smallest number possible, not to exceed ten individuals with a goal
- Notices to be posted requiring recommended social distancing, wearing of masks, and good hygiene to be maintained
- Courts to identify and publish free wi-fi areas for use of parties and witnesses when needed
- All in-person hearings would be limited to the current ten-person maximum

CRIMINAL DIVISION

- Court appearance priority to be given to initial appearances, PC hearings, cases with speedy trial issues, hearings on writs of habeas corpus, and cases involving victims under the age of fourteen (from initial Per Curiam).
- Encourage bench trials and place emphasis on resolving PTR's, especially when a defendant has a substantive case in addition to PTR. Conduct by Zoom if by agreement and appropriate. If not, schedule a specific time for each hearing as stated above. In-person PTR hearings and bench trials may occur if fewer than ten individuals are present at a time.
- Continue to accept pleas and conduct hearings by Zoom upon proper waiver. Hearings by Zoom may include motions for bond reduction/revocation, motions to suppress and other motions by agreement. If court appearance is needed, schedule a specific time for each plea or hearing in order to minimize the number of people in court for each hearing.
- Encourage regular review of bonds for incarcerated defendants.
- For when jury trials return: If the courtroom utilized for jury trials is not large enough to host a jury with social distancing in place, identify a facility large enough to do so, e.g., school auditorium, performing arts venue
- DRUG COURT: court appearance priority to be given to sanction and sentencing hearings. Continue by Zoom when possible. Any other in-court appearances deemed necessary by the judge will follow general health and safety guidelines above

CIVIL DIVISION

- Court appearance priority to be given to petitions for temporary restraining orders or other forms of temporary injunctive relief as well as emergency mental health orders (initial Per Curiam)
- Petitions for Writ of Possession to Real Property to be permitted upon approval of the Arkansas Supreme Court
- Judges rule on motions without a hearing when possible.
- Continue the use of Zoom for motions, status conferences, and other non-jury events

JUVENILE

- Court appearance priority to be given to juvenile PC hearings and juvenile detention hearings (initial Per Curiam) and bench trials.
- Juvenile assessments and probation visits to occur with juvenile staff, juvenile, and juvenile's family by phone if Zoom is not available
- Juvenile staff to coordinate with counseling and treatment providers to ensure meaningful counseling/treatment continues under circumstances protecting health and safety of all involved

- If any in-person probation or treatment visits are deemed necessary for the best interest of the juvenile, those meetings are to occur maintaining social distancing, wearing of masks, maintaining good hygiene, etc.
- Continue to minimize jail admissions to admit only those who are public safety risk after all other alternatives are exhausted
- DRUG COURT: court appearance priority to be given to sanction and sentencing hearings. Continue by Zoom when possible. Any in-court appearances deemed necessary by the judge to follow general health and safety guidelines above

DEPENDENCY/NEGLECT

- Court appearance priority to be given to probable cause hearings, emergency child custody/placement, and ICWA proceedings (initial Per Curiam). I propose priority also be given to TPR hearings.

DOMESTIC RELATIONS/PROBATE

- Court appearance priority to be given to proceedings involving orders of protection, emergency child custody, emergency guardianship, adult protective services (initial Per Curiam)

OTHER

- These guidelines are suggested to permit some level of predictability to practitioners and to ensure consistency among courts. They are not intended to limit a judge's discretion if a judge deems a certain matter is better suited for an in-person hearing that would involve fewer than ten individuals at once.