STATE OF MAINE JUDICIAL BRANCH

COVID-19 Phased Management Plan

Version 5: Issued November 3, 2020

History

In March 2020, the emergence of the COVID-19 pandemic compelled the Maine Judicial Branch to significantly curtail court proceedings in the interest of public safety and the health and safety of Judicial Branch Employees. The initial orders issued by the Maine Supreme Judicial Court limited court proceedings to those matters in which persons faced dangers of injury or death and matters involving constitutional liberty interests.

In the weeks that followed, the Court issued Pandemic Management Orders (PMOs) that incrementally increased the number of case types to be scheduled and heard in accordance with safety concerns. The Court's most recent PMOs provide for scheduling and hearing of almost all case types, on two conditions: (1) the case must be one that can be addressed by video or telephone conference and (2) judicial resources will be directed to priority case types first.

In each instance, the Court's decisions have been founded upon scientific data and have represented the Court's best judgment in the difficult task of balancing the need to protect the health and safety of the public and the Court's employees with the need to provide a forum for the adjudication of legal matters.

Creation of COVID-19 Phased Management Plan

Consistent with the gradual reopening of State functions in the wake of the COVID-19 pandemic, the Court now establishes this COVID-19 phased management plan to set forth the anticipated incremental resumption of all Court activities. In establishing this plan—and in making any revisions to it that may be necessitated by the unavailability of resources, the progression of the pandemic, or other relevant subsequent events—the Court is and will continue to be guided by the most recent scientific data available from the Maine Center for Disease Control and Prevention, as well as internal data and recommendations from the Chiefs of the Superior and District Courts; the Maine Executive and Legislative branches of government; County Commissioners; jail personnel; other State, county, and municipal offices; and other interested stakeholders. We are particularly guided by the State of Maine's COVID-19 Prevention Checklists for General Guidance and for Industry Guidance on Public and Community Buildings.

Guiding Principles

The following principles will continue to guide the Court's decision-making as it establishes and revises its long-term plans in the wake of the COVID-19 pandemic:

- **Evidence-Based, Collaborative Decision-Making.** In making decisions about court capabilities during the COVID-19 pandemic, the Court will continue to obtain and rely on scientific information from the Maine Center for Disease Control and Prevention as well as the input of diverse stakeholders in determining how to ensure the health of the public while upholding the fundamental rights of litigants in the court system.

- **Protecting Courthouse Staff and Visitors.** It is essential to the public welfare that courthouse staff and visitors alike, including those who are the most vulnerable, are protected and safe so that the work of the courts may continue to be carried out without causing harm.

- **Attention to Local Conditions.** The specific anticipated dates for each phase set forth below may be attainable in some courthouses and not in others. By virtue of the conditions necessary for execution of each phase, some court functions in some locations may be subject to additional delays.

- **Availability of Necessary Resources.** Reopening of the courts may be accomplished only when all necessary resources—including sufficient staffing, security, and technological capabilities—are available to both adequately protect all court staff and visitors and support the resumption of court functions.

- **Satisfaction of Required Conditions.** At each phase of the anticipated reopening plan, the execution of the plan is dependent on the satisfaction of a list of preconditions related to each of the above principles. The inability of any court location to meet any one or more of the required preconditions may necessitate

    - Adjustments to the phase attributes in that location,
    - A halt to phase progression, and/or
    - A return to the safeguards of an earlier phase.

Anticipated Phases

Consistent with the guiding principles, a five-phase plan for the resumption of all functions of the Maine state courts is established. Any resurgence of COVID-19 may, however, necessitate

- Adjustments to the phase attributes,
- A halt to phase progression, and/or
- A return to the safeguards of an earlier phase.

These changes may be implemented on a statewide basis if necessary or may be implemented only in specific court locations if the incidence of the disease varies across the state.

PHASE 1
Anticipated for June 1 – June 12 (two weeks)

Required Conditions for Phase 1

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.

- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.

- Social distancing measures employed in each courthouse must be observed. No more than 10 people, including court personnel, shall be present in a courtroom at any one time. No more than 50 people per courthouse floor may be present in common areas at any one time. These numbers may be reduced depending on the need for social distancing at a specific courthouse or on a specific floor of a courthouse. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.

- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

Attributes of Phase 1 when Required Conditions are Satisfied

- Courts will be open to the public from 8:00 a.m. to 4:00 p.m.

- The following case types and proceedings will NOT be scheduled or heard:

    - FED (eviction, landlord/tenant) except requests for writs of possession as provided by the Governor's Executive Order Number 40, dated April 16, 2020
    - Disclosures
    - Foreclosures
    - Small claims
    - Violations Bureau

- No jury trials will be scheduled or held.

- No grand jury proceedings will be scheduled or held.

- The courts WILL continue to schedule and hear the following proceedings in the same manner that they have been conducted since the implementation of the Pandemic Management Orders:

    - Arraignments and first appearances of defendants held in custody
    - Motions for review of bail of defendants held in custody
    - Juvenile detention hearings
    - Protection from abuse requests and hearings
    - Protection from harassment requests and hearings
    - Child protection petitions and proceedings
        - Hearings are limited to summary preliminary hearings, jeopardy hearings, and judicial reviews[1]
    - Mental health requests and hearings
    - Emergency guardianships

- The courts MAY schedule and hear all other case types and proceedings so long as all hearings, conferences, and other court events take place only by video or audio conference. In scheduling hearings, conferences, and other court events, the courts will continue to allocate judicial resources in such a manner that the following cases receive priority for scheduling and hearings:

    - Arraignments and first appearances of defendants held in custody
    - Motions for review of bail of defendants held in custody
    - UCD plea agreements for defendants in custody
    - UCD probation revocation hearings for defendants in custody
    - UCD dispositional conferences for defendants in custody
    - Juvenile detention hearings
    - Uncontested gestational carrier hearings
    - Uncontested divorce and judicial separation hearings
    - Uncontested parental rights and responsibilities hearings
    - Uncontested parentage hearings
    - Telephonic case management, status conference, and Rule 26(g) discovery conferences in family matters
    - Protection from abuse requests and hearings
    - Protection from harassment requests and hearings
    - Child protection petitions and proceedings

[1] Case management conferences and docket calls, if held, will be conducted telephonically.

        - Summary preliminary hearings, jeopardy hearings, judicial reviews, case management conferences, uncontested hearings on termination of parental rights, and uncontested hearings on orders of parental rights and responsibilities
    - Uncontested child support, child support modification, and child support enforcement actions
    - Mental health requests and hearings
    - Emergency guardianships
    - Uncontested adoptions
    - Petitions for Review concerning Control of Notifiable Diseases (22 M.R.S. § 820)

- In any matter that is not being scheduled or heard during this phase of the pandemic management, a request can be made for the scheduling of the matter as set forth in PMO-SJC-1.

- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted either by video conferencing or addressed by the court without oral arguments.

PHASE 2
Anticipated for June 15 – July 2 (three weeks)

Required Conditions for Phase 2

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.

- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.

- Social distancing measures employed in each courthouse must be observed. No more than 10 people, including court personnel, shall be present in a courtroom at any one time. No more than 50 people per courthouse floor may be present in common areas at any one time. These numbers may be reduced depending on the need for social distancing at a specific courthouse or on a specific floor of a courthouse. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.

- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or memorandum of understanding with the custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.

- New conditions did not arise during the two weeks of Phase 1 that require additional restrictions.

Attributes of Phase 2 when Required Conditions are Satisfied

- The following case types and proceedings will NOT be scheduled or heard:

    - FED (eviction, landlord/tenant) except requests for writs of possession as provided by the Governor's Executive Order Number 40, dated April 16, 2020
    - Disclosures
    - Foreclosures
    - Small claims
    - Violations Bureau

- No jury trials or grand jury proceedings will be scheduled or held.

- Video and telephone conferences are the strongly preferred medium for all proceedings. However, the courts MAY schedule and hear the following proceedings as in-person hearings, subject to the availability of judicial resources and the need to address priority cases:

    - Arraignments and first appearances of defendants held in custody
    - Motions for review of bail of defendants held in custody
    - Juvenile detention hearings
    - Protection from abuse requests and hearings
    - Protection from harassment requests and hearings
    - Child protection petitions and proceedings
    - Mental health requests and hearings
    - Emergency guardianships
    - UCD plea agreements for defendants in custody
    - UCD probation revocation hearings for defendants in custody
    - UCD dispositional conferences for defendants in custody
    - Criminal cases involving summonses awaiting first appearances
    - Uncontested gestational carrier hearings
    - Uncontested divorce and judicial separation hearings
    - Uncontested parental rights and responsibilities hearings
    - Uncontested parentage hearings

- Telephonic case management, status conference, and Rule 26(g) discovery conferences in family matters
- Uncontested child support, child support modification, and child support enforcement actions
- Uncontested adoptions
- Petitions for Review concerning Control of Notifiable Diseases (22 M.R.S. § 820)

- In any matter that is not being scheduled or heard during this phase of the pandemic management, a request can be made for the scheduling of the matter as set forth in PMO-SJC-1.

- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted either by video conferencing or addressed by the court without oral arguments.

PHASE 3
Anticipated for July 6 – July 31 (four weeks)

Required Conditions for Phase 3

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.

- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.

- No more than 50 people may be present in any room or common area at any one time; social distancing requirements may further reduce maximum capacity limits in specific locations. Social distancing measures employed in each courthouse must be observed at all times. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.

- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or

memorandum of understanding with the custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.

- New conditions did not arise during the three weeks of Phase 2 that require additional restrictions.

Attributes of Phase 3 when Required Conditions are Satisfied

- The following case types and proceedings will NOT be scheduled or heard:
    - FED (eviction, landlord/tenant) except requests for writs of possession as provided by the Governor's Executive Order Number 40, dated April 16, 2020
    - Disclosures
    - Foreclosures
    - Small claims
    - Violations Bureau

- Video and telephone conferences are the strongly preferred medium for all proceedings. However, the courts MAY schedule and conduct in-person hearings in all case types not listed above, subject to the availability of judicial resources and the need to address priority cases.

- No jury trials will be scheduled or held.

- Grand jury proceedings may be scheduled and held in person at courthouses. Capacity controls will be adjusted to accommodate the special requirements for grand jury proceedings.

- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted either by video conferencing or addressed by the court without oral arguments.

PHASE 4
Anticipated for August 3 – November 6 (fourteen weeks)

Required Conditions for Phase 4

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.

- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand

sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.

- No more than 50 people may be present in any room or common area at any one time; social distancing requirements may further reduce maximum capacity limits in specific locations. Social distancing measures employed in each courthouse must be observed at all times. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.

- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or memorandum of understanding with the custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.

- New conditions did not arise during the four weeks of Phase 3 that require additional restrictions.

Attributes of Phase 4 when Required Conditions are Satisfied

- Due to the extensive efforts necessary to resume FED (eviction, landlord/tenant) cases during Phase 4, the following case types and proceedings will NOT be scheduled or heard:

    - Disclosures
    - Foreclosures
    - Small claims
    - Land Use Violations 80(K)

  The court will continue to review its readiness to address these case types during Phase 4 and will issue updates as docket conditions evolve.

- In any matter that is not being scheduled or heard during this phase of the pandemic management, a request can be made for the scheduling of the matter as set forth in PMO-SJC-1.

- No jury trials will be scheduled or held.

- Grand jury proceedings may be scheduled and held in person at courthouses. Capacity controls will be adjusted to accommodate the special requirements for grand jury proceedings

- Court proceedings are subject to PMO-SJC-7, which establishes remote video or telephone hearings as the presumptive format for all but specifically excepted case types.

- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted by video conferencing until further notice by the Court.

PHASE 5
Anticipated for November 9 onward

On July 31, the anticipated starting date for Phase 5 was changed to October 19, 2020 due to the anticipated inability of the Judicial Branch to effectively conduct jury trials in September while satisfying current CDC health and safety requirements. The Judicial Branch continues its efforts to formulate plans for the conduct of jury trials, but it is clear that existing resources and facilities will not be satisfactory during the month of September.

The Supreme Judicial Court has approved two or more pilot plan jury trials to take place during the month of September at the Capital Judicial Center and the Penobscot Judicial Center for the purposes of studying the unique needs and processes for jury trials during the COVID era. The Chief Justice of the Superior Court will supervise the planning and execution of the pilot projects.

On August 28, the anticipated starting date for Phase 5 was changed to November 9, 2020, due to the time required to evaluate the pilot jury trials conducted in September, to establish standard procedures, and to allow sufficient lead time for planning and preparation for jury trials in November.

On November 3, the Plan was augmented to acknowledge and explain the scheduling constraints that exist as a result of limited judicial resources and the necessity for adherence to the Judicial Branch's priority scheduling policy (See Addendum, below).

Required Conditions for Phase 5 (and until further notice)

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.

- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.

- No more than 50 people may be present in any room or common area at any one time; social distancing requirements may further reduce maximum capacity limits in specific locations. Social distancing measures employed in each courthouse must be observed at all times. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.

- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or memorandum of understanding with the custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.

- New conditions did not arise during the fourteen weeks of Phase 4 that require additional restrictions.

Attributes of Phase 5 when Required Conditions are Satisfied

- Courts will be open to the public from 8:00 a.m. to 4:00 p.m.

- Jury trials may be scheduled and held. Capacity controls will be adjusted to accommodate the special requirements for jury trials.

- Grand jury proceedings may be scheduled and held in person at courthouses. Capacity controls will be adjusted to accommodate the special requirements for grand jury proceedings.

- The following case types and proceedings may be scheduled or heard, pending establishment of standard procedures for addressing them:

    - Disclosures
    - Foreclosures
    - Small claims
    - Land Use Violations (M.R. Civ. P. 80K)

- Court proceedings are subject to PMO-SJC-7, which establishes remote video or telephone hearings as the presumptive format for all but specifically excepted case types.

- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted by video conferencing until further notice by the Court.

ADDENDUM TO PHASE 5 ATTRIBUTES

Although all cases types and jury trials are *permitted* to be heard under the terms of Phase 5, the actual setting of any matter for trial or hearing remains subject to the Judicial Branch's longstanding priority scheduling policy. The extensive measures undertaken to provide safe and secure in-person proceedings have substantially limited the numbers of matters that can be addressed by the Judicial Branch. Video remote proceedings have alleviated to some degree the need for in-person hearings, but the courts simply cannot schedule or hear the same quantities of cases that occurred in pre-COVID times. This stark reality has caused and will continue to cause delays and will affect rates of closure.

Priority cases typically involve matters where individuals are in danger of being hurt or constitutional liberty interests are at stake. Currently, those matters require almost all available court scheduling time and resources including judicial officers, clerks, marshals, courtrooms, and IT staff, hardware, and infrastructure. Given this reality, matters that do not occupy the top tiers of the priority list, such as money judgments, disclosures, small claims, land use violations, and other civil matters, will not be scheduled or heard before 2021. At this time, the Judicial Branch is not able to establish when those matters will be scheduled.[2] Additionally, foreclosures will not be scheduled or heard before February 28, 2021.

Finally, because jury trials during the COVID era require significant diversions of limited security and facility resources, the scheduling of jury trials will be limited to criminal matters, and will be the subject of a comprehensive plan to be promulgated in the near future.

[2] PMO-SJC-1 allows for matters to be specially scheduled during the period of pandemic management at the discretion of a court upon a demonstration of urgent and compelling reasons.

APPENDIX A

Visitor Restrictions

The State of Maine Judicial Branch announces visitor restrictions that apply to all State courthouses. These restrictions are imposed in light of the health concerns caused by the COVID-19 (coronavirus) pandemic.

The Maine Center for Disease Control and Prevention (CDC) has advised people to take precautions in light of the pandemic. The CDC advises that the best way to avoid illness is to avoid being exposed to the virus.

For purposes of these restrictions, "close contact" with a person with confirmed COVID-19 means being within 6 feet of the person for 15-minutes or more over a 24-hour period without the use of full personal protective equipment (PPE).

For purposes of these restrictions, "traveled outside of the State of Maine" does not include transiting a non-exempt area or stopping briefly in a non-exempt area to make use of travel services such as a highway rest stop.

Therefore, effective immediately, the following persons shall not enter any State courthouse in Maine:

A. Persons who have received a positive COVID-19 diagnosis or have experienced symptoms potentially related to COVID-19 within the preceding 10 days

B. Persons who have traveled outside of the State of Maine within the preceding fourteen days to an area not otherwise exempt from quarantine requirements imposed pursuant to Executive Order of the Governor;

C. Persons who reside or have had close contact with someone who has traveled outside of the State of Maine as described in paragraph B within the preceding fourteen days;

D. Persons who have been advised to self-quarantine by any health care provider, public health agency or public health official within the preceding 14 days; and

E. Persons who have had close contact within the preceding 14 days with anyone who has been diagnosed with COVID-19.

When you arrive at a courthouse, you will be asked following questions:

- Have you had a cough or sore throat?
- Have you had a fever or do you feel feverish?
- Do you have shortness of breath?

- Do you have a loss of taste or smell?
- Have you been around anyone exhibiting these symptoms within the past 14 days?
- Are you living with anyone who is sick or quarantined?
- Have you been out of state in the last 14 days?
- Have you been diagnosed with COVID-19 or been advised to self-quarantine by any health care provider, public health agency, or public health official?

If you answer YES to any of these questions, you may be asked some follow-up questions and, depending on the answers to those questions, you will either be allowed to enter or you will be refused entrance and provided with a contact number so that you may be assisted. You may be asked to sign a written attestation confirming that you do not have any of the symptoms noted above.

If you refuse to participate in the screening process, you will be refused entrance and provided with a contact number so that you may be assisted.

In order to comply with CDC recommendations and to protect the public and court staff, anyone attempting to enter in violation of these protocols will be denied entry by a Judicial Marshal.

If you have a scheduled court hearing or are otherwise required to appear at one of the courthouses in Maine, and you cannot enter the courthouse as a result of these protocols, you should proceed as follows:

- If you are represented by an attorney, please contact your attorney;
- If you are not represented by an attorney, please call **207-753-2999** to speak to a clerk about your case;
- If you are seeking protection from abuse or protection from harassment, call **207-753-2999** and a clerk will assist you;
- If you are an attorney and you are scheduled to appear in court, please call **207-753-2999** to speak to a clerk about your case.

These restrictions will remain in place temporarily, until it is determined safe to remove them. All persons who believe they have been exposed to the coronavirus should immediately contact their healthcare providers.