

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER 1-53.3

IN RE: COVID-19 EMERGENCY COURT OPERATIONS PROCEDURES

WHEREAS, the World Health Organization (WHO) has declared COVID-19, a severe acute respiratory illness, to be a pandemic, and the Governor of the State of Florida and the State Surgeon General and State Health Officer have declared that a public health emergency exists in Florida; and

WHEREAS, the health, safety, and well-being of courthouse visitors, court employees, and judicial officers are a high priority and necessitates the Florida State Courts System's continued monitoring of the COVID-19 outbreak and its effects on court operations; and

WHEREAS, to protect health and safety, the Florida Supreme Court has issued numerous administrative orders to enable trial courts to continue to provide court operations and proceedings through the use of remote technology; and

WHEREAS, on May 21, 2020, the Florida Supreme Court issued Amendment 2 to AOSC20-23, *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts* ("Second Amended AOSC20-23") continues the suspension of grand jury proceedings, jury selection proceedings, and criminal and civil jury trials, and provides "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 – limited in-person contact is authorized for certain purposes and/or requires use of protective measures; Phase 3 – in-person contact is more broadly authorized and protective measures are relaxed; and 4) Phase 4 – COVID-19 no longer presents a significant risk to public health and safety"; and

WHEREAS, on May 21, 2020, the Florida Supreme Court issued AOSC20-32, *In Re: COVID-19 Public Health and Safety Precautions for Phase 2* which accepted and approved the recommendations of the Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19; and

WHEREAS, AOSC20-32 sets out the requirements for protective measures for entrance into court facilities, benchmarks, and operational plans that must be established, implemented, and submitted before a Circuit may transition from Phase 1 (in-person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare) to Phase 2 (limited in-person contact is authorized for certain purposes and/or requires use of protective measures); and

WHEREAS, the undersigned has determined that the protective measures for entrance into court facilities set forth in AOSC20-32 should be established and implemented in Hardee, Highlands, and Polk Counties before the benchmarks and operational plans are established and submitted;

NOW THEREFORE, IT IS ORDERED that, effectively immediately:

1. Limits on In-person Hearings: Pursuant to Second Amended AOSC20-23, “[n]o proceedings or other court events other than essential proceedings and proceedings critical to the state of emergency or the public health emergency shall be conducted through in-person hearings.” In the event of an in-person hearing, the judge or the judicial officer shall take necessary steps to practice social distancing in order to minimize potential exposure to COVID-19. The presiding judge or judicial officer must ensure that all participants in the proceeding maintain at least a 6-foot “social distance” from each other at all times.
2. Essential and Critical Proceedings: Essential and critical proceedings will continue to be conducted remotely unless the presiding judge deems it necessary to conduct the proceeding in-person.
 - a. Essential proceedings include, but are not limited to: “first appearance; criminal arraignments as necessary; 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 temporary 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.” Second Amended AOSC20-23.
 - b. Critical proceedings related to the state of emergency or the public health emergency, include, but are 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.” Id.
 - c. In the event that the presiding judge, after attempting or considering to conduct the proceeding using remote technology, determines that the proceeding cannot be conducted or fairly accomplished without an in-person appearance, then the presiding judge should determine who should appear physically and who should appear remotely, if any. There may be factual or legal scenarios wherein it is not fair for a party to physically appear without the party’s attorney also physically appearing. There may also be scenarios wherein it is fair for an attorney to appear remotely while the attorney’s client appears physically.

The presiding judge must make the determination as to who should appear physically and who should appear remotely based upon the specific facts and the specific matter to be disposed. The presiding judge and no one else is tasked with making such determinations. The presiding judge may be required to reschedule a proceeding in the event that the judge determines that an alternative to the ongoing attendance arrangement is inadequate. In that instance, the presiding judge shall provide directives as to which persons shall appear remotely and

which persons shall appear physically.

3. Non-Essential and Non-Critical Proceedings: All non-essential and non-critical proceedings shall be conducted using remote technology.
4. Instruction for Accessing Remote Proceedings: The Office of the Court Administrator for the Tenth Judicial Circuit Court is tasked with providing the parties and/or their attorneys, and any other necessary court participant with instructions regarding how to attend remotely. These instructions will be made available on the Tenth Circuit Court's website (www.jud10.flcourts.org).
5. General Procedures in Polk County: To prepare for the transition to Phase 2 court operations and to provide for the safety of those persons accessing the courthouses and court facilities, the following protective measures outlined in AOSC20-32 are hereby adopted for the Court's continued response to the pandemic:
 - a. Judges, elected officials whose offices are in any courthouse or court facility, and employees working in any courthouse or court facility shall self-check for symptoms of COVID-19. If they present any COVID-19 symptoms, they must remain home and should consult their doctor or other medical professional.
 - b. Attorneys, jurors, vendors, and the public must undergo a health screening and a temperature check. "Persons who have a fever of 100.4 degrees or greater, answer affirmatively to any of the symptoms in Question 1, or answer affirmatively to Question 2, 3, 4, or 5 shall not be allowed to enter the facility." AOSC20-32.
 - Question 1: Do you have any of the following symptoms (excluding those due to a known medical reason)? cough, shortness of breath or difficulty breathing, chills, muscle pain, sore throat, new loss of taste or smell.
 - Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19?
 - Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?
 - Question 4: Have you had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19?
 - Question 5: Have you travelled to an area with a notably high concentration of COVID-19 cases?

Id. To facilitate the health screening and temperature check with the limited resources available to the Court, attorneys, jurors, vendors, and the public may only enter the Bartow courthouse through the Church Street/north entrance or the Juvenile/southwest entrance of the building. To the extent that these

provisions conflict with Administrative Order Number 1-12.13 or a subsequent amendment of the Administrative Order, these provisions prevail.

- c. “Face masks are required for everyone entering the courthouse building [or facility], with no exceptions.” Id. “Face masks shall be worn at all times throughout the courthouse building [or facility], including inside the courtroom [or hearing room].” Id. Judges and court staff that have a private office or have ample room to socially distance may remove their masks in their office, otherwise, they must wear a mask while at their desk.
 - d. Face masks will be provided at no cost to visitors who do not have one.
 - e. Court Bailiffs and local Sheriff Deputies are hereby granted the authority to screen and eject persons from courtrooms, hearing rooms, courthouses, or court facilities in accordance with this Administrative Order.
 - f. Any person who refuses to wear a facemask and/or who refuses to follow the social distancing requirements while in the courthouse or court facility will be denied access.
6. Presence of Children at Shelter Hearings: Unless directed otherwise by the assigned judge, the presence of children at shelter hearings is waived during the Court’s response to the pandemic or until further order.
 7. Continuance of Fines and/or Court Costs in County Criminal Cases and Non-Criminal Traffic Violations: The Clerks of Court may, without request, extend the time for the payment of fines and/or costs imposed in county criminal cases for a period of sixty (60) days and for non-criminal traffic violations for a period of one hundred-twenty (120) days. This is a special limited exception to Administrative Order 7-16.0, *In Re: Continuances of Fines and/or Court Costs*, entered on March 20, 2020.
 8. Weekender Program (Polk County). As a result of social distancing requirements, the Weekender Program, a weekend work-release program run by the Polk County Sheriff’s Office (hereinafter “PCSO”), may not be able to accommodate the full number of participants in the program. In the event that the program reaches its maximum capacity for any weekend and must turn participants away due to social distancing requirements, the PCSO shall provide the Court with a list of the names of the individuals turned away and unable to complete their weekend work-release requirements due to no fault of their own.
 9. Rescheduling canceled proceedings. For matters that are not rescheduled by the Clerk of Court, it is up to the parties to reschedule any proceedings that have been stayed, cancelled, or postponed. The Clerk of Court and the Judicial Assistant of the assigned judge is tasked with informing a party who inquires as to whether a matter is to be rescheduled by the Clerk or the parties with the assistance of the Judicial Assistant.
 10. Effective Date: This Administrative Order is effective June 1, 2020, and shall remain in effect until amended or terminated by subsequent order of this Court or the Florida

Supreme Court. This Administrative Order supersedes 1-53.2 entered on April 8, 2020, and immediately VACATES Administrative Order 1-54.0 entered on March 20, 2020, as relevant provisions have been incorporated herein.

DONE AND ORDERED in Bartow on this 29th day of May, 2020.

s/ELLEN S. MASTERS, CHIEF JUDGE

Original:

Polk County Clerk of Court

Copies:

All Judges

Hardee County Clerk of Court

Highlands County Clerk of Court

Polk County Clerk of Court

Nick Sudzina, Trial Court Administrator

Office of the State Attorney

Office of the Public Defender

Office of Criminal Conflict and Civil Regional Counsel, Second District

Department of Juvenile Justice

Hardee, Highlands, and Polk Law Enforcement Agencies

Electronic Bar Mailing