

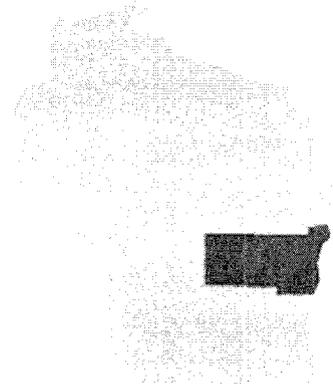
**BARBARA H. KEY**  
Chief Judge  
Winnebago County Courthouse  
415 Jackson Street  
Oshkosh, WI 54901  
Telephone: (920) 236-4835  
FAX: (920) 424-7795

**JOHN A. JORGENSEN**  
Deputy Chief Judge  
Winnebago County Courthouse  
415 Jackson Street  
Oshkosh, WI 54901  
Telephone: (920) 236-4866  
FAX: (920) 303-4784

**JON J. BELLOWS**  
District Court Administrator  
415 Jackson St., Room 510  
Oshkosh, WI 54901  
Email: jon.bellows@wicourts.gov  
Telephone: (920) 424-0028  
FAX: (920) 424-0096

STATE OF WISCONSIN  
**FOURTH JUDICIAL DISTRICT**

415 JACKSON STREET  
OSHKOSH, WISCONSIN 54901  
(920) 424-0027



June 10, 2020

Chief Justice Roggensack

Director of State Courts Randy Koschnick

BY EMAIL

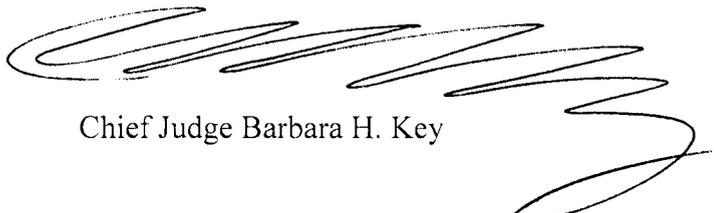
Dear Chief Justice Roggensack and Director Koschnick:

Please find attached an Order Approving Operational Plan, COVID-19 Circuit Court Operating Plan and Jury Trial Plan Addendum for Calumet County.

If there is anything else you need or questions you may have, please do not hesitate to contact me.

Thank you for your consideration.

Sincerely,



Chief Judge Barbara H. Key

BHK/vmb

cc: Jon Bellows  
Hon. Jeffrey Froehlich Calumet Co. Circuit Court Judge

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ORDER APPROVING OPERATIONAL PLAN FOR THE RESUMPTION OF IN-PERSON  
PROCEEDINGS AND JURY TRIALS IN CALUMET COUNTY

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WHEREAS: The Wisconsin Supreme Court in light of the COVID 19 pandemic has entered certain orders related to the operations of the Circuit Court regarding in person appearances and jury trials.

WHEREAS: On March 22, 2020, the Wisconsin Supreme Court ordered that although the courts of the State of Wisconsin remain open, all civil and criminal jury trials scheduled to begin before May 22, 2020 are continued and rescheduled by the assigned judge to a date after May 22, 2020;

WHEREAS: on March 22, 2020, and as amended on April 15, 2020, the Wisconsin Supreme Court suspended, until further order of the court, most in-person hearings in the circuit courts, subject to exceptions for certain matters, including those approved by the chief judges of each district, if remote technology is not practicable or adequate to protect constitutional rights of the citizens of Wisconsin;

WHEREAS: On March 31, 2020, the Wisconsin Supreme Court issued Interim Rule 20-02 which suspended statutory deadlines for conducting non-criminal jury trials until further order of the court:

WHEREAS: On May 22, 2020, the Wisconsin Supreme Court ordered that the March 22, 2020 order regarding the suspension of jury trials, that Interim Rule 20-02 regarding suspension of deadlines for non-criminal jury trials, and the April 15, 2020 amended order regarding remote hearings, are extended for each circuit court until that circuit shall have prepared an operational plan for the safe resumption of in-person proceedings and jury trials and the plan shall have been approved by the chief judge of the applicable administrative district;

WHEREAS: On May 22, 2020, the Wisconsin Supreme Court outlined the specific criteria required in each circuit court operational plan as to how that circuit court will conduct in-person proceedings and jury trials so as to reduce to the greatest extent possible the risk of transmission of the virus that causes COVID-19 and that promotes the health and safety of all those present in the courtrooms, jury rooms, and other court related confined spaces of that circuit court;

WHEREAS: On June 10, 2020, the Circuit Judge of Calumet County, submitted an operational plan which contains a statement regarding communication with local justice

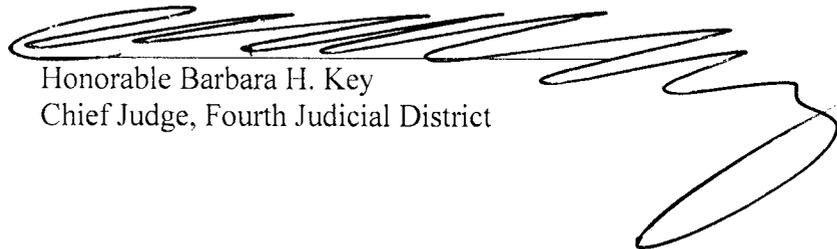
partners regarding the safe resumption of in-person proceedings and jury trials in that circuit court; a requirement that all persons who are present in the courtrooms, jury rooms, and other court-related confined spaces shall wear face coverings, except as authorized on the record by said judge; outlines practices for appropriate sanitation/ hygiene of frequently touched surfaces and the hands of participants; specifies that notices regarding face coverings and availability of hand sanitizer and disinfecting wipes/ sprays in court-related areas will be appropriately posted and noticed; and incorporates many recommendations made in the Final Report of the Chief Justice's Task Force;

THEREFORE IT IS ORDERED:

The operational plan of the Circuit Court of Calumet County regarding procedures and practices for conducting jury trials and other in-person proceedings during the 2020 public health emergency and pandemic-COVID 19 is hereby approved and is effective June 10, 2020. All previous orders identified in the May 22, 2020 order of the Wisconsin Supreme Court cease to apply to the Circuit Court of Calumet County and that circuit court must continue to follow its operational plan as approved by the chief judge until further notice of the Wisconsin Supreme Court.

IT IS FURTHER ORDERED that the provisions of this order shall be subject to further modification or termination by future orders.

Dated this 10 day of June, 2020.



Honorable Barbara H. Key  
Chief Judge, Fourth Judicial District

## COVID-19 Circuit Court Operating Plan for Calumet County

Recognizing the need to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of Calumet County will implement the following protective measures:

### General

1. The Circuit Court Judge has established a stakeholder committee to discuss and consider the recommendations outlined in the Wisconsin COVID- 19 Task Force report. The members are: Adam Hernke, Calumet County Building Superintendent; Alice Connors, Calumet County Board Chair; Bernie Sorenson, Calumet County Emergency Management; Bonnie Kolbe, Calumet County Public Health Officer; Carey Reed, Calumet County Attorney; Christine Heywood, State Public Defender representative; Connie Daun, Calumet County Clerk of Circuit Court; Gary Jahn, Calumet County Attorney; Jon Bellows, DCA Court Administrator; Kimberly Tenerelli, Calumet County Corporation Counsel; Mark Wiegert, Calumet County Sheriff; Michelle Timm, DOC Probation and Parole Supervisor, Calumet County; Nathan Haberman, Calumet County District Attorney; and Todd Romenesko, Calumet County Administrator.
2. Per COVID Task Force Final Report, pg. 12, the Judge and Family Court Commissioner agree that **“All courts should continue to favor remote appearances wherever possible and encourage the broad use of waivers of appearance.”** The Court will continue to use video conferencing with incarcerated individuals. Telephonic hearings will continue to be utilized when possible. The public will be able to listen to court hearings utilizing the bridge system if the gallery is full. Clerks have been trained in those technologies to assist the Courts.
3. Before calendaring in-person hearings, the stakeholder committee has addressed staffing needs and has procured any equipment and supplies deemed necessary. The Clerk of Court is in the process of procuring 2,000 masks and hand sanitizer will be available to all participants.
4. The Circuit Court Judge hosted a meeting with the invited stakeholders and has communicated by email regarding “the safe resumption of in-person proceedings and jury trials,” per Supreme Court Order dated 5/22/20, pg. 5. The stakeholder’s subcommittee will continue to meet as needed, maintain communication with the local health authority and the county administrator or his designee on risk management, and will adjust this operating plan as necessary with any changes in the public health conditions in the county.
5. The Judge will begin setting non-essential in-person proceedings consistent with this Operational Plan no sooner than the date this plan is approved by the Chief Judge of District 4.
6. Per Supreme Court Order dated 5/22/20, pg. 7, “[t]he circuit court shall continue to follow its operational plan as approved by the Chief Judge until further order of this court.”
7. Per COVID Task Force Final Report, pgs. 7 & 16, the Judge and Family Court Commissioner have considered the need for, use, and location of enhanced barriers and

have requested the County to install plexi-glass barriers between the witness box and the court reporter and the witness box and the jury box. Plexi-glass barriers are also requested for counsel tables as a 6 foot social distancing was not possible in those locations.

8. Per COVID Task Force Final Report, pg. 14, “[E]fforts should be undertaken to educate the general public about the importance of jury service to the administration of justice and how the safety and well-being of all jurors and participants in the jury trial process are being addressed.” The Clerk of Court with the assistance of the judge will educate and inform the public through local print and television and through the county’s website. This will be done promptly upon Chief Judge Approval of this plan via press releases, emails, and posting to the County Website.
9. Per COVID Task Force Final Report, Appendix B, a letter to potential jurors explaining what measures have been taken to ensure their safety will be sent by the jury clerk when summons are mailed.
10. Per COVID Task Force Final Report, pgs. 4-6, the Judge and the local task force have reviewed and considered the availability of staff for the following tasks: Cleaning; Security; Health screening; Courtroom coverage. It was the consensus of the local task force that existing staff in the respective offices of the Clerk of Court, Building Maintenance, and Sheriff’s Office is sufficient to meet the requirements set forth in this Plan. Additional staff may be requested in the future to monitor ingress and egress. NO holding virtual voir dire is expected, but should that arise the presiding judge will require adequate training of existing staff.

### **Judge and Court Staff Health**

1. The Judge, Family Court Commissioner and court staff who can perform the essential functions of their job remotely will continue to do so, whenever possible.
2. The following procedures have been implemented to monitor the health of the Judge and court staff: The court staff, family court commissioner and the judge shall self monitor any symptoms they might be experiencing and to the extent they have any mild symptoms of Covid19, which are per the Calumet County Health Officer: fever; shortness of breath; cough; sore throat; body/muscle aches; or loss of sense of taste or smell. If so, the Health Officer further recommends Judge and staff to call their primary care provider. Staff will be required to self-isolate at home until their test result comes back; if positive they will continue to self-isolate for a period of time as determined by Public Health.
3. The Judge and court staff will be required to wear face coverings while in court, and practice social distancing, and practice appropriate hand hygiene recommendations at all times. Please note that masks are mandatory with exception for testimony by judicial order or health/ADA concerns per Supreme Court Order dated 5/22/20, pg. 5, and see the COVID Task Force Final Report, pgs. 8 & 10.
4. Protective Measures: masks, social distancing, health screening and hand sanitation.

### **Scheduling**

1. The following court schedules are established to reduce occupancy in the court building. Criminal initial appearances will continue to be handled by phone or video and the defendant will be instructed to appear at the Calumet County Sheriff's Department for booking and signing of bond at a specific date and time. Traffic and forfeiture initial appearances, except those with a mandatory appearance, will be conducted in writing. An explanation of the right to an attorney and jury trial will be mailed to the traffic court defendants. Small Claims cases will also be conducted in writing except for eviction cases. Each court case will be given a specific time slot by phone or in person. **Parties and attorneys are expected to have all paperwork filed electronically before the hearing.** "Cattle Call" court appearances have been eliminated.
2. Per the COVID Task Force Final Report, pgs. 12-13, the Judge agrees to a four-phased approach to return to in-person appearances. After an initial phase has been determined, the presiding judge, or designee, will review staffing, public health, and facility conditions weekly to determine whether a change in phase is warranted. Depending on local circumstances, such as a sudden increase in COVID-19 cases, it may be necessary to revert to a previous phase until such time as expanded operations are once again warranted. The Clerk of Court or the Judge will inform the local task force and the public when changes are made between phases.

**Phase One: Resumption of limited in-person proceedings** (beyond essential and mandatory proceedings, or as required by the Wisconsin or U.S. Constitutions). All courts will continue to favor remote appearances wherever possible and encourage the broad use of waivers of appearance. As soon as the Safety Criteria required in this Plan including signs, notices, barriers, sprays, hand sanitizers, wipes, social distancing, masks, infrared thermometers, etc., are in place in the county, the circuit court will resume in-person appearances in the following cases:

1. All criminal matters, except jury trials unless required by the Wisconsin or U.S. Constitutions.
2. Mental commitment and guardianship hearings with time limits.
3. Juvenile proceedings in juvenile delinquency (JV), juvenile CHIPS (JC), juvenile guardianship (GN) cases and termination of parental rights (TP) cases with time limits.
4. Civil matters as follows:
  - Restraining order proceedings under Ch. 813
  - Family – Temporary order hearings if placement is at issue under Wis. Stat. 767.225(1)(am)
  - Family – enforcement of physical placement orders under Wis. Stat. 767.471(5)
  - Family – Relocation motions under Wis. Stat. 767.481(2)
  - Time-sensitive small claims proceedings, with special consideration given to the social distancing and limited attendance guidelines as outlined below.

**Phase Two: In-person processing of all cases, except jury trials,** unless required by the Wisconsin or U.S. Constitutions. Phase Two includes all case categories from Phase One, but would now allow all civil proceedings other than jury trials. All of the Safety Criteria in this Plan will continue to be utilized. As recommended, remote appearances will be utilized to the greatest extent possible.

**Phase Three: In-person processing of all cases, including jury trials.** All of the Safety Criteria in this Plan will continue to be utilized, in addition to any jury specific safety precautions that are instituted or as set forth in this Plan. As recommended remote appearances will be utilized to the greatest extent possible.

**Phase Four: Resumption of all cases on an in-person basis with no restrictions.** If a public health announcement is made determining that COVID-19 has been suppressed in the state, the processing of all cases may be resumed on an in-person basis without reliance upon the Safety Criteria for In-Person Appearances.

**JURY TRIALS During All Phases:** Per COVID Task Force Final Report, pg. 18, jury trials will proceed on a prioritization basis based on age of the pending case per CCAP case management, Statutory or Constitutional time limits, type of case with priority of crimes against persons, rights of victims, public safety, status of in-custody defendants considering all reasons for being in custody and at what facility.

**JUROR DEFERRAL/EXCUSE POLICIES During All Phases:** Per the COVID Task Force Final Report pg. 15, the Circuit Court will continue the past practice that all requests from jurors will be forwarded to the judge presiding in the case the juror was summoned to, unless the jury clerk already excused the juror under current practice, i.e. vacations, surgeries ... The Clerk of Court will implement a standard deferral and excusal policy in light of the COVID-19 pandemic, which will be liberally applied in recognition of juror safety issues and concerns raised by COVID-19. Prospective jurors will be given a letter, from the presiding judge and/or from the Clerk of Court with the notice of the jury summons and on the county's website as to what they should do if someone is experiencing COVID-19 symptoms. The Circuit Court will give special consideration to any of the following groups: healthcare workers, elderly/at-risk populations, people caring for the elderly/at-risk populations, individuals caring for/educating school-aged children at home, or certain essential working groups. Any such consideration will be carefully balanced with the litigants' right to a representative jury panel. Deferral and excusal policies will be carefully considered and clearly outlined so court staff and jurors are aware of these policies for consistent application.

## **Vulnerable Populations**

1. Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations.
2. Vulnerable populations who are scheduled for court will be accommodated by being advised to timely write to the presiding judge if they would like some accommodation, to be excused or have their obligation to appear be postponed.

## **Social Distancing**

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.
2. Public common areas, including breakrooms have been closed to the public. Conference rooms will be available only upon request.
3. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.

### *Gallery Courtroom*

4. The maximum number of persons permitted in the gallery of each courtroom has been determined based upon size of the gallery and air circulation. The maximum capacity of the courtroom has been posted and will be monitored and enforced by court staff. Maximum capacity as determined by the public health department for Courtroom 1 is 18. Courtroom 2 is 12 with 4 additional seats in the media room.
5. In each courtroom, the counsel tables, witness stand, judge's bench, and clerk, court reporter, and bailiff seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space. Plexi-glass barriers have been placed between the witness box and the court reporter and between witness box and the jury box as 6 foot separation was not possible.
6. The gallery of the courtroom has been marked to identify appropriate social distancing in the seating area. Seating is limited to every other row.

## **Hygiene**

1. Hand sanitizer dispensers have been placed at the entrances to the building, outside of elevators on each floor, outside of each courtroom, and outside of bathrooms.
2. Disinfectant wipes or spray have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the judges' benches, and in the hallways.
3. Posters outlining appropriate hygiene, social distancing, or public safety have been posted in multiple locations on each floor of the court building.

## Screening

1. When individuals attempt to enter the court building, security will ask the individuals if they are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be refused admittance to the court building. If required to appear in court, the appropriate court office will be immediately notified.
2. Inmates being transported from the jail to the court building will be screened for symptoms of COVID-19 and have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 100.4°F will not be transported to the court building.
3. Staff who are screening individuals entering the court building will be provided personal protective equipment, including a mask and hand sanitizer and will practice social distancing.
4. Staff who are doing the screening will have a listing of court official phone numbers in order to notify the courts of individuals who may have been denied entrance.

**Face Coverings** (Please note that masks are mandatory with exception for testimony or health/ADA concerns per Supreme Court Order dated 5/22/20, pg. 5; COVID Task Force Final Report, pgs. 8 & 10).

1. All persons who are present in courtrooms, jury rooms, and other court-related confined spaces shall wear a face covering or a face mask, unless a judge specifically determines on the record that it is necessary for a witness not to wear a face covering or face mask during testimony in order for the judge or jury to weigh credibility. Notices regarding this requirement will be posted at the entrance of each courtroom, jury room, and court-related confined space and this requirement will be enforced by the circuit court and family court commissioner.
2. Individuals will be encouraged to bring a face covering or a face mask with them, cloth face coverings have been approved by the County Health Officer per CDC guidelines for non-healthcare personnel. Individuals who will be **required** to be in the courtroom for a judicial proceeding will be provided masks, unless they already have one.
3. Per Supreme Court Order dated 5/22/20, pg. 5, "... notices regarding this requirement will be posted at the entrance of each courtroom, jury room, and court-related confined space and that this requirement will be enforced by the judge of the circuit court."
4. The Clerk of Court is in the process of procuring 2,000 masks and will reorder as necessary
5. If an inmate being prepared for transport to court refuses to wear a mask, the jailor shall immediately notify the court for further direction prior to leaving the jail.

## Cleaning

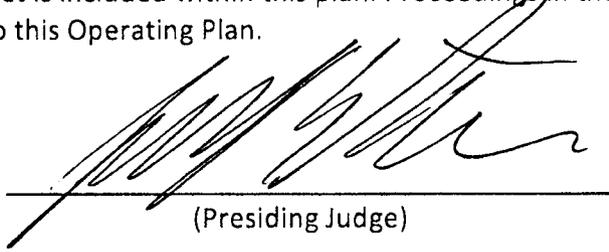
1. Court building cleaning staff will clean the common areas of the court building so that common spaces are cleaned at least every 24 hours.
2. Court building cleaning staff, or with optional assistance from Clerk of Court staff, or court staff, bailiffs or attorneys will clean the courtrooms between every hearing if

possible but also between the morning and afternoon sessions. Cleaning sprays and paper toweling and wipes will be available for any attorney desiring to wipe down counsel table before and after their use. Deputy Clerk of Courts may assist with wiping down the public areas of the courtroom between hearings.

3. Court building cleaning staff have been provided cleaning supplies shown to be effective with this coronavirus.

Calumet County continues to be a one judge county until August 2021. In developing the plan, I consulted with the stakeholders committee. A list of members on the committee and the frequency in which they will continue to meet is included within this plan. Proceedings in the court building will be conducted pursuant to this Operating Plan.

Date: 6/10/2020



(Presiding Judge)

*6/10/2020*  
Date: Click or tap to enter a date.



Chief Judge Approval

## **COVID-19 Circuit Court Operating Plan for Calumet County Addendum: Jury Trial Plan**

As an addendum to the Operating Plan filed with the Chief Judge of the Judicial District on June 9, 2020, this plan is developed to ensure the health and safety of jurors, litigants, attorneys, visitors, court staff, judges, and other individuals participating in jury trials. The Court of **Calumet County** will implement the following additional protective measures related to jury trials:

### **Recovery Planning and General Education**

1. A recovery planning jury committee, including the following stakeholders, has been established: the Circuit Court Judge, Clerk of Circuit Court, District Attorney, a representative from the Office of the State Public Defender, Sheriff of Calumet County, County Health Officer, and County Administrator.
2. The following efforts will be undertaken to educate the general public on the importance of jury service and the specific precautions taken in the county with respect to public safety and ensuring the safety of jurors during the pandemic: letters of explanation from the Court and the Clerk of Court as well as information posted on the Calumet County Official website as well as press releases.

### **Summoning Jurors**

1. Considerations have been made for the safety and wellbeing of jurors. The attached letter was developed and will be sent with the juror summons to each juror.
2. The Clerk of Court has developed a policy regarding deferral and excusal of jurors due to the pandemic. This information has been clearly outlined so court staff and jurors are aware of these policies for consistent application.
3. The following protective measures, including expedited entrance into the courthouse, check-in that minimizes physical contact with documents, posting notice regarding hygiene and distancing practices, are in place for jurors who report to court.
4. When jurors attempt to enter the court building, the jury bailiff will ask the individuals if they are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be excused. The appropriate court office will be immediately notified.
5. When jurors attempt to enter the court building, the jury bailiff will use an infrared thermometer to determine the temperature of the individual. Individuals whose temperature equals or exceeds 100.4°F will be refused admittance to the court building.

### **Juror Attendance and Safe Participation**

1. The following personal protective equipment will be available to the jurors, including masks and individual hand sanitizer.
2. Social distancing of jurors will be enforced through the following strategies: limiting the capacity in the courtroom, marking off spaces 6 ft. apart within the courtroom, reconfiguring

The completed addendum must be forwarded to the Chief Judge of the Judicial District for approval.

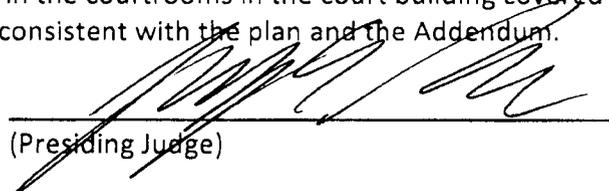
- placement of counsel tables, court reporter, witness stand, and/or bench, using an alternate courtroom for additional capacity, installing plexi-glass shields between participants: jurors will be seated in every other seat in the jury box as well as seated outside of the jury box. All parties will be required to remain at counsel tables. There will be plexi-glass between the witness stand and jury box.
3. The following strategies will be used to reduce the number of people required to report for jury selection: Utilize preselection questionnaires, conduct voir dire in sessions based on the capacity of the courtroom that will allow appropriate social distancing, limit or eliminate spectators in the courtroom, utilize 6-person juries upon stipulation, give priority to "strikes for cause" based on juror health and safety concerns.
  4. After the jury has been empaneled, the following efforts have been made to accommodate social distancing, but ensure that each juror has adequate sight lines to the witness stand and can hear and see all proceedings. Examples of such accommodations include: use of technology and video monitors to increase sight lines, and handling of exhibits. Documented efforts: jurors seated outside the jury box will be allowed to stand in order to improve sight lines to the witness stand. All exhibits will be displayed on a 65 inch monitor at the front of the courtroom.
  5. Social distancing consideration during trial breaks and deliberations include reconfiguration of the deliberation room, using an alternate room for deliberations, hand sanitizing and bathroom capacity, availability of refreshments: Jurors will have numbered, individual (non cloth covered) seats and tables in the jury room with individual pump containers of hand sanitizer. The jurors will be split between two jury rooms for lunch when they must remove their masks. Each juror will be given a one time use note pad and sanitized pen.
  6. After consultation with the Circuit Court Judge, the District Attorney and the Clerk of Court, all rescheduled jury trials have been prioritized and will continue to be based on time limits, incarceration status, victim issues, severity of the offense, public safety, and case age.
  7. Due to capacity issues within the courtroom, the following accommodations will be given for public view of the proceedings. After consultation with the Calumet County Health Department, the gallery capacity in courtroom 1 is 18 and courtroom 2 is 12 and the media room in courtroom 2 is 4. In an effort to allow the hearing to be open to the public, if capacity has been reached, the public may call the judicial assistant at (920) 849-1465 and be given directions on how to call in and listen to the hearing.

Other

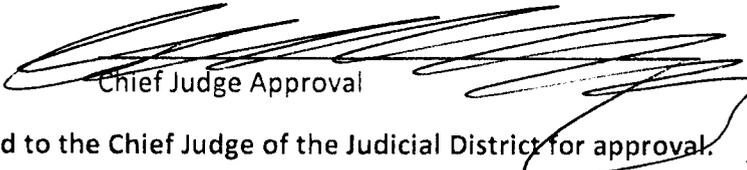
Sidebars during trial will be held by a group Email with the objecting party making a written argument and the opposing counsel responding and a ruling from the court, all scanned to the file.

This is a single judge county until August of 2021. Jury trials will be held no sooner than June 17, 2020. I will ensure that the judges conducting trials in the courtrooms in the court building covered by this Jury Trial Addendum will conduct proceedings consistent with the plan and the Addendum.

Date: 6/10/2020

  
(Presiding Judge)

Date:  Click or tap to enter a date.

  
Chief Judge Approval

The completed addendum must be forwarded to the Chief Judge of the Judicial District for approval.