
**IN THE MATTER OF
OPERATIONAL PLAN FOR
CLARK COUNTY CIRCUIT COURT**

ORDER

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 proceedings, subject to exceptions for certain matters, if remote technology is not practicable or adequate to protect the constitutional rights of the citizens of Wisconsin.

WHEREAS, the Wisconsin Supreme Court ordered each circuit court to submit an operational plan to the chief judge of the applicable judicial administrative district. The operational plan was to include the requirements set forth in the order, and reduce to the greatest extent possible the risk of transmission of the virus that causes COVID-19, and promote the health and safety of all those present in the courtrooms and other court-related confined spaces. Supreme Court Orders, *In Re the Matter of the Extension of Orders and Interim rule concerning Continuation of Jury Trials, Suspension of Statutory Deadlines for Non-Criminal Jury Trials, and Remote Hearings during the COVID-19 Pandemic (05/22/20)* and *In Re the matter of the Final Report of the Wisconsin Courts COVID-19 Task Force (05/22/20)*.

WHEREAS, on August 20, 2020, the Clark County Circuit Court submitted an operational plan to resume in-person court proceedings and jury trials pursuant to the Wisconsin Supreme Court's May 22, 2020 order. The plan verifies that the court has communicated with the appropriate stakeholders regarding the protective measures. It also requires face coverings for all individuals present in the courtroom, appropriate social distancing, sanitation/hygiene practices, and appropriate signage.

IT IS ORDERED the operational plan for the Clark County Circuit Court is approved for the resumption of in-person court proceedings and jury trials.

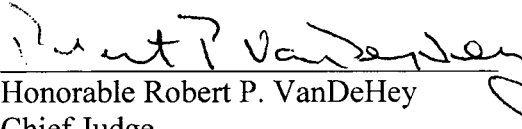
IT IS FURTHER ORDERED the Wisconsin Supreme Court's amended order *In Re the Matter of Remote Hearings During the COVID-19 Pandemic (04/15/20)*, ceases to apply to the Clark County Circuit Court:

IT IS FURTHER ORDERED the Wisconsin Supreme Court's amended order *In Re the Matter of Jury Trials During the COVID-19 Pandemic (03/22/20)*, ceases to apply to the Clark County Circuit Court:


IT IS FURTHER ORDERED the Wisconsin Supreme Court's Interim Rule 20-02 *In Re the Matter of an Interim Rule re Suspension of Deadlines for Non-Criminal Jury Trials Due to the COVID-19 Pandemic*, ceases to apply to the Clark County Circuit Court:

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

Dated this 26th day of August, 2020


Honorable Robert P. VanDeHey
Chief Judge
Seventh Judicial Administrative District

BY THE COURT:



Circuit Court Judge Circuit Court Commissioner

Honorable Lyndsey A.B. Brunette

Print or Type Name

August 20, 2020

Date

STATE OF WISCONSIN

CIRCUIT COURT

CLARK COUNTY

**CLARK COUNTY'S OPERATIONAL PLAN TO RESUME
IN-PERSON COURT APPEARANCES DUE TO COVID-19**

Effective August 19, 2020, the Circuit Court of Clark County, Wisconsin, Honorable Lyndsey A.B. Brunette hereby orders the adoption and implementation of the operational plan set forth herein for the safe resumption of in-person proceedings and jury trials. 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 Clark County Circuit Court will implement the following plan. Such plan dictates how the Circuit Court will conduct in-person proceedings and jury trials in a manner that reduces 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.

1. In development of the operational plan, Honorable Lyndsey A.B. Brunette collaborated with the Clark County stakeholders, including, but not limited to, the Sheriff, the Register in Probate, the District Attorney, the Court Commissioner, the Clerk of Court, the State Public Defender's Office, the Emergency Management Director, the Maintenance Engineer, and the Public Health Officer.
2. In-person court proceedings may begin no sooner than September 1, 2020. The Clark County Health Department monitors and assesses local and state trends/conditions related to COVID-19 and reports such assessments to the county on a daily basis. The judge will review staffing, public health assessments, and facility conditions to determine whether a change in the phase is warranted. Depending on local circumstances, such as a sudden increase in COVID-19 confirmed cases and/or expansive community transmission, it may be necessary to revert to a previous phase until such time as expanded operations are once again warranted. The judge reserves the right to change phases and/or modify conditions in each phase.
3. Clark County Circuit Court adopts and implements a phased approach for returning to full in-person court operations. All statutory and constitutional requirements for in-person proceedings will be honored unless duly waived by the parties. Phase 1 implementation will begin on September 1, 2020.

- a. **Phase 1 – Remote court proceedings**
 - i. The court will continue to use remote appearances to allow people to gain access to the courts if in-person appearances are not otherwise necessary, requested, or needed. The court will, whenever possible, ask the parties and attorneys what their preference is regarding in-person appearances. The court will continue to encourage the broad use of waivers of appearance.
 - ii. If any party objects to a hearing being held remotely, a written request must be filed requesting an in-person hearing. Such request must be filed at least 96 hours before the hearing is scheduled; specify a basis for the request; and report on whether the other party objects. Conversely, a party may request that an in-person hearing be held remotely by following the same procedure.
 - iii. In-person appearances are subject to the court having the appropriate staff and facility preparations. Hearings currently scheduled for remote appearance shall remain that way unless a proper request is made and the change is approved by the court.
- b. **Phase 2 – Limited in-person court proceedings**
 - i. The court will continue to use remote appearances to the greatest extent possible and encourage the broad use of waivers of appearance. As soon as **Health and Safety Criteria for In-Person Appearances** are in place in Clark County, the court may resume in-person appearances for the following case types:
 - 1. All criminal matters except jury trials;
 - 2. Mental commitment and guardianship hearings with time limits;
 - 3. Juvenile proceedings in juvenile delinquency (JV), juvenile CHIPS (JC), juvenile guardianship (JG) cases, and termination of parental rights cases with time limits;
 - 4. Civil matters as follows:
 - a. Restraining order proceedings under Wis. Stat. 813;
 - b. Family - Temporary order hearings if placement is at issue under Wis. Stat. 767.225(1)(am);
 - c. Family - Enforcement of physical placement orders under Wis. Stat. 767.471(5); and
 - d. Family - Relocation motions under Wis. Stat. 767.481(2);
 - 5. Time-sensitive small claims (SC) proceedings.
- c. **Phase 3 – In-person court proceedings for all case types except jury trials**
 - i. Phase 3 shall allow for in-person appearances for all case types from Phase 2 and for all other civil proceedings except jury trials. The provisions of **Health and Safety Criteria for In-Person Appearances** shall remain in effect. The court will continue to use remote appearances to the greatest extent possible.
- d. **Phase 4 – In-person court proceedings for all case types including jury trials**
 - i. Phase 4 shall allow for in-person appearances for all case types from Phase 2 and Phase 3 and will allow for jury trials for all case types. The provisions of **Health and Safety Criteria for In-Person Appearances** shall remain in effect.

The provisions of **Health and Safety Criteria for Jury Trials** shall apply if a jury trial is conducted.

e. **Phase 5 – In-person court proceedings for all case types without safety criteria**

- i. Phase 5 shall allow for in-person appearances for all case types without restrictions. The provisions of **Health and Safety Criteria for In-Person Appearances** and **Health and Safety Criteria for Jury Trials** shall not apply.

4. Clark County Circuit Court adopts and implements the following requirements as **Health and Safety Criteria for In-Person Appearances**:

a. **Face Coverings**

- i. All persons (public and employees) shall wear face coverings who are present in courtrooms, courtroom waiting area, Clerk of Court/Register in Probate windows, attorney conference rooms, and any other court-related confined space (court facilities).

1. The following exceptions to the face covering requirement apply:

- a. The judge determines on the record that it is necessary for a witness not to wear a face covering during the witness's testimony in order for the court to weigh the witness's credibility.
- b. Children ages two (2) years old or younger.
- c. Any person with a disability that makes it difficult to wear a face covering.
- d. Any person consistently interacting with a person who is deaf or hard of hearing and communication cannot be achieved through other means.
- e. Any person with a medical condition, intellectual or developmental disability, mental health condition, or other sensory sensitivity that prevents the person from wearing a face covering.
- f. Employees within their common office space.

- ii. Persons attending court are encouraged to bring personal face coverings. Efforts will be made to provide face coverings to all persons depending on availability. Face coverings will be prioritized for those persons who are required to be in court and employees.

b. **Social Distancing/Health Precautions**

- i. All persons using court facilities shall maintain at least six feet between all persons, except persons residing in the same household.
- ii. Seating shall be rearranged or marked to encourage spacing, including seating at counsel tables, attorney conference rooms, waiting areas, and employee workspaces.
- iii. All persons using court facilities are encouraged to practice the following safety precautions:
 - 1. Cover coughs and sneezes using a tissue or sleeve, and disposing of the tissue properly immediately afterwards;

2. Wash hands often using hot water and soap for 20 seconds or longer, and immediately washing your hands with soap and water for at least 20 seconds after coughing or sneezing;
 3. Sanitize hands frequently;
 4. Avoid touching eyes, nose, and mouth with unwashed hands; and
 5. Avoid physical contact including the shaking of hands.
- iv. The court recognizes that attorney/client confidentiality and trial strategy may be hindered if strict compliance to social distancing is required at all times. The court will make exceptions to allow attorney and clients to deviate from social distancing requirements to consult with each other when necessary.
- c. Limited In-Person Attendance in Court**
- i. The public still has a right to view open public court proceedings that are not otherwise closed or confidential according to law. All courtrooms have space limitations and the public does not have the right to enter the courtroom if the number of people in the courtroom exceeds safety limits, fire codes or other legal restrictions. Similar safety concerns regarding the number of people who can safely enter a courtroom during a contagious disease public health emergency also apply and it may be necessary to limit the number of people who can enter the courtroom to view proceedings. However, the court will take steps necessary to allow the public to view courtroom proceedings via live video stream to another large room and/or other electronic means through an internet connection. Any public access by live stream shall be controlled by the court and reasonable public access to hear and see will be allowed during all on-the-record proceedings. The public will have no right to participate verbally, as all audio access will be muted so as to avoid unintended interruptions.
 - ii. The court will schedule cases to avoid violations of social distancing requirements.
- d. Signage**
- i. Signs shall be posted at the entrance to court facilities requiring all individuals to maintain minimum social distancing requirements, to use hand sanitizer, to wear face coverings, symptoms to look for related to COVID-19, and general sanitary practices. A sign shall also be posted at the entrance to court facilities that hand sanitizer and disinfecting wipes are available for their use. Signs shall be posted near the restrooms to address appropriate hygiene issues. The signs shall be provided by Public Health or prepared by court employees.
- e. Screening**
- i. All persons (employees and public) using court facilities shall self-screen, monitor, and report symptoms associated with COVID-19 as stated on signs.
 - ii. If a person is identified to have COVID-19 symptom(s), the Judicial Assistant shall be contacted and the judge shall make the decision about what action is

necessary given the person's situation, based on the person's role in the proceeding.

- f. **Safety Barriers**
 - i. Plexiglass shall be installed at the witness stand as an extra precaution when testimony requires a mask to be removed by a witness. The court shall, at its discretion, have plexiglass installed if the need arises.
- g. **Air Quality**
 - i. Air purifying equipment shall be installed in the courtrooms and the jury room to maintain air quality.
- h. **Hand Sanitizer**
 - i. Each courtroom shall have alcohol-based hand sanitizer available for use before, during, and after court proceedings. In addition, hand sanitizer shall be available at the entrance to the building, the elevator, and each office. All individuals must use hand sanitizer upon entering the building and prior to entering the courtroom. Disinfectant wipes will be made available if resources are obtained.
- i. **Cleaning/Sanitization**
 - i. The maintenance employees will clean the court facilities, restrooms near court facilities, stairwells, and the elevator at least every business day. The courtroom staff including court security officers, bailiff, clerk, and judge will ensure that all frequently-touched surfaces (i.e. door handles, tables, chairs) in the courtroom are wiped down with anti-viral wipes between each hearing. Employees shall have access to cleaning supplies shown to be effective with COVID-19 and have been provided appropriate personal protective equipment. The maintenance employees shall be trained on proper cleaning techniques.
- j. **Vulnerable Population**
 - i. The court will take into consideration any accommodation(s) requested by individuals who are over age 65 and individuals with serious underlying health conditions. The court will take into consideration the requests of other individuals who do not fall into the definition of vulnerable population but express health concerns regarding in-person court appearance. These matters will be reviewed on a case-by-case basis, but the court will liberally grant such requests. Court notices shall include language that accommodations will be made for vulnerable individuals (those over age 65 or individuals with serious underlying health conditions) and other individuals who have health concerns about appearing in person. Please call 715-743-5172 to make alternate arrangements.
- k. **Elevator**
 - i. Only two (2) people shall be allowed in the elevator at any given time. An appropriate sign shall be posted.
- l. **Compliance Monitoring**
 - i. Compliance with the above stated requirements shall be monitored by court security officers, bailiffs, and clerk of court staff. Non-compliance shall be

brought to the attention of the Judicial Assistant and the judge shall make the decision about what action is necessary given the person's non-compliance.

- ii. Any person who refuses to comply with the above stated requirements may be excluded from the courthouse facilities.

5. Clark County Circuit Court adopts and implements the following requirements as **Health and Safety Criteria for Jury Trials:**

- a. When jurors are summoned to court for jury duty, the clerk of court shall send a copy of specific procedures and precautions jurors must take to ensure the health and safety of the jury, parties, attorneys, the public, and court employees through the jury trial process.
- b. The court will, upon request, defer any prospective jurors who are over the age of 65 or who otherwise express health concerns relating to jury service. This policy will be clearly outlined for court employees and shall be included in the jury summons.
- c. There will be no in-person group orientation for jurors. Information about jury services shall be provided to prospective jurors in advance such as information provided by the Wisconsin Court System webpage www.wicourts.gov.
- d. A news release will be published outlining the court's plan for jury trials and the importance of jury service and the specific precautions taken by the courts with respect to public health and safety.
- e. When jurors come to the courthouse, an employee will meet them outside the 4th floor vestibule/entrance to the building (weather permitting). An employee will screen the prospective jurors by asking a series of questions related to COVID-19 including the presence of any symptoms. Prospective jurors who indicate "Yes" to any of these questions will be excused from jury service and will not be admitted to the courthouse.
- f. Once prospective jurors have been screened, they shall not be permitted to leave the courthouse until they are excused from jury service or until the proceedings have concluded for the day.
- g. The following personal protective equipment and precautionary items will be available to the jurors: masks, face shields (if needed), gloves, individual hand sanitizer, and the use of air purifiers in courtrooms and jury rooms. All jurors will be required to wear face coverings while in the courthouse. The use of gloves is optional.
- h. Notices will be posted regarding social distancing requirements, use of hand sanitizer, requirement to wear face coverings, symptoms to look for related to COVID-19, and general sanitary practices. Social distancing of prospective jurors will be enforced through the following strategies: limiting the capacity in the courtroom; marking chairs in the courtroom; and arranging chairs which are at least six feet apart within the jury box and the jury room.
- i. The following strategies will be used to reduce the number of people together at the time of jury selection: utilizing preselection questionnaires in some cases; conducting voir dire in sessions based on the capacity of the courtroom or other

county facility that will allow appropriate social distancing; and give priority to "strikes for cause" based on juror health and safety concerns. The clerk of court will determine the first 24 jurors to be called and they will be seated in a designated seat in Branch I courtroom. The remaining prospective jurors will be seated in Branch II courtroom where they can observe and hear the voir dire questions on a large screen television. At least three bailiffs or other court employees will be used to assist in following this protocol.

- j. The size of the Branch I courtroom will allow for up to 13 jurors to be seated either in the box or near the box while remaining at least six (6) feet apart. The positioning of the jurors should enable each juror to have an adequate view of the witness stand, the screen, and should permit them to hear and see all proceedings.
 - k. Social distancing consideration during trial breaks and deliberations may include using an alternate room for deliberations and ensuring appropriate bathroom capacity to be monitored by bailiffs.
 - l. No snacks will be provided by the county. Juror will not be allowed to bring personal items into the courtroom or jury room such as food, drink, books, etc. Jurors will be allowed to carry a phone to make the appropriate communications if selected for jury services. Clark County will provide bottled water and individually packaged food/meals.
 - m. Due to capacity issues within the courtroom, there may not be sufficient seating for the public viewing of the proceedings. The proceedings will be available for people to observe and listen via electronic means such as through the Zoom program.
6. Copies of this order shall be provided to the Clerk of Court, Sheriff, District Attorney, Corporation Counsel, State Public Defender's Office, Administrative Coordinator, Maintenance Engineer, and Board of Supervisors Chairperson.

THIS IS THE ORDER OF THE COURT.