

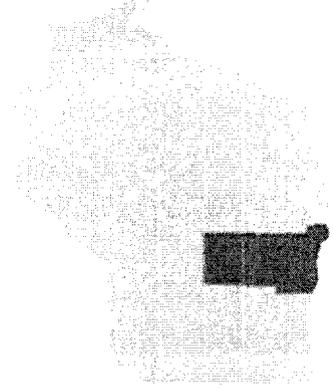
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STATE OF WISCONSIN
FOURTH JUDICIAL DISTRICT

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June 9, 2020

Chief Justice Roggensack

Director of State Courts Randy Koschnick

BY EMAIL

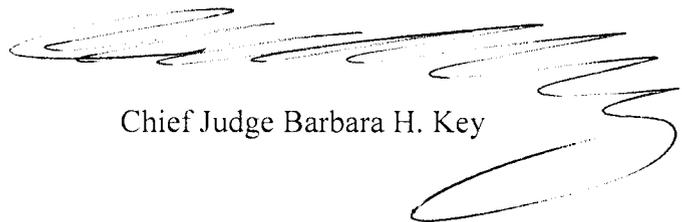
Dear Chief Justice Roggensack and Director Koschnick:

Please find attached an Order Approving Operational Plan and Operational Plan to Resume In-Person Court Appearances Due to COVID-19 for Waushara 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 Guy Dutcher Waushara County Circuit Court Judge

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

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 4, 2020, the Circuit Judge of Waushara County, submitted an operational plan which contains a statement regarding communication with local justice

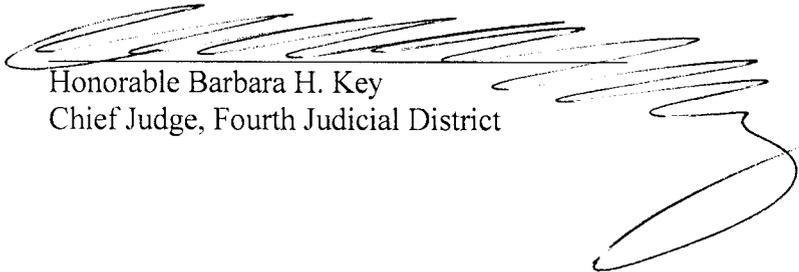
partners regarding the safe resumption of in-person proceedings and jury trials in that circuit court; a requirement that all persons who are present in the courtrooms, jury rooms, and other court-related confined spaces shall wear face coverings, except as authorized on the record by said judge; outlines 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 Waushara 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 15, 2020. All previous orders identified in the May 22, 2020 order of the Wisconsin Supreme Court cease to apply to the Circuit Court of Waushara 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 9 day of June, 2020.



Honorable Barbara H. Key
Chief Judge, Fourth Judicial District

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

RECITALS:

1. The Wisconsin Supreme Court has issued a series of orders in response to the COVID-19 pandemic that included directives dated March 22, April 15 and most recently May 22, 2020.
2. Subject to specific exceptions, the May 22, 2020 Order essentially continues an indefinite moratorium that earlier Orders had placed upon jury trials and in person court appearances.
3. The May 22, 2020 order also directs that a circuit court may achieve exemption from these prohibitions following adherence to a series of protocols that include the preparation of an Operational Plan that provides for the following:
 - i. Communication and consultation with local stakeholders to the court system.
 - ii. The requirement that all persons present in courtrooms and court related spaces wear face coverings.
 - iii. That notices highlighting the face covering requirement be placed conspicuously at entrances to all court related rooms.
 - iv. A practice for insuring availability of hand hygiene articles and providing notice of their location.
 - v. Regular cleansing and disinfectant of frequently touched court related areas.
4. That the Waushara County Circuit Court has convened a local Task Force comprised of the following professionals:
 - a. The District Court Administrator for the 4th Judicial District,
 - b. The circuit judge and court commissioners,
 - c. The corporation counsel, district attorney, and local public defender,
 - d. Members of the local bar association,
 - e. The clerk of circuit court,
 - f. The county administrator,
 - g. The chairperson of the county board,
 - h. The director of the public health department,
 - i. The security director,
 - j. The emergency government director
5. That the Waushara County Task Force has met and discussed the parameters and protocols that would be inherent to any reactivation of in person court proceedings, including consideration for the recommendations presented by the Supreme Court Covid-19 Task Force.
6. The Waushara County Task Force has concluded that in court proceedings and jury trials may be safely held beginning June 15, 2020 following modest modifications to the jury courtroom, the jury room and the Waushara County demonstration room.
7. That Waushara County is currently capable of making approximately 2,000 masks available to persons that would be participants or attendees at any scheduled court proceedings. Additional face coverings have been ordered.

8. That Waushara County has previously made an abundant supply of hand sanitizer available to any persons present upon the premises of the Waushara County Courthouse.
9. That Waushara County has three (3) HEPA air purifiers that will be available for installation by June 15, 2020. The emergency government director has indicated that these units will be more than adequate to service the two courtrooms used for normal court operations.
10. That members of the Task Force have concluded that social distancing safeguards for both routine court appearances and jury trials may be insured by pre-marking seating areas within the courtrooms and waiting area, moving applicable tables and chairs and through polite yet decisive enforcement by courtroom security personnel.
11. Remote communications will continue as a viable alternative to in person court appearances.
12. That the county administrator has reported that arrangements will be made for cleaning and disinfecting each courtroom and adjacent court areas following each business day. Court personnel have previously implemented the practice of sanitizing all tables and chairs in the courtroom after each proceeding where persons have been physically present during this pandemic.
13. Entrances to the Waushara County Courthouse are currently closed excepting a single point of entry at the south end of the facility.
14. Waushara County officials are currently following a policy that prohibits entry to the courthouse unless the individual is wearing a face covering. This practice will continue.
15. The Waushara County Task Force has determined that the Waushara County Circuit Court is prepared to resume operations at Phase Three of the recommended re-activation protocol established by the Wisconsin Supreme Court Covid-19 Task Force. This action will be taken with adherence to the parameters established by the Supreme Court Order dated May 22, 2020 and that includes reference to the prior Orders March 22, 2020 and April 15, 2020.
16. Advancement to Phase 4 of the Covid-19 Task Force recommendations will not be legally possible until the Supreme Court either modifies or extinguishes the indefinite Order that was issued May 22, 2020.

WHEREAS, IT IS HEREBY ORDERED:

- A. RESUMPTION OF OPERATIONS: That all in person court appearances, including jury trials will resume June 15, 2020.
- B. CONTINUATION of REMOTE COMMUNICATIONS: Litigants or counsel wishing to participate in any court proceeding through use of telephone, video or other form of remote communication may request that such an appearance be permitted subject to the following requirements:
 - a. The request is made in writing, within two full business days of the scheduled hearing.
 - b. The request indicates that the litigant will be waiving the right to personal appearance at the time of the proceeding.
 - c. The circuit court determines that the presence of the litigant or counsel is not essential or required.

- d. Court notices will include the information referenced in subsections a-c of Paragraph B.
- C. PUBLIC ACCESS: The public will be allowed entry to the courthouse to attend scheduled court proceedings conditioned upon adherence to all safety precautions.
- D. SAFETY PRECAUTIONS:
 - a. That the Waushara County Courthouse shall continue the policy of restricting access to a single entrance and the requirement that all persons entering the building are wearing a face covering.
 - i. Face coverings will be made available to those persons that do not have them and will be distributed primarily at the courthouse entrance. Face coverings will also be available in the courtroom lobby.
 - ii. Persons wishing to use their own face coverings will be allowed to do so.
 - b. All persons present in the courtrooms, including the court, staff, participants and observers shall wear a face covering. (This requirement may be removed if the court determines that the face covering impedes witness testimony).
 - c. Hand sanitizer shall be available at all courtroom counsel tables, work stations and the witness stand.
 - d. Counsel tables shall be sanitized at the conclusion of each hearing.
 - e. HEPA air purifiers shall be installed and operated in both the small and large courtrooms. These units will be placed in the area between counsel tables and the bench.
 - f. Social distancing shall be observed within the courtroom and in the courtroom lobby.
 - i. Seating that follows social distancing requirements shall be predetermined with positions in the courtroom gallery being marked at 6 feet intervals.
 - ii. Furnishings within the courtroom and appurtenant waiting area shall be arranged at 6 feet intervals.
 - g. Social distancing will be highlighted and recommended by security officers when concerns are observed in non-court areas of the courthouse including elevators, hallways and courthouse offices.
- E. DURATION of the OPERATIONAL PLAN: The safety procedures discussed in PARAGRAPH D shall remain in effect pending issuance of a Supreme Court Order that modifies or extinguishes the indefinite duration of the Order issued May 22, 2020.
- F. NOTIFICATION: Signs with the following information shall be posted at the entrance to the courthouse and in the courtroom lobby at the entrance to each of the two courtrooms:
 - a. Face coverings are required and social distancing will be observed throughout the courthouse and courtrooms.
 - b. Persons not wearing face coverings will be not be permitted entry to the courthouse or courtrooms.
 - c. Any litigants not complying with the face covering requirement will be deemed absent from scheduled court proceedings. A warrant may be issued if they are a

defendant in a criminal proceeding or default judgment entered if a party within a civil proceeding.

- d. Hand sanitizer is available at multiple locations within the courthouse and courtrooms.
- e. HEPA air purifiers are being used in both courtrooms.

G. ENFORCEMENT:

- a. Persons who decline adherence to the face covering requirements will not be permitted entry to the courthouse.
- b. Persons who decline adherence to the face covering requirements within the courtroom or courtroom waiting area will be dismissed by court security.
 - i. Prior to being denied entry to the courthouse any person declining adherence to the face covering requirement will be directed to a sign stating that refusal to follow face covering requirements will result in negative consequences in any court proceeding that that may be scheduled, including that:
 - 1. The court will consider their absence as a non-appearance for the scheduled proceeding that may result in the issuance of a warrant (criminal proceedings) or entry of a default judgment (civil and quasi-criminal proceedings).
 - ii. Persons who do not follow the face covering requirement while present in the courtroom or courtroom waiting area will be directed to a sign stating that failure to comply with the face covering requirement may result in the following:
 - 1. The court will consider their dismissal for want of adherence to the face covering requirement as a non-appearance for the scheduled proceeding that may result in the issuance of a warrant (criminal proceedings) or entry of a default judgment (civil and quasi-criminal proceedings).
 - 2. The court may find any party offending the face covering requirement to be in contempt of court.

H. JURY TRIALS: Selected panel members will be provided a notice that informs them of the requirement that face coverings be used and social distancing observed.

- a. Scheduling. Jury trials will be calendared based upon the following criteria:
 - i. Time Limitations

ii. Custody status of the defendant

iii. Case age

iv. Case complexity

v. Security issues

b. Juror Selection:

- i. Persons notified of jury service will be informed that that they may request a six (6) month deferral of jury service. This deferral request will be honored provided that it is made by no later than seven (7) days following mailing of the jury panel notification letter.
 - ii. Once summoned, persons wishing to be excused from jury service because of any medical condition or medical concern related to the pandemic must provide a written explanation from their medical service provider that establishes the necessity of relief from jury service.
 - iii. Panel members appearing for jury service will be provided with face coverings unless having furnished their own and will be required to wear them.
 - iv. Voir Dire will be conducted in the courthouse demonstration room with chairs placed in accordance with social distancing.
 - v. The trial will be held in the large/jury courtroom with jurors dispersed throughout the existing jury box and within the comparatively spacious area on the bench side of the gallery. Chairs will be placed with adherence to social distancing.
 - vi. The jury will be secured in the jury room during periods they are not present in the courtroom. The jury room will be modified with removal of the large conference table and placement of chairs in accordance with social distancing. The hallway leading from the jury room to the courtroom is secluded and will accommodate chair placement in a manner commiserate with inclusion within the jury room.
 - vii. Meals will be provided in the demonstration room.
 - viii. Private bathrooms will be available for juror use in the jury room.
 - ix. Deliberations will be conducted in the jury room with continuing adherence to social distancing requirements.
- i. **PUBLIC RELATIONS:** The circuit court and clerk of courts will compose a news release that informs the public that in person court proceedings will resume June 15, 2020. This release will include the following announcements:
- a. The pronouncement that the Wisconsin Court System and Waushara County Circuit Court are committed to resuming routine court operations in a manner that comports with requirements imposed by the Wisconsin Supreme Court and balances the health concerns presented by COVID-19 with the pressing need to protect the rights of everyone appearing in the court system.

- b. That the Wisconsin Supreme Court has established procedures for reactivation of in court proceedings that require all persons present in the courtroom and related area be wearing a face covering.
- c. That appearance through remote communications will remain available and that persons wishing to participate in a court proceeding by remote access may request prior authorization by making a written request to the court no less than two business days in advance of the scheduled hearing.
- d. That all persons appearing at the Waushara County Courthouse must wear a face covering, that hand sanitizer will be readily distributed, social distancing will be observed and that all courtrooms are now equipped with an air purification system.
- e. That persons who do not observe the face covering requirement will not be allowed entrance to the courthouse and will be deemed absent from their scheduled court proceeding.
- f. That persons who do not appear for scheduled court proceedings or do not comply with the safety measures required by the Wisconsin Supreme Court may have a warrant issued for their arrest or may have a default judgment entered against them.

BY THE COURT:

 06/04/2020

APPROVED BY CHIEF JUDGE

 6-9-2020