

Effective date: Upon Approval of the State Court Administrative office.

This Administrative Order is issued in accordance with Michigan Supreme Court Administrative Order No. 2020-19, effective June 26, 2020. The purpose of this Order is to establish parameters for conducting in-person jury proceedings during a pandemic.

The court shall:

- Work in ongoing consultation with the local public health department to determine whether conducting each jury proceeding will create an excessive public health risk, by assessing the following metrics:
 - The 7-day average of daily percent positive test results for the county must be 10 percent or less.
 - The 7-day average of number of cases per day, per million people in the county, must be 70 cases per million or less. If a county has a daily 7-day average of fewer than 20 cases, the criteria of 70 cases per million or less may not apply, depending on county population.
 - In addition to considering the number of cases per million and the percent positive test results, the court's decision about whether to proceed with a jury trial must consider the following:
 - The percentage of cases in the county that are associated with localized outbreaks, such as nursing homes;
 - The number of deaths among county residents;
 - The proportion of emergency department visits for coronavirus-like symptoms for the Michigan Economic Recovery Council region;
 - The COVID hospitalization rates for the Michigan Economic Recovery Council region; and,
 - Whether there have been known COVID-19 cases associated within the court facility during the past 14 days, and if the building has evidence of ongoing transmission.
- A jury trial may not commence if a determination is made that such a trial would create an excessive public health risk. Excessive risk is risk of disease transmission that cannot be reasonably mitigated through implementation of the safety precautions provided here or otherwise recommended by the local public health department.
- Maximize the use of remote participation as much as possible for all other court proceedings within the courthouse on the days of jury proceedings.
- On days when jury proceedings are being conducted, to the extent possible, collect the names and contact information of anyone coming into the building. Assure the individual that the collected information will only be used for contact tracing, if necessary.
- Adhere to the following checklist regarding risk mitigation measures.

Section 1. Stakeholders

The court shall consult with all of the following stakeholders for planning and preparation prior to commencing each scheduled trial:

- Health Department
- Attorneys
- Sheriff or Court Security
- Facilities Maintenance
- Information Services and Technology
- County Clerk (not applicable)
- Courtroom Staff
- Other: City Safety Services

Section 2. Physical Location

The court has reviewed and determined the following physical specifications for on-site or off-site locations.

- For all jury trial activities, including selection, trial, and deliberations, the court requires six-foot social distancing and face coverings consistent with the Return to Full Capacity Guidance.
- Security needs have been met.
- If an off-site location is used, the court will post notice of the off-site location for the public but will not need to complete a separate LAO for places of holding court.
- The trial will be recorded according to SCAO standards.
- The court will adhere to ADA compliance.
- The layout of the room allows for: jurors to see witnesses; jurors to hear the proceedings; parties/attorneys to interact easily with jurors; and the judge to see all participants.

Section 3. Summoning Jurors

- Panel selection will remain consistent with MCR 2.511.
- Communication addressing safety concerns, selection, and trial location will be provided to all prospective jurors.
- Courts will consider and grant any requests for excusals or deferrals because a juror or person residing with them may be considered high-risk for COVID-19.

Section 4. Jury Selection

- Jurors will be screened for COVID-19 symptoms in accordance with the protocols established in the court's return to full capacity phased plan. A juror that cannot pass the screening will not be allowed to enter the facility.
- Any jury selection held at the courthouse will be done in a room that can accommodate the number of potential jurors summoned for jury duty, either in bulk or by staggered reporting, with proper social distancing.
- Any jury selection held remotely via Zoom will be consented to by all the parties. Additionally, all parties and potential jurors must be provided instructions for how to access the remote jury selection.
- Other: Only enough jurors for a single trial will be summoned to appear for jury selection. Smaller panels of potential jurors from the jury array will be brought into the courtroom for voir

dire to maintain social distancing. Prior to voir dire, the presiding judge will give preliminary instructions via video conferencing to all jurors as a group so that these lengthy instructions need not be repeated as each new group of jurors moves into the courtroom. This change should reduce the amount of time jurors need to be in the building.

Section 5. Jury Trial

The court has determined processes for the following trial aspects:

- The process for side bars with attorneys will be:
 - Attorneys will request a sidebar with the judge. At which point, the judge and attorneys will go into the non-public hallway behind the courtroom.
 - If issues and/or rulings need to be placed on the record without the jury present, the judge and attorney will do this in another courtroom, if available. If another courtroom is not available or practical, the jury will be removed to a private space at the courthouse large enough to accommodate physical distancing. Once a record is made, the judge and attorneys or the jury will return to the original courtroom; and the trial will resume.
- The process for handling exhibits, including sharing with the jury, will be:
 - Exhibits will be shown on a large screen monitor or monitors when identified by a witness.
 - Copies of exhibits will be made ahead of time by the attorney who is planning to introduce the exhibits. Once an exhibit is admitted, each juror will be provided his or her own copy of the exhibit to reference.
 - If an exhibit is such that a copy cannot be made, disinfectant wipes and hand sanitizer will be available for use, as needed.
- The process for addressing a seated juror who does not pass the health screening or who becomes ill during the proceedings will be:
 - Court security officers perform health screenings on all visitors to the Justice Center prior to the individuals undergoing weapons screening and entering the building. If a juror cannot pass the health screening, he or she will not be permitted to enter the courthouse. Any juror who is turned away will be asked by security to contact the jury clerk. Additionally, court officers will provide the juror's name to the Court Administrator so that the jury clerk will be made aware that the individual did appear but was not allowed in and needs to be rescheduled to a later date.
 - Any juror who becomes ill during the proceedings will be excused. Depending upon the circumstances, the trial may continue with six jurors. However, if circumstances warrant it, a mistrial will be declared by the judge and the remaining jurors will be thanked for their service and dismissed.
- The process for juror breaks and refreshments will be:
 - Jurors may bring in their own snacks and non-alcoholic beverages.
 - Individual bottles of water will be provided to jurors, but only after the outside of the bottle has been sanitized.
 - Drinking fountains are not in service.

- The court will not provide food, coffee, or other beverages (except bottled water) to avoid people touching the same surfaces.
- Other:
 - Common areas are disinfected regularly.
 - Hand sanitizer, disinfecting wipes, and disinfectant spray are available for use. Additionally, jurors are welcome to bring in their own disinfectant wipes.
 - All persons must wear face masks at all times while in the building [face coverings will be provided if an individual does not bring their own]. Face shields will be provided if a judge, court staff member, attorney or juror wishes to wear one in combination with his or her face mask.
 - Courtroom areas and jury boxes have been reconfigured to allow for 6-foot social distancing and/or plexi-glass shields have been added where necessary for protection.
 - New signage, including floor markers and "Please sit here" decals have been put into place to help promote six-foot social distancing, proper hygiene, and the use of personal protection equipment.

Section 6. Jury Deliberations

[Select the ones that apply]

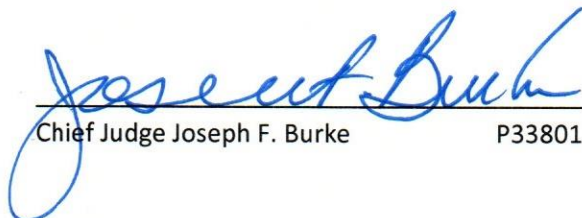
- ☐ Jury deliberations will be held in a private space at the off-site location.
- ☒ Jury deliberations will be held in the courtroom instead of the juror room. Recording equipment in the courtroom will be turned off during deliberations.
- ☒ Jury deliberations will be held in a private space at the courthouse large enough to accommodate physical distancing.
- ☐ Other: (please list)

Section 7. Public Access

[Select the ones that apply]

- ☒ The public may view the proceeding in the courtroom or at the off-site location up to a maximum room capacity, adhering to six-foot social distancing measures and wearing face coverings.
- ☒ If the location cannot accommodate public viewing, public access will be provided by other means as authorized by SCAO. Note: Please review MCR 8.115 and Administrative Order 1989-1 regarding livestreaming of jurors or the jury selection process.
- ☒ Keep a record of all jury proceedings held that includes case number and date of jury proceeding, to submit to SCAO as requested,
- ☐ Other: (please list)

Date: September 29, 2020


 Chief Judge Joseph F. Burke

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