

Dated at Waukesha, Wisconsin this 19th day of June, 2020.

BY THE COURT:



Jennifer R. Dorow
Chief Judge
3rd Judicial District

STATE OF WISCONSIN

CIRCUIT COURT
THIRD JUDICIAL DISTRICT

WAUKESHA COUNTY
20-SO-25 (IP) (67)

**IN THE MATTER OF:
COVID-19 OPERATING PLAN FOR
WAUKESHA CIRCUIT COURT
IN-PERSON PROCEEDINGS**

WHEREAS: The Wisconsin Supreme Court in light of the COVID 19 Statewide and National states of emergency has entered certain orders related to the operations of the Circuit Court regarding in person appearances and jury trials; and

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 to continued and rescheduled by the assigned judge to a date after May 22, 2020; and

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; and

WHEREAS: On May 22, 2020, the Wisconsin Supreme Court ordered that March 22, 2020 order regarding the suspension of jury trials, that Interim Rule 2002 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 adopted an operational plan for the safe resumption of in-person proceedings and jury trials and the plan approved by the chief judge of the applicable administrative district; and

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 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; and

WHEREAS: On June 19, 2020, the Waukesha County Judiciary, submitted an operational plan which contains a statement regarding communication with local justice partners regarding the safe resumption of in-person proceedings in that circuit court; a requirement that all persons who are present in the courtrooms, and other court-related confined spaces shall wear face coverings, except as authorized on the record by the 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 COVID-19 Task Force;

THEREFORE IT IS ORDERED: The operational plan of the Circuit Court of Waukesha County (see below) regarding procedures and practices for conducting in-person proceedings other than jury trials during the 2020 public health emergency and pandemic-COVID-19 is hereby approved and is effective June 22, 2020. All previous orders identified in the May 22, 2020 order of the Wisconsin Supreme Court cease to apply to the Circuit Court of Waukesha County for non jury proceedings and the 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 all Orders of the Supreme Court regarding the suspension of jury trials are not affected by this Order and those Orders and limitations remain in full force and effect.

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

IT IS FURTHER ORDERED: That 20-SO-06 (67) B is rescinded as it relates to in-person hearings. Jury trials remain suspended.

IT IS FURTHER ORDERED: That 20-SO-13 (67) B is rescinded.

Operation Plan for Resumption of In-person Proceedings Waukesha County

In order to meet the needs of Waukesha County, its citizens, the Waukesha County Circuit Court, the Court's staff and all those entering the Courthouse in the midst of the COVID-19 Pandemic, the Circuit Courts have met and consulted with community representatives and stakeholders to prepare for the resumption of in-person proceedings.

The Plan is adopted as set forth herein after consulting with the following:

- Chief Judge
- Jury Judge
- Clerk of Circuit Court
- District Court Administrator
- District Attorney
- Victim Witness
- SPD Regional Chief
- Sheriff's Department
- County Executive
- County Board Chair
- Department Heads
 - Health and Human Services, Public Works and Emergency Management
- Public Health
- Corporation Counsel
- Private Bar
- Department of Corrections Regional Chief
- CJCC
- Public Information Officer

General

1. The World Health Organization declared a global pandemic of Coronavirus Disease 2019 (COVID-19) due to widespread human infection worldwide, Wisconsin Governor Tony Evers and Waukesha County Executive Paul Farrow have declared public health emergencies, respectively, for the State of Wisconsin and County of Waukesha. The Waukesha County Circuit Court System has issued Orders on Emergency Temporary Services.

2. The Waukesha County Judiciary discussed and considered the recommendations outlined in the Wisconsin COVID-19 Task Force Report, as well as the State Supreme Court orders dated May 22, 2020 and are committed to following this plan.

3. The Waukesha County Judiciary recognizes and is committed to open access to our courts and service to the public, and to protecting the health and safety of all litigants, judicial officers, court and security staff, attorneys, public, all other participants in court proceedings, and other individuals entering the courthouse.

Restrictions and recommendations to avoid gatherings in excess of ten (10) people are problematic because many Court proceedings require more than ten (10) people in the courtroom at one time. The public 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 or by Zoom video through an internet connection or by YouTube. Any public access by livestream 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.

4. All court officials will use reasonable efforts to continue to conduct proceedings remotely with all participants encouraged to appear via zoom first, then by telephone.

5. Prior to the issuance of this Order, the Clerk of Courts office, in consultation with the court officials, addressed staffing needs and begun the process of examining which personal protective equipment and supplies are deemed necessary. Where feasible, courtrooms will be supplied with protective gear and Plexiglas on the bench (where necessary to comply with the social distancing recommendations) and between counsel tables as outlined below. In addition, spaces for social distancing seating will be marked on the benches in each courtroom gallery. The use of personal protective equipment and other mitigation efforts will be reassessed regularly to ensure continued compliance with any new conditions.

6. In developing this plan, the Waukesha County Judiciary have consulted with the stakeholder committee mentioned above. This final version of the plan is strictly for in person appearances and does not address the resumption of jury trials at this time. This plan will be modified should the circumstances of the COVID-19 public health emergency require modifications to address changing conditions and safety issues and to ultimately address the resumption of jury trials.

Judge and Court Staff Health

1. All individuals involved in the judicial system will be encouraged to continue to monitor their health and to report any concerns to the Chief Judge.

2. Court officials and court staff will be required to practice social distancing, and practice appropriate hand hygiene recommendations at all times.

3. Court officials and court staff will be required to wear face coverings as outlined below.

Vulnerable Populations

1. According to the CDC, the following individuals are considered to be vulnerable populations:

- A. People 65 years and older;
 - B. People who live in a nursing home or long-term care facility;
 - C. People of all ages with underlying medical conditions, particularly if not well controlled;
 - D. People with chronic lung disease;
 - E. People with moderate to severe asthma;
 - F. People who have serious heart conditions;
 - G. People who are immunocompromised;
 - i. Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications;
 - H. People with severe obesity (body mass index [BMI] of 40 or higher);
 - I. People with diabetes;
 - J. People with chronic kidney disease undergoing dialysis; and
 - K. People with liver disease.
2. Each court official will include information on orders setting hearings, dockets notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations.
3. Vulnerable populations who are scheduled for court will be accommodated by advising the Court and/or clerks so that appropriate steps will be taken in each case.

Screening

1. Those entering the Courthouse are subject to security screening by County personnel through the Sheriff's office. Prior to the screening station, each person entering the Courthouse will be directed to a large sign with COVID-19 screening questions and asked to perform a self assessment. Only those who, in their own judgment, answer the questions in the negative shall proceed through screening and enter the Courthouse.

Face Coverings

1. All persons who are present in courtrooms, jury rooms, and other court-related confined spaces shall wear face coverings unless a court official specifically determines on the record that it is necessary for a person not to wear a face covering during the person's testimony in order for the court official or jury to weigh the person's credibility.

- A. The face covering requirement shall be posted at the entrance of each courtroom, jury room, and court-related confined space.
- B. The face covering requirement will be enforced by the court officials.
- C. Individuals will be encouraged to bring cloth face coverings with them, but if the individual does not have a face covering, a disposable mask will be provided.
- D. Supreme Court Rule 62.02(1)(f) requires parties to dress in a manner showing proper respect for the court, the proceedings, and the law. This provision is made applicable to the public at large when inside the Wisconsin courts. Face coverings must comply with this Rule.
- E. Any mask or face covering brought by an individual is subject to approval of the court.

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. No more than two individuals not from the same household will be permitted in an elevator. If more than one individual from the same household is in an elevator, no other individuals will be permitted in the elevator.

3. Each restroom will be evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.

4. Public common areas, including breakrooms and snack rooms, have been closed to the public or have been mapped and marked for appropriate social distancing.

5. Mitigation of the COVID-19 pandemic is further addressed by adoption of social distancing mapping of all court facilities insuring that facilities used will operate with 6 foot social distancing or mitigation devices such as Plexiglas in lieu of 6 foot social distancing to reduce transmission of the COVID-19 virus in the following areas:

- A. Courtrooms
- B. Courthouse or courtroom entryways
- C. Hallways
- D. Conference rooms
- E. Jury rooms
- F. Elevators
- G. Any other location where court participants may congregate
- H. Jury assembly rooms
- I. Rooms for the voir dire of juries

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 attorneys and clients to deviate from social distance protocols to consult with each other in the courtroom when necessary.

Gallery

1. The maximum number of persons permitted in the gallery of each courtroom will be determined and posted. The maximum capacity of the courtroom will be monitored and enforced by court staff.

2. The gallery of the courtroom will be marked to identify appropriate social distancing in the seating.

Well

1. 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 or outfitted with Plexiglas as outlined above.

Sanitation/Hygiene

1. Hand sanitizer dispensers will be in all court-related areas of the courthouse, including but not limited to the public entrance to the building, outside of elevators on each floor, outside of each courtroom, and outside of bathrooms.

2. Disinfectant wipes or spray will be provided for each courtroom and jury room.

3. CDC flyers outlining appropriate hygiene, social distancing, and public safety will be posted in multiple locations on each floor of the court building.

4. The Clerk of Courts office will maintain a sufficient inventory of such items.

5. Warm water and soap shall only be used to clean Plexiglas surfaces.

6. The county will continue to follow CDC guidelines on cleaning all court related spaces. In addition to regular housekeeping/cleaning duties, additional housekeeping measures will continue as needed to ensure employees and the public have access to clean, sanitary facilities.

Public Information

1. The Waukesha court officials and the Clerk of Courts office will continue to work with the Waukesha County Public Information Officer to notify the public and media on changes related to the expansion of court operations in Waukesha County.

2. The Clerk of Courts office will update its website with current information related to all COVID-19 efforts.