

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF RESTRICTING
PHYSICAL ACCESS TO COURT
FACILITIES DUE TO A PUBLIC HEALTH
EMERGENCY AND TRANSITION TO
RESUMPTION OF CERTAIN
OPERATIONS

AMENDED
ADMINISTRATIVE ORDER
No. 2020-078

Due to concern for the spread of COVID-19 in the general population, the Chief Justice of the Supreme Court of the State of Arizona issued Administrative Orders 2020-48, 2020-60, and 2020-70 to address measures to be taken by the Judicial Branch to conduct business in a manner that reduces the risk associated with this public health emergency. The Orders directed the presiding superior court judge of each county to determine how in-person proceedings were to be conducted in each of the county's court rooms under conditions that protect the health and safety of participants and the public. In response to the Supreme Court's Administrative Orders, the Superior Court issued Administrative Orders 2020-043, 2020-055, and 2020-065 restricting physical access to court facilities by limiting, to various extents, the types of in-person proceedings conducted in court facilities.

The Supreme Court has now issued Administrative Order No. 2020-79 which provides direction to the Judicial Branch in Arizona on transitioning to resumption of certain operations beginning June 1, 2020. Over the course of this public health emergency, the Superior Court in Maricopa County has expanded its video and audio conferencing capabilities, has provided for public access to remote court events, has marked off its courtrooms and public areas to provide for appropriate social spacing for those entering the courthouse, has provided cleaning stations at each courthouse entrance and has mandated the wearing of protective masks by all court employees while in a courthouse.

Given the ongoing threat to public safety, certain limitations and changes in court practices and operations continue to be necessary. In accordance with the Supreme Court's Administrative Order, starting on June 1, 2020, the Superior Court in Maricopa County will expand operations, including allowing additional in-person proceedings to be conducted in court facilities. The Superior Court has convened task forces made up of judicial officers, judicial branch employees, and community stake-holders on how best to conduct criminal, civil, and juvenile proceedings during a public health emergency. Many

of the recommendations by the various task forces are either adopted in this Administrative Order or will be adopted in forthcoming Administrative Orders.

THEREFORE, IT IS ORDERED that Administrative Order 2020-065 is replaced by this Order.

IT IS FURTHER ORDERED that beginning June 1, 2020 the Superior Court and all limited jurisdiction courts in Maricopa County will continue to hold hearings via audio and video appearances and remain available to process all case types and non-appearance proceedings. It remains the presumption that proceedings be conducted via audio and video unless both authorized by this order and deemed necessary by the assigned judicial officer. For more specific information on operations of the Superior Court please visit:

<https://superiorcourt.maricopa.gov/communications-office/covid-19/>

IT IS FURTHER ORDERED that for the duration of this order, physical access to all court buildings of the Arizona Superior Court located in Maricopa County shall be restricted to attendance at in-person court hearings. This does not include court locations inside the Valleywise Behavioral Health Facilities or the Arizona State Hospital. This restriction does not apply to employees of the Judicial Branch, employees of the Clerk of the Superior Court, employees of the Maricopa County Sheriff's Office or Maricopa County employees housed within a court building.

IT IS FURTHER ORDERED that attendance at any in-person event will be limited to parties, witnesses, victims, sheriff's deputies, detention officers, law enforcement officers, parents in juvenile delinquency matters, and lawyers, so long as those persons are participating in the hearing or event. Social distancing requirements must be complied with during all in-person proceedings.

IT IS FURTHER ORDERED that participants attending in-person proceedings should minimize the time they are inside the court and shall not enter the courthouse more than thirty minutes prior to the start of the proceeding and immediately exit upon the conclusion of the hearing. Jurors may enter the courthouse at any time during their date of service; however, after entering the courthouse, the jurors should remain in spaces specifically designated for jurors.

IT IS FURTHER ORDERED that individuals may enter a court building at a specified entrance to conduct business with the Clerk of the Superior Court.

IT IS FURTHER ORDERED that the Presiding Judge and any Presiding Department Judge may grant access to court buildings to specific individuals to conduct or facilitate necessary court business.

IT IS FURTHER ORDERED that any person intending to be present at a court proceeding who has been diagnosed with COVID-19, has exposure to COVID-19, or has symptoms of COVID-19 as defined by the U.S. Center for Disease Control must contact via telephone or email the assigned division to arrange to appear via audio or video, have their appearance waived, or have the proceeding reset.

IT IS FURTHER ORDERED that all judicial branch employees and judicial officers shall wear a mask or face covering when they are in a court facility. The only exception is that when they are at their workspace they may remove their mask or face covering if they are not required to interact with the public and they are more than six feet away from any other person.

IT IF FURTHER ORDERED that all other persons entering a courthouse are required to wear a mask or face covering at all times that they are inside the facility. Any person who refuses to wear a mask or face covering as directed by court personnel will be denied access to the facility. If a participant is denied physical access to the courthouse for refusing to wear a face covering, the participant must contact the assigned judicial division to determine whether the person can participate in the proceeding using an audio or video connection.

IT IS FURTHER ORDERED that the public is subject to a health screening protocol upon entrance to a courthouse, including having their body temperature taken. Any person who does not pass the health screening protocol shall be denied entrance into the facility.

IT IS FURTHER ORDERED that during in-courtroom proceedings, the judicial officer may authorize the temporary removal of masks or face coverings for purposes of witness testimony, defendant identification, making an appropriate record, or other reasons deemed necessary by the judicial officer provided that appropriate social distancing or other protective measures are followed.

IT IS FURTHER ORDERED that all open court proceedings will be accessible by the public by telephonic conference line unless otherwise ordered by the court or authorized by the presiding judge. For more information on accessing public court events please visit: <https://www.superiorcourt.maricopa.gov/calendar/today/> .

IT IS FURTHER ORDERED that the court may deny a timely request for use of a certified court reporter in any proceeding other than grand jury proceedings, provided that the proceeding will be recorded using audio or video recording to capture the record of the court proceedings. In determining whether to deny a timely request for a certified court reporter, the court may consider the following factors: the spacing limitations of a courtroom, the availability of a certified reporter to participate in the hearing using an audio or video connection; the probability that a transcript will be requested; the number of individuals appearing in-person during the proceeding; sufficiency of another form of

record to convey the substance of the matters discussed at the proceeding; whether testimonial evidence will be presented at the proceeding; presence of non-native English speakers as witnesses or parties; the likelihood that technical or otherwise difficult terminology will be used; the need for formal or informal proceedings; the need for a real-time transcript; the likelihood that daily transcripts will be required; and any other factor which in the interests of justice warrants a particular form of record, or as otherwise required to serve the interests of justice. Nothing herein precludes the court from granting a party's timely or untimely request for a certified reporter.

IT IS FURTHER ORDERED that beginning June 1st, 2020, limited jurisdiction courts within Maricopa County are authorized to phase-in necessary in-person court proceedings so long as they may be conducted consistent with the courthouse safety requirements set forth in Section I of Supreme Court Administrative Order No. 2020-79.

IT IS FURTHER ORDERED that beginning June 15th, 2020, limited jurisdiction courts within Maricopa County are authorized to phase-in jury trials, taking into consideration the physical space of individual courthouses and courtrooms. Each court shall employ appropriate social distancing and other measures necessary for the protection of jurors and other court participants and shall post on established court websites information describing protective measures taken.

IT IS FURTHER ORDERED that beginning June 15th, 2020 jury trials will commence on a limited basis in the Superior Court in Maricopa County. The Superior Court's standing Jury Advisory Committee has studied methodologies for safely summoning, empaneling jurors and conducting trials, and has issued a report and recommendations that will be adopted in a forthcoming Administrative Order.

IT IS FURTHER ORDERED that the Departments of the Superior Court in Maricopa County are authorized to phase-in in-person court proceedings as follows:

CRIMINAL DEPARTMENT:

Beginning June 1st, 2020,

IT IS ORDERED that all initial appearances will proceed in-person or by audio or video appearance, as directed by the court.

IT IS FURTHER ORDERED that all preliminary hearings will proceed in-person unless otherwise directed by the court. Efforts should be taken to minimize the number of individuals called to testify at a preliminary hearing.

IT IS FURTHER ORDERED that all release hearings for defendants held non-bailable will proceed in-person unless otherwise directed by the court.

IT IS FURTHER ORDERED that Rule 14 of the Arizona Rules of Criminal Procedure continues to not apply to superior court cases in this county. Arraignments will be held for in custody indicted defendants in-person unless otherwise ordered by the court. Out of custody arraignments will proceed via audio or video appearance. For defendants charged by information, arraignments will be held directly after the finding of probable cause.

IT IS FURTHER ORDERED that changes of plea will proceed in-person, absent agreement of the parties and approval of the court. Changes of plea will be scheduled on a time-certain basis.

IT IS FURTHER ORDERED that sentencings will proceed in-person, absent agreement of the parties and approval of the court. Sentencings will proceed on a time-certain basis.

IT IS FURTHER ORDERED that evidentiary hearings will be scheduled on a time-certain basis as either in-person or by audio or video appearance, or a combination thereof. In-person evidentiary hearings will be scheduled on a limited basis in consultation with the Presiding Criminal Judge.

IT IS FURTHER ORDERED that all in-custody probation violation hearings and all in-custody probation disposition hearings will proceed in-person unless otherwise ordered by the court.

IT IS FURTHER ORDERED that all fugitive of justice hearings will proceed in-person unless otherwise ordered by the court.

IT IS FURTHER ORDERED all Arizona Rules of Criminal Procedure Rule 11 evidentiary hearings will proceed in-person or by audio or video appearance, as directed by the court.

IT IS FURTHER ORDERED that Final Trial Management Conferences will proceed in-person or by audio or video appearance, as directed by the court. Final Trial Management Conferences will be scheduled as time-certain hearings.

IT IS FURTHER ORDERED that the following court calendars remain suspended pending further order of the court: Mental Health Court, Veterans' Court, Domestic Violence Court, Drug Court, post-sentencing DUI Court, Spanish DUI Court, Restitution Court, Juvenile Transferred Offender Program Court (JTOP).

IT IS FURTHER ORDERED that out of custody settlement conferences may proceed as audio or video appearance proceedings as directed by the court only after

meeting specified criteria. In-custody in-person settlement conferences may only proceed with the approval of the Presiding Criminal Judge.

IT IS FURTHER ORDERED that any request to conduct a criminal matter as an in-person proceeding that is not otherwise authorized to proceed in that manner must be made by motion with the caption “Request for Emergency Hearing” and must be emailed to the assigned judicial division with a copy emailed to crimalemergencies@jbazmc.maricopa.gov. Motions under this provision may only be granted with the approval of the Presiding Criminal Judge.

Beginning July 6th, 2020,

IT IS ORDERED that bond forfeiture hearings will proceed in-person or by audio or video appearance, as directed by the court. Bond forfeiture hearings will be scheduled as time-certain hearings.

IT IS FURTHER ORDERED that out of custody probation violation hearings and probation disposition hearings will proceed in-person or by audio or video appearance, as directed by the court. Out of custody probation violation hearings and probation disposition hearings will be scheduled as time-certain hearings.

IT IS FURTHER ORDERED that the Criminal Department COVID-19 Task Force shall continue to meet on a regular basis to coordinate the continued phasing-in of criminal proceedings. The Task Force shall provide status reports every 30 days.

CIVIL & TAX DEPARTMENTS:

Beginning June 8th, 2020,

IT IS ORDERED that unless ordered by the court, civil proceedings will presumptively proceed through the use of audio and video appearances.

IT IS FURTHER ORDERED that the scheduling of necessary in-person proceedings will be coordinated by the Presiding Civil Judge or her designee to limit the number of co-occurring in-person proceedings in a particular courthouse.

IT IS FURTHER ORDERED that judicial officers may hold ex parte and contested hearings on protective orders via audio or video appearances.

IT FURTHER ORDERED that for cases where the right to a jury trial has not been waived, but limits on courthouse facilities, judicial personnel, or jurors limit the ability of civil jury trials to proceed, the court will consider alternatives including but not limited to selecting juries at alternative court facilities, conducting voir dire remotely or in multiple groups, and using technology to conduct jury selection and/or trials.

IT IS FURTHER ORDERED finding good cause to waive any personal appearance at a settlement conference set pursuant to Rule 16.1(c) of the Arizona Rules of Civil Procedure and Rule 3.11(a) of the Maricopa County Local Rules.

IT IS FURTHER ORDERED, pursuant to Arizona Rules of Civil Procedure 5(c)(2)(D), that a document is served if transmitted by email to the email address of the party or, if represented, counsel for the party being served, and that such service is deemed completed upon electronic transmission. The serving party shall use the email address the receiving party has identified on the caption of filings under Rule 5.2(a)(1)(A).

FAMILY DEPARTMENT:

Beginning June 8th, 2020,

IT IS ORDERED that contested hearings related to emergency motions shall be conducted at designated locations at each court facility with use of audio or video appearances as authorized by the court at each court location.

IT IS FURTHER ORDERED that all non-evidentiary proceedings, such as Resolution Management Conferences, Review Hearings, Pretrial Conferences, and status conferences shall be conducted through audio or video appearances.

IT IS FURTHER ORDERED that Decree on Demand, IV-D proceedings, and Specialty Calendar proceedings shall be conducted through audio or video appearances.

IT IS FURTHER ORDERED that any form of contested evidentiary hearing or trial shall presumptively proceed through the use of audio and video appearances. A judicial officer may, in his or her discretion, designate a contested evidentiary hearing or trial to be held in person. This may be initiated (1) by either or both parties requesting an in-person hearing or trial, or (2) by the judge under certain circumstances, such as a high volume of exhibits or other factors for which a judge deems an in-person hearing or trial to be necessary.

IT IS FURTHER ORDERED that the scheduling of necessary in-person proceedings will be coordinated by the Presiding Family Judge or his designee to limit the number of co-occurring in-person proceedings in a courthouse.

JUVENILE DEPARTMENT:

Beginning June 8th, 2020,

IT IS ORDERED that delinquency adjudications, disposition hearings, transfer hearings, changes of plea, and direct file initial appearance hearings will continue to proceed in-person, unless otherwise ordered by the court.

IT IS FURTHER ORDERED that that all non-evidentiary dependency proceedings will continue to proceed via audio or video appearances.

IT IS FURTHER ORDERED that any form of contested evidentiary hearing or trial shall presumptively proceed through the use of audio and video appearances. Any party to a contested evidentiary proceeding may file a motion seeking an in-person hearing in lieu of an audio or video appearance. Such motions must be filed no less than 14 days before the hearing and must be emailed directly to the Division.

IT IS FURTHER ORDERED that the scheduling of necessary in-person proceedings will be coordinated by the Presiding Juvenile Judge or his designee to limit the number of co-occurring in-person proceedings in a courthouse.

IT IS FURTHER ORDERED that the Task Force on Conducting Juvenile Court Proceedings Safely in a Community Experiencing the Spread of an Infectious Disease shall continue to meet to coordinate the continued phasing-in of juvenile proceedings. The Task Force shall provide status reports when relevant.

PROBATE / MENTAL HEALTH DEPARTMENT:

Beginning June 8th, 2020,

IT IS ORDERED that all court-ordered evaluation and court-ordered treatment hearings, including all court-ordered treatment renewal hearings, will be conducted via audio or video appearances, unless otherwise ordered or directed by the court.

IT IS FURTHER ORDERED that adult adoption hearings will be conducted in-person.

IT IS FURTHER ORDERED that contested probate evidentiary hearings that are anticipated to last more than three hours may, in the assigned judicial officer's sole discretion, be conducted in-person.

IT IS FURTHER ORDERED that probable cause hearings, jury trials, and bench trials in Sexually Violent Person cases may be conducted in-person.

IT IS FURTHER ORDERED that all other probate and mental health proceedings will proceed via audio or video appearances unless otherwise ordered or directed by the court.

IT IS FURTHER ORDERED that the scheduling of necessary in-person proceedings will be coordinated by the Presiding Probate / Mental Health Judge or his designee to limit the number of co-occurring in-person proceedings in a courthouse.

IT IS FURTHER ORDERED that a court-appointed fiduciary or that fiduciary's attorney may appear in-person but only if necessary to have letters of appointment issued.

IT IS FURTHER ORDERED that any interested person (as defined in A.R.S. § 14-1201) who received or saw a Notice of Hearing that said the interested person could oppose the relief requested in a petition by "attend[ing]" the initial hearing on the petition may "attend" that initial hearing by doing the following: (1) entering the courthouse and informing the assigned Judicial Officer's staff of the interested person's presence and desire to oppose the petition; and (2) then following the staff's instructions as to how to appear by audio or video for the initial hearing.

IT IS FURTHER ORDERED that, for probate cases assigned to a downtown Judicial Officer, the division copy of a filed document should be delivered to the Probate Court Drop Box located at the Downtown Court Facility (and not to the assigned Judicial Officer's inbox in the East Court Building). Probate Court Administration then will route the document to the appropriate Judicial Officer.

IT IS FURTHER ORDERED that all documents filed in a Mental Health case shall be emailed to Probate Court Administration at PB-CRTADMSTR@jbazmc.maricopa.gov.

OTHER:

IT IS ORDERED that all emergency public health cases will proceed as directed by the court.

IT IS FURTHER ORDERED that requests by media to appear at a proceeding in person must be made to the Superior Court's Public Information Officers via email at courtpio@JBAZMC.maricopa.gov.

IT IS FURTHER ORDERED that any person not authorized to attend an in-person proceeding may submit a request to the assigned judicial officer for permission to attend.

IT IS FURTHER ORDERED that on a case-by-case basis, the Presiding Judge may designate additional proceedings as in-person proceedings.

Any person may request recordings of proceedings in Superior Court by contacting the Court's Electronic Recordings Administrator via e-mail at:

ERS@superiorcourt.maricopa.gov or by calling 602-506-7100.

Dated this 29th day of May, 2020

/s/ Joseph C. Welty
Hon. Joseph C. Welty
Presiding Judge

Original: Clerk of the Superior Court

Copies: All Superior Court Judges
All Superior Court Commissioners
Hon. Jeff Fine, Clerk of the Superior Court
Hon. Allister Adel, Maricopa County Attorney
Christina Phillis, Office of Public Defense Services
Dave Byers, Administrative Office of the Courts
Raymond Billotte, Judicial Branch Administrator
Richard Woods, Deputy Court Administrator
Bob James, Deputy Court Administrator
Shawn Friend, Deputy Court Administrator
Karen Westover, Regional Courts Administrator
All Department Administrators
Sean Gibbs, Director of Security