

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

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

AMENDED ADMINISTRATIVE ORDER
No. 2021-103

(REPLACING ADMINISTRATIVE
ORDER NO. 2021-073)

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 numerous Administrative Orders over the last 17 months 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 companion Administrative Orders 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. 2021-109 which allows the presiding superior court judge of a county discretion to modify that county's judicial branch health emergency order to address the use of social distancing and other measures for that county.

In response to the public health emergency, on March 19, 2020 the Judicial Branch in Maricopa County issued an Administrative Orders limiting the public's physical access to branch facilities. Additional Administration Order adjusting in-person operations to match the risk posed by COVID-19 within Maricopa County have at maintained public access limitations. The Judicial Branch has put in place health screening protocols for those who enter its facilities as well as mask mandates and social distancing requirements. The Judicial Branch continues to limit foot traffic into its buildings by conducting numerous court matters by audio and video platform. Currently, the vaccination rate in Maricopa County for those eligible exceeds 50% and is substantially higher in vulnerable age groups. Community spread has remained relatively flat and demand for hospital resource remains low. In light of the current conditions and in consultation with the Maricopa County Department of Health, modification of Branch operations is appropriate at this time.

THEREFORE, IT IS ORDERED that effective July 19, 2021, public access restrictions for Judicial Branch facilities in Maricopa County will be lifted. Social distancing requirements will remain at six feet apart, but will be reduced to three feet effective August 2, 2021. Health screening upon entry and previously ordered mask requirements will remain in place.

IT IS FURTHER ORDERED that the Superior Court in Maricopa County will continue to hold hearings both in-person and via audio and video appearances as set forth in this order. 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 any person intending to be present at a court proceeding who currently has 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 posted Mask Mandated Area of a court facility. Branch employees and judicial officers who are fully vaccinated (14 days from final vaccination) have the option of wearing a mask or face covering in any area of a court facility that is not a posted Mask Mandated Area. The Court recommends that all unvaccinated employees and unvaccinated judicial officers wear a mask or face covering within any area of a court facility unless they are at their workspace and more than six feet away from any other person.

IT IS FURTHER ORDERED that all other persons entering a court facility shall wear a mask or face covering when they are in a posted Mask Mandated Area of a court facility. All persons entering a court facility who are fully vaccinated (14 days from final vaccination) have the option of wearing a mask or face covering in any area of a court facility that is not a posted Mask Mandated Area. The Court recommends that all unvaccinated persons who enter a court facility wear a mask or face covering within any area of a court facility. Any person who refuses to wear a mask or face covering as directed by court personnel will be denied entrance or removed from 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 Mask Mandated Areas shall include, but are not limited to, courtrooms, jury assembly areas, law libraries, self-help centers, information counters, clerk windows or filing counters, probation office lobbies, electronic monitoring installation areas and detention facilities.

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 unless specifically exempted by the Presiding Judge.

IT IS FURTHER ORDERED that in addition to members of the public, all Judicial Officers of the Superior Court and Justice Court, Judicial Branch in Maricopa County employees, Justice Court employees, Maricopa County Clerk of Court employees, and all court partners who have security bypass privileges are 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 unless specifically exempted by the Presiding Judge.

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 court proceedings will be accessible either in person, by the public by telephonic conference line or through the Court Connect video conference platform. 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 adopting an electronic prescreen questionnaire for jurors to complete prior to the date that they are to report for jury duty. Prescreen questionnaires in which a juror requests to be excused from jury duty for a hardship are

to be reviewed every weekday, excluding holidays, by an assigned duty judge who will make a determination as to whether the juror will be excused, rescheduled or ordered to report on their assigned day.

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

CRIMINAL DEPARTMENT:

IT IS ORDERED that all initial appearances may proceed by audio or video appearance (in the case of in-custody initial appearances, the judicial officer may appear virtually; defendants will appear in-person).

IT IS FURTHER ORDERED all in-custody Early Disposition Court (“EDC”) status conferences will proceed in-person. Out of custody EDC status conferences will presumptively proceed by audio or video appearance. A judicial officer may order that an out of custody EDC status conference be held in-person.

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 may be conducted virtually or in-person. For defendants charged by information, arraignments will be held directly after the finding of probable cause.

IT IS FURTHER ORDERED that in-custody changes of plea will proceed in-person, absent agreement of the parties and approval of the court. Out of custody changes of plea may proceed in-person or by audio or video appearance, unless the acceptance of the plea will result in an out of custody defendant being taken into custody pursuant to Rule 7.2, Arizona Rule of Criminal Procedure. 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 for in-custody defendants will proceed in-person. Evidentiary hearings for out of custody defendants will be presumptively be held in-person, but may be held through audio or video appearance or as a combination of audio or video and in-person at the discretion of the judge conducting the hearing. Evidentiary hearings will be scheduled on a time-certain basis.

IT IS FURTHER ORDERED that all in-custody probation violation hearings and probation disposition hearings will proceed in-person unless otherwise ordered by the court. Probation violation hearings and probation disposition hearings will be scheduled on a time-certain basis.

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 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, including *Sell* hearings, will proceed in-person or by audio or video appearance, or as a combination thereof, as directed by the court.

IT IS FURTHER ORDERED that bond forfeiture hearings for in-custody defendants will proceed in-person. Bond forfeiture hearings for out of custody defendants will proceed in-person or as audio or video appearances. Bond forfeiture hearings will be scheduled on a time-certain basis.

IT IS FURTHER ORDERED that Final Trial Management Conferences will proceed in-person for in-custody defendants and by audio or video appearance for out of custody defendants.

IT IS FURTHER ORDERED that Specialty Courts may operate using a combination of audio and visual platforms in conjunction with safely spaced in-person operations.

IT IS FURTHER ORDERED out of custody settlement conferences may proceed as audio or video proceedings or in-person with the approval of the Presiding or Associate Presiding Criminal Judge, only after meeting specified criteria. In-custody in-person settlement conferences may proceed only after meeting specified criteria.

IT IS FURTHER ORDERED that the Criminal Department will continue master calendar trial operations utilizing safely spaced courtrooms until further ordered.

IT IS FURTHER ORDERED delegating to the Presiding and Associate Presiding Judge of the Criminal Department the authority to exclude time under Rule 8 of the Arizona Rules of Criminal Procedure in individual cases or groups of cases due to calendar congestion.

IT IS FURTHER ORDERED that any request to conduct a 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:
criminalesmergencies@jbazmc.maricopa.gov

CIVIL & TAX DEPARTMENTS:

IT IS ORDERED that unless ordered by the court, civil and tax proceedings other than jury trials and evidentiary hearings will presumptively proceed through the use of audio and video appearances.

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, in all or part, 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 that civil and tax jury trials will continue to utilize a modified master calendar system. To safely space jurors and trial participants, the Civil Department will presumptively:

- Conduct jury selection in the jury assembly area in the South Court Tower for cases assigned to the downtown facility and when necessary in assigned courtrooms.
- Until August 2, 2021, hold no more than two simultaneous jury trials per floor in the East Court Building.
- Until August 2, 2021, hold no more than one simultaneous jury trial in the Old Courthouse, Southeast Courthouse or Northeast Courthouse.

Until the public health restrictions set forth above are modified or lifted, the civil judges will confer regarding the prioritization of trials and the Civil Presiding Judge or her delegatee will determine a department-wide schedule for jury trials, identifying the start date, jury selection location and courtroom location of all civil jury trials.

The Civil Presiding Judge may grant exceptions to these presumptive operations for good cause.

IT IS FURTHER ORDERED the Tax Department will coordinate trials, as necessary, with the Civil Department and will follow the same presumptive procedures for jury selection and prioritization.

FAMILY DEPARTMENT:

IT IS ORDERED that contested hearings related to emergency motions and orders of protection shall presumptively be conducted through audio or video appearances as authorized by the court at each court location. A judicial officer may, in his or her discretion, designate such a hearing to be held in-person.

IT IS FURTHER ORDERED that all non-evidentiary proceedings, such as Resolution Management Conferences, Review Hearings, Pretrial Conferences, and status conferences shall presumptively be conducted through audio or video appearances. A judicial officer may, for good cause, designate a non-evidentiary hearing to be held in-person.

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 in-person. A judicial officer may, in his or her discretion, designate a contested evidentiary hearing or trial to be held through audio or video appearances.

JUVENILE DEPARTMENT:

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 proceed via audio or video appearances. A judicial officer may, for good cause, designate a non-evidentiary hearing to be held in-person.

IT IS FURTHER ORDERED that any form of contested evidentiary hearing or trial shall presumptively proceed using 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. A judicial officer may, in his or her discretion, designate a contested evidentiary hearing or trial to be held in person.

PROBATE / MENTAL HEALTH DEPARTMENT:

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 shall presumptively proceed in-person. A judicial officer may, in his or her discretion, designate a contested probate evidentiary hearing to be held using an audio or video appearance.

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 either in-person or via audio or video appearances as 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) using the instructions set forth in the Notice of Hearing to participate in the initial hearing electronically, or (2) entering the courthouse and informing the assigned Judicial Officer's staff of the interested person's presence and desire to oppose the petition, in which case staff will give the interested person additional instructions.

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:
pbcrtdmstr@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 this Administrative Order replaces Administrative Order 2021-073.

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 20th day of July, 2021.

/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
Jennifer Paetkau, 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