

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS AND POLK COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER 1-53.5¹

IN RE: COVID-19 EMERGENCY COURT OPERATIONS PROCEDURES

WHEREAS, the World Health Organization (WHO) has declared COVID-19, a severe acute respiratory illness, to be a pandemic, and the Governor of the State of Florida and the State Surgeon General and State Health Officer have declared that a public health emergency exists in Florida; and

WHEREAS, the health, safety, and well-being of courthouse visitors, court employees, and judicial officers are a high priority and necessitates the Florida State Courts System's continued monitoring of the COVID-19 outbreak and its effects on court operations; and

WHEREAS, to protect health and safety, the Florida Supreme Court has issued numerous administrative orders to enable trial courts to continue to provide court operations and proceedings through the use of remote technology; and

WHEREAS, on July 2, 2020, the Florida Supreme Court issued Amendment 5 to AOSC20-23, *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts* ("Fifth Amended AOSC20-23") which continued the suspension of statewide grand jury proceedings through July 26, 2020, and suspended other "[n]on-statewide grand jury selection and proceedings, civil jury selection and trial proceedings, and criminal jury selection and trial proceedings . . . until 30 days after the chief judge of a judicial circuit has determined that the circuit or a county within the circuit has transitioned to Phase 2 pursuant to Fla. Admin. Order No. AOSC20-32, Amendment 2"; and

WHEREAS, AOSC20-23, as amended, provide that "[i]t is the intent of the judicial branch to transition to optimal operations in a manner that protects the public's health and safety during each of the following anticipated phases of the pandemic: a) Phase 1 – in person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare; b) Phase 2 – limited in-person contact is authorized for certain purposes and/or requires use of protective measures; Phase 3 – in-person contact is more broadly authorized and protective measures are relaxed; and 4) Phase 4 – COVID-19 no longer presents a significant risk to public health and safety"; and

WHEREAS, on May 21, 2020, the Florida Supreme Court issued AOSC20-32, *In Re: COVID-19 Public Health and Safety Precautions for Phase 2* (hereinafter "AOSC20-32") which accepted and approved the recommendations of the Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19. AOSC20-32 was amended on June 16, 2020 (Amendment 1), and July 2, 2020 (Amendment 2); and

¹ This amended administrative order is issued to revise paragraphs 1., 2., 6.b, and 6.c. regarding dates and references to be consistent with the latest Florida Supreme Court orders and directives, and deletes the previous paragraph 8 that provided for continuance of fines and/or court costs in county criminal cases and non-criminal traffic violations. See Fla. Admin Order No. AOSC20-23, Amendment 5 (July 2, 2020); Fla. Admin Order No. AOSC20-32, Amendment 2 (July 2, 2020).

WHEREAS, AOSC20-32, as amended, sets out the requirements for protective measures for entrance into court facilities, benchmarks, and operational plans that must be established, implemented, and submitted before a Circuit may transition from Phase 1 to Phase 2; and

WHEREAS, the undersigned has determined that the protective measures for entrance into court facilities set forth in AOSC20-32 should be established and implemented in Hardee, Highlands, and Polk Counties before the benchmarks and operational plans are established and submitted;

NOW THEREFORE, IT IS ORDERED that:

1. Jury Proceedings and Jury Trials: Non-statewide grand jury selection and proceedings, civil jury selection and trial proceedings, and criminal jury selection and trial proceedings remain suspended. This suspension shall remain in effect until 30 days after the Circuit or a county within the Circuit has transitioned to Phase 2. See Fla. Admin. Order No. AOSC20-23, Amendment 5 at 8.
2. Limits on In-person Hearings: All non-essential and non-critical proceedings shall be conducted using remote technology until the Circuit or the county where the case is filed has transitioned to Phase 2. “Other trial court proceedings identified under Section III.E [of Fifth Amended AOSC20-23] may be conducted in-person only if the circuit or a county within the circuit has transitioned to Phase 2 or Phase 3 . . . and the proceeding is conducted in a manner that is consistent with the circuit’s operational plan.” Id. at 14.
3. Essential and Critical Proceedings: Essential and critical proceedings will continue to be conducted remotely unless the presiding judge deems it necessary to conduct the proceeding in-person.
 - a. Essential proceedings include, but are not limited to: “first appearance; criminal arraignments as necessary; hearings on motions to set or modify monetary bail for individuals who are in custody; juvenile dependency shelter hearings; juvenile delinquency detention hearings; hearings on petitions for temporary injunctions relating to safety of an individual; hearings on petitions for risk protection orders; hearings on petitions for the appointment of an emergency temporary guardian; hearings to determine whether an individual should be involuntarily committed under the Baker Act or the Marchman Act; and hearings on petitions for extraordinary writs as necessary to protect constitutional rights.” Fifth Amended AOSC20-23 at 11.
 - b. Critical proceedings related to the state of emergency or the public health emergency, include, but are not limited to proceedings related to: “violation of quarantine or isolation; violation of orders to limit travel; violation of orders to close public or private buildings; and enforcement of curfew orders.” Id. at 12.
4. Social Distancing: In the event of an authorized in-person hearing, the judge or the judicial officer shall take necessary steps to practice social distancing in order to minimize potential exposure to COVID-19. The presiding judge or judicial officer

must ensure that all participants in the proceeding maintain a “social distance” as recommended by the Centers for Disease Control and Prevention (“CDC”).

5. Instruction for Accessing Remote Proceedings: The Office of the Court Administrator for the Tenth Judicial Circuit Court is tasked with providing the parties and/or their attorneys, and any other necessary court participant with instructions regarding how to attend remotely. These instructions will be made available on the Tenth Circuit Court’s website (www.jud10.flcourts.org).
6. General Procedures: To provide for the safety of those persons accessing the courthouses and court facilities, the following protective measures (outlined in AOSC20-32) are hereby adopted for the Court’s continued response to the pandemic and are effective in Polk and Hardee Counties immediately, and in Highlands County once authorities permit occupancy at the Highlands County Courthouse following recent emergency building repairs or a temporary courthouse facility is established²:
 - a. Judges, elected officials whose offices are in any courthouse or court facility, and employees working in any courthouse or court facility shall self-check for symptoms of COVID-19. If they present any COVID-19 symptoms, they must remain home and should consult their doctor or other medical professional.

Additional Health and Safety Screening for the Bartow Courthouse: The Clerk, Public Defender, State Attorney, and Court Security Officer have agreed that health screening for those persons working at the Bartow Courthouse should be clarified such that persons currently awaiting the results of a COVID-19 test due to symptoms or exposure to someone who has tested positive to COVID-19 or persons that are under instructions to self-isolate or quarantine due to COVID-19 must remain home. The Court agrees with their request and directs that all persons, including judges and officials, working at the Bartow Courthouse shall self-check accordingly.

- b. Attorneys, jurors, vendors, and the public must undergo a health screening and a temperature check. “Persons who have a fever of 100.4 degrees [Fahrenheit] or greater, answer affirmatively to any of the symptoms in Question 1, or answer affirmatively to Question 2, 3, 4, or 5 shall not be allowed to enter the facility.” Fla. Admin. Order No. AOSC20-32, Amendment 2, *Requirements, Benchmarks, and Guidelines Governing Operational Phase Transitions*, at 6.
 - Question 1: Do you have any of the following symptoms (excluding those due to a known medical reason)? cough, shortness of breath or difficulty breathing, fever or chills, fatigue, muscle or body aches, headache, sore throat, new loss of taste or smell, congestion or runny nose, nausea or vomiting, or diarrhea.

² Due to recent emergency building repairs, in-person hearings will not occur in the Highlands County Courthouse until the authorities permit occupancy. However, this Order shall apply in the event a temporary courthouse facility becomes necessary.

- Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19?
- Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?
- Question 4: Have you had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19?
- Question 5: Have you travelled to an area with a notably high concentration of COVID-19 cases?

Id. To facilitate the health screening and temperature check with the limited resources available to the Court, attorneys, jurors, vendors, and the public may only enter the Bartow courthouse through the Church Street/north entrance or the Juvenile/west entrance of the building. Attorneys, jurors, vendors, and the public entering the Hardee County Courthouse for a hearing will be directed to the specific site of the hearing. Attorneys, jurors, vendors, and the public may enter the courthouse in Highlands County on Commerce Avenue unless directed to an alternative entrance. To the extent that these provisions conflict with Administrative Order Numbers 1-12.13, 1-20.11, 1-33.2 or a subsequent amendment of those Administrative Orders, these provisions prevail.

- c. “Face masks covering the nose and mouth are required for everyone entering the courthouse building [or facility], with no exceptions.” Id. at 7. “Face masks shall be worn at all times throughout public areas of the courthouse building [or facility], including inside the courtroom [or hearing room] if two or more individuals are in the courtroom.” Id. Judges and court staff that have a private office or have ample room to socially distance may remove their masks in their office, otherwise, they must wear a mask while at their desk.
 - d. Face masks will be provided at no cost to visitors who do not have one.
 - e. Court Bailiffs and local Sheriff Deputies are hereby granted the authority to screen and eject persons from courtrooms, hearing rooms, courthouses, or court facilities in accordance with this Administrative Order.
 - f. Any person who refuses to wear a facemask and/or who refuses to follow the social distancing requirements while in the courthouse or court facility will be denied access.
7. Presence of Children at Shelter Hearings: Unless directed otherwise by the assigned judge, the presence of children at shelter hearings is waived during the Court’s response to the pandemic or until further order.
8. Weekender Program (Polk County). As a result of social distancing requirements, the Weekender Program, a weekend work-release program run by the Polk County Sheriff’s Office (hereinafter “PCSO”), may not be able to accommodate the full

number of participants in the program. In the event that the program reaches its maximum capacity for any weekend and must turn participants away due to social distancing requirements, the PCSO shall provide the Court with a list of the names of the individuals turned away and unable to complete their weekend work-release requirements due to no fault of their own.

9. Rescheduling canceled proceedings. For matters that are not rescheduled by the Clerk of Court, it is up to the parties to reschedule any proceedings that have been stayed, cancelled, or postponed. The Clerk of Court and the Judicial Assistant of the assigned judge is tasked with informing a party who inquires as to whether a matter is to be rescheduled by the Clerk or the parties with the assistance of the Judicial Assistant.
10. Effective Date: Unless a different effective date is specified herein, this Administrative Order is effective immediately and shall remain in effect until amended or terminated by subsequent order of this Court or the Florida Supreme Court. This Administrative Order supersedes 1-53.4 entered on June 12, 2020.

DONE AND ORDERED in Bartow on this 23rd day of July, 2020.

s/ELLEN S. MASTERS, CHIEF JUDGE

Original: Polk County Clerk of Court

Copies: All Judges

Hardee County Clerk of Court
Highlands County Clerk of Court
Polk County Clerk of Court
Nick Sudzina, Trial Court Administrator
Office of the State Attorney
Office of the Public Defender
Office of Criminal Conflict and Civil Regional Counsel, Second District
Department of Juvenile Justice
Hardee, Highlands, and Polk Law Enforcement Agencies
Electronic Bar Mailing