

INTRODUCTION

The Kentucky Supreme Court pursuant to its authority under Section 116 of the Kentucky Constitution and in response to the COVID-19 Emergency, issued Order Nos. 2020-39 and 2020-40 providing that “[e]ach chief circuit judge must take steps to ensure that KCOJ employees and members of the public exercise appropriate social distancing in any court facility occupied by the KCOJ within their circuit.” Further, the Supreme Court has directed that “each chief district and chief circuit judge is encouraged to develop a local plan and enter local court rules regarding any additional restrictions or changes in local plan consistent with this Order.”

In accordance with the Order of the Kentucky Supreme Court, the following is now adopted as a supplement to the Seventh Judicial Circuit’s Local Rules of Procedure in order to implement the directives of the Kentucky Supreme Court and shall be effective immediately upon the approval by the Kentucky Supreme Court.

1. **General Matters.**

1.1 **Scope:** This Order and these Rules are generally applicable to all activities which occur on the premises of the Logan and Todd County “Court of Justice” facilities.

1.2 **Duration:** This Order and these Rules are effective immediately upon approval by the Supreme Court. This Order remains in effect until rescinded or terminated by a subsequent order of this Court or by Order of the Kentucky Supreme Court either terminating these rules or generally terminating Local Rules and Procedures issued pursuant to Order Nos. 2020-39 and 2020-40.

1.3 **Purpose:** This Order and these Rules are to implement the directives of the Kentucky Supreme Court in Order Nos. 2020-39 and 2020-40 as well as any subsequent orders issued to address the COVID-19 pandemic. In the event that there is a conflict between this Order and these rules and the Orders and the Rules of the Kentucky Supreme Court, the Constitutions the Commonwealth of Kentucky, or of the United States, the latter shall prevail.

2.0 **Court Proceedings:** The Supreme Court has directed that Kentucky trial courts resume hearings in civil and criminal matters utilizing telephonic and video technology to conduct all proceedings remotely. There are some proceedings, especially complex evidentiary proceedings, for which the technology for conducting remote hearings is not well suited. Therefore, as a general matter the following types of hearings should be conducted remotely unless the parties ask for in-person participation:

- a. Hearings on uncontested civil matters (defaults, motions to obtain scheduling orders);
- b. Civil Hearings that do not require in-person testimony such as summary judgment motions and motions to compel discovery;
- d. Arraignments and Pre-trial Conferences on Criminal Matters where the Defendant and his or her attorney is capable to operate equipment necessary for appearing remotely;
- e. Probation Revocation Hearings on Technical violations only.

As a general matter the following procedures should be conducted in-person unless otherwise directed by the Court:

- a. Final Pre-Trial Conferences on Civil Jury Trials;
- b. Contested evidentiary hearings on civil and criminal matters;
- c. Pleas of guilty on felony cases;
- d. Jury Trials; and
- e. Bench trials.

Any individual who falls into a high-risk category shall be permitted to attend remotely, unless his in-person attendance is required by the United States or Kentucky Constitutions. Should there be a dispute or challenge to any witness appearing remotely, the objecting party should notify the court and the other parties in advance of the hearing of its objection(s) so the court can render a decision on the matter in advance of the hearing.

2.1 Limiting the number of person in Courtrooms: The Supreme Court has directed Courtroom attendance for any matter being heard must be limited to attorneys, parties, witnesses and other necessary persons as determined by the judge but in no event can attendance exceed 33% of the courtroom's occupancy. In accordance therewith, Court Security Staff have, pursuant to the direction of this Court, through the use of signage and physical barriers limited seating in each of the courtrooms to comply with this directive so that persons sitting in the courtroom are at least six feet apart.

Court security personnel are directed and ordered to ensure compliance with the social distancing signage in the courtroom. Further, court security personnel are directed and ordered to limit attendance of court proceedings to attorneys, parties, witnesses and other necessary persons as determined by the judge.

2.2 Media and Public Access to Court Proceedings: Up to two members of the media are permitted to attend court proceedings without any further direction from the judge. In the event that more than two members of the media desire to attend court proceedings in a single courtroom at the same time, Court Security Personnel should only allow additional media members in the courtroom if there is sufficient unoccupied space. If there is insufficient space to permit the seating of additional members of the media, then a pool arrangement may be made and a copy of the digital record of any non-confidential proceeding shall be provided without cost. Any member of the public who is not a necessary participant to the proceeding may use one of the two seats unused reserved seats for the media, if court security personnel determine there is sufficient space.

Additionally, members of the media may contact the presiding judge's staff to make arrangements to observe proceedings conducted remotely through remote video conferencing technology.

2.3 Proceedings Involving Incarcerated Individuals Housed in Logan and Todd Counties: Unless otherwise ordered or directed by the judge, all proceedings involving incarcerated individuals will be conducted with the incarcerated individual appearing by videoconference. Should any party believe the incarcerated individual's physical presence be required he or she shall file a written motion stating the reasons the incarcerated individual's physical presence is necessary. This motion shall be filed in sufficient time for the Court to consider and rule on the issue and in no event shall the motion be filed less than seventy-two hours prior to the proceeding.

2.4 Proceedings Involving Incarcerated Individuals Housed Outside of Logan and Todd Counties: Until such time that the Department of Corrections permits the transportation of incarcerated individuals between County Jails or DOC Facilities, incarcerated individuals housed outside Logan and Todd Counties shall appear by video conference. Even when the transportation of inmates resumes, judges should continue to use video conference.

3.0 Procedures for Appearing Video-Conference or Remotely: Remote court proceedings are to be conducted via the Zoom platform, unless otherwise ordered by the judge. When a proceeding is to be conducted remotely, persons appearing remotely (or their attorneys) are required to make arrangements with the judge's staff to ensure they have the necessary information and follow the correct technical procedures to appear remotely. Any necessary person who is without the technical equipment, or skill to appear remotely, may appear in person if he or she is not otherwise prohibited from appearing in person. Attorneys are responsible for ensuring that their clients and witnesses are prepared to appear by video-video conference or by telephone.

4.0 Jury Management: The Following procedures shall apply to the management of jurors in the Seventh Judicial Circuit.

4.1 District Court Use of Circuit Court Jurors: For the duration of this Order District Court will use the jurors summoned for service in Circuit Court.

4.2 Petit Jury Orientation: Petit Jury orientation shall be staggered so that the judge will conduct an orientation in one-hour blocks with no more than twenty-one jurors shall appear each hour. The Circuit Clerk shall use the jury management system to randomly allocate the jurors to each one-hour panel. Each jury will be assigned to a panel and each panel will be designated by a number. Jurors will be given instructions about how and when they will need to either report for jury duty or call the jury phone to determine whether or not they will be required to report for jury duty.

4.3 Grand Jury Orientation: There is sufficient space in both justice centers to conduct grand jury orientation without needing to divide into separate panels.

4.4 Jury Trials: When a Jury Trial is scheduled, the judge will request the Circuit Clerk to call in the number of panels needed to select a jury. The Circuit Clerk will randomly draw the number of panels requested. The panels selected at random report as instructed.

4.5 Excusals and Deferrals: Kentucky Supreme Court's Order 2020-40 any juror who requests a deferral because:

- a. he or she is ill, caring for someone who is ill, or in a high-risk category; or
- b. he or she is unable to wear a facial covering because doing so would pose a serious threat to his or her health or safety;

may be excused by the Circuit Clerk without further referral to the Circuit Judge.

Any juror requesting a deferral because he or she was laid off, became unemployed, or otherwise suffered an economic loss due to the COVID-19 **and** who claims he or she will suffer further

economic loss as a result of jury service, shall be referred to the Circuit Judge who will make a determination as to whether the juror's service shall be deferred.

Jurors will be told that if a deferral is granted under these provisions, they will be summoned for the next term of jury service.

4.6 Grand Jury Proceedings: In order to ensure Grand Jury proceedings are conducted safely, Grand Jury Proceedings will be held in either the Circuit Courtroom or if necessary the District Courtroom, if available.

5.0 Other Matters:

5.1 Enforcement: The Chief Bailiff and his deputies (collectively "court security personnel") shall have full authority to enforce the Social Distancing requirements found in Supreme Court Orders 2020-39 and 2020-40. Any incident involving someone who refuses to cooperate with court security personnel or refuses to comply with this Order or the Orders of the Kentucky Supreme Court shall be reported immediately to the Chief Circuit Judge. If the Chief Circuit Judge is unavailable, then to the Chief District Judge. Violations of Court Orders may be punished by contempt. Nothing in this Order precludes Court Security Personnel from preferring criminal charges.

5.2 Admission to the Facilities: The Kentucky Supreme Court has directed that all persons entering the building shall be asked if he or she has:

1. Experienced any symptoms of COVID-19, including cough; shortness of breath or difficulty breathing; fever; chills; muscle pain; sore throat; or new loss of taste or smell;
2. Been asked to self-quarantine by any doctor, hospital, or health agency; or
3. Been diagnosed with COVID-19 within the past 14 days or had contact with anyone who has been diagnosed with COVID-19 within the past 14 days.

If he or she answers yes to any of these questions, then he or she shall not be admitted. A member of the public who is not granted access to a court facility, courtroom, or court office is not relieved of his or her obligation to make payment or report to or appear before the court. Court Security Personnel will provide a phone number or email address and must make arrangements to reschedule, appear remotely, or otherwise complete his or her business to avoid possible adverse action being taken by the court.

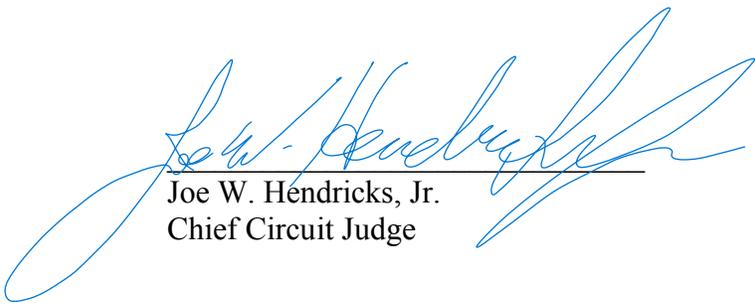
5.2 Purses and Bags: Pursuant to the Supreme Court's Order which provides as follows: "[m]embers of the public are prohibited from bringing purses or other similarly enclosed bags into court facilities, unless items in the bag are medically necessary. Any items that are necessary for the individual's business before the court should be carried by hand or brought in an open container capable of visual inspection," Court Security Personnel are directed to enforce this provision and should refer and concern or question to the Chief Circuit Judge.

5.3 Facial Coverings: The Supreme Court by Rule has provided as follows: the "public ... shall not enter or remain in the building unless they are wearing a protective facial covering such as a

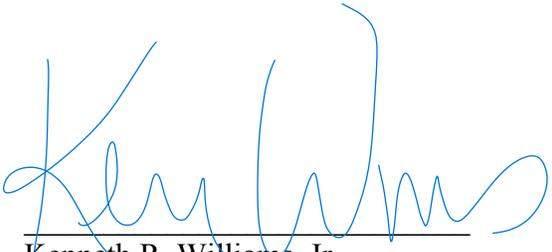
mask, scarf, bandana, or other cloth which covers the nose and mouth. If a member of the public seeks entry but does not have an appropriate facial covering and their business cannot be accomplished remotely, then a facial covering will be provided.” To that end Court Security Personnel are directed to enforce this provision, so long as it remains in effect, and should refer any concern or question to the Chief Circuit Judge.

5.4 Driver’s Licensing: The Kentucky Supreme Court has directed that the Chief Circuit Judge ensure waiting lines/areas are eliminated (to the maximum extent possible) through the use of remote services or appointment system. Because it is not possible to manage the appearance of crowds for driver’s license services as we are doing for court appearances, some kind of appointment system shall be required until the Chief Circuit Judge determines that the appointment system is no longer required to avoid the presence of large crowds. To that end, until otherwise notified in writing by the Chief Circuit Judge, Court Security Personnel are directed to only admit such persons into the Justice Center for Driver’s License Services whose name and appointment time have been furnished to Court Security Personnel. Court Security Personnel will provide persons appearing for driver’s license services, without an appointment, any instructions provided by the Circuit Clerk for making an appointment or otherwise obtaining Driver’s License Services.

ENTERED.



Joe W. Hendricks, Jr.
Chief Circuit Judge



Kenneth R. Williams, Jr.
Chief District Judge