

STATE OF MICHIGAN

IN THE 16<sup>th</sup> JUDICIAL CIRCUIT FOR THE COUNTY OF MACOMB  
IN THE PROBATE COURT FOR THE COUNTY OF MACOMB  
IN THE 42<sup>nd</sup> DISTRICT COURT FOR THE COUNTY OF MACOMB

In re: Establish Parameters for Conducting In-Person  
Jury Proceedings During the COVID-19 Pandemic

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Circuit Court Joint Local Administrative Order #2021-02J (Rescinds #2020-10J)  
Probate Court Joint Local Administrative Order #2021-02J (Rescinds #2020-05J)  
42<sup>nd</sup> District Court Joint Local Administrative Order #2021-03J (Rescinds #2020-04J)

This Administrative Order is issued in accordance with Michigan Supreme Court Administrative Order No. 2020-19, effective June 26, 2020. The purpose of this Order is to establish parameters for conducting in-person jury proceedings during a pandemic.

The Court shall:

- Work in ongoing consultation with the local public health department to determine whether conducting each jury proceeding will create an excessive public health risk, by assessing the following metrics:
  - The 7-day average of daily percent positive test results for the county must be 10 percent or less AND the 7-day average of number of cases per day, per million people in the county, must be 70 or less. (If a county has a daily 7-day average of fewer than 20 cases, the criteria of 70 cases per million or less may not apply, depending on county population.)  
OR  
The Court is in Phase 3 under the Return to Full Capacity Guide.
  - In addition, the Court's decision about whether to proceed with a jury trial must consider the following:
    - The percentage of cases in the county that are associated with localized outbreaks, such as nursing homes;
    - The number of deaths among county residents;
    - The proportion of emergency department visits for coronavirus-like symptoms for the Michigan Economic Recovery Council region;
    - The COVID hospitalization rates for the Michigan Economic Recovery Council region; and,
    - Whether there have been known COVID-19 cases associated within the Court facility during the past 14 days, and if the building has evidence of ongoing transmission.

- A jury trial may not commence if a determination is made that such a trial would create an excessive public health risk. Excessive risk, is risk of disease transmission that cannot be reasonably mitigated through implementation of the safety precautions provided here or otherwise recommended by the local public health department.
- Maximize the use of remote participation as much as possible for all other court proceedings within the courthouse on the days of jury proceedings.
- On days when jury proceedings are being conducted, to the extent possible, collect the names and contact information of anyone coming into the building. Assure the individual that the collected information will only be used for contact tracing, if necessary.
- Adhere to the following checklist regarding risk mitigation measures.

#### **Section 1. Stakeholders**

The Court shall consult with all of the following stakeholders for planning and preparation prior to commencing each scheduled trial:

- Health Department
- Attorneys
- Sheriff or Court Security
- Facilities Maintenance
- Information Services and Technology
- County Clerk
- Courtroom Staff

#### **Section 2. Physical Location**

The Court has reviewed and determined the following physical specifications for on-site or off-site locations.

- For all jury trial activities, including selection, trial, and deliberations, the court requires six-foot social distancing and face coverings consistent with the Return to Full Capacity Guidance.
- Security needs have been met.
- If an off-site location is used, the court will post notice of the off-site location for the public, but will not need to complete a separate LAO for places of holding court.
- The trial will be recorded according to SCAO standards.
- The Court will adhere to ADA compliance.
- The layout of the room allows for: jurors to see witnesses; jurors to hear the proceedings; parties/attorneys to interact easily with jurors; and the judge to see all participants.

#### **Section 3. Summoning Jurors**

- Panel selection will remain consistent with MCR 2.511.
- Communication addressing safety concerns, selection, and trial location will be provided to all prospective jurors.

- Courts will consider and grant any requests for excusals or deferrals because a juror or person residing with them may be considered high-risk for COVID-19.

#### **Section 4. Jury Selection**

- Jurors will be screened for COVID-19 symptoms in accordance with the protocols established in the Court's return to full capacity phased plan. A juror that cannot pass the screening will not be allowed to enter the facility.
- Any jury selection held at the courthouse will be done in a room that can accommodate the number of potential jurors summoned for jury duty, either in bulk or by staggered reporting, with proper social distancing.
- Any jury selection held remotely via Zoom will be consented to by all the parties if required.<sup>1</sup> Additionally, all parties and potential jurors must be provided instructions for how to access the remote jury selection.

#### **Section 5. Jury Trial**

The Court has determined processes for the following trial aspects:

- The process for side bars with attorneys will be in the judge's conference room with appropriate social distancing.
- The process for handling exhibits, including sharing with the jury, will be to provide individual copies or present exhibits electronically on large screens in the courtroom.
- The process for hearing motions outside the presence of the jurors will be to excuse the jury to the designated space that allows for social distancing, i.e. a neighboring courtroom or large conference room.
- The process for addressing a seated juror who does not pass the health screening or who becomes ill during the proceedings will be to follow the County of Macomb COVID-19 Preparedness and Response Plan.
- The process for juror breaks and refreshments will be held in a space with sufficient social distancing and only refreshments that are individually wrapped will be available.

#### **Section 6. Jury Deliberations**

- Jury deliberations will be held in a private space at the off-site location.
- Jury deliberations will be held in the courtroom instead of the juror room. Recording equipment in the courtroom will be turned off during deliberations.
- Jury deliberations will be held in a private space at the courthouse large enough to accommodate physical distancing.


#### **Section 7. Public Access**

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<sup>1</sup> See [Remote Jury Trial Discussion Guide](#) for considerations.

- The public may view the proceeding in the courtroom or at the off-site location up to a maximum room capacity, adhering to six-foot social distancing measures and wearing face coverings.
  - If the location cannot accommodate public viewing, public access will be provided by other means as authorized by SCAO. Note: Please review MCR 8.115 and Administrative Order 1989-1 regarding livestreaming of jurors or the jury selection process.
- Keep a record of all jury proceedings held that includes case number and date of jury proceeding, to submit to SCAO as requested.

Dated: 3/3/2021



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James M. Biernat, Jr. – Chief Judge  
16<sup>th</sup> Judicial Circuit, Macomb County  
Probate and 42<sup>nd</sup> District Courts