

STATE OF MICHIGAN GENESEE COUNTY PROBATE COURT 7 th CIRCUIT COURT	Establish Parameters for Conducting In-Person Jury Proceedings during the Covid-19 Pandemic	LOCAL ADMINISTRATIVE ORDER 2021-05J 2021-05J
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Genesee County Probate Court, 900 S. Saginaw St., Flint, MI 48502 (810) 257-3528
7th Judicial Circuit Court, 900 S. Saginaw St., Flint, MI 48502 (810) 424-4355

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
- Other: (e.g. city/county offices that would be impacted by jury traffic)

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.¹ Additionally, all parties and potential jurors must be provided instructions for how to access the remote jury selection.

¹ See [Remote Jury Trial Discussion Guide](#) for considerations.

Section 5. Jury Trial

The court has determined processes for the following trial aspects:

- The process for side bars with attorneys will be: attorneys will approach the bench to communicate with the court via a transactional window cut-out opening that was included as part of the protective glass installation on the bench. Masks will be worn by attorneys during side-bar conversations.

The double jury courtroom plus one additional courtroom have protective glass installed around the bench, witness box, clerk station, jury box and an adjacent section of the gallery for expanded jury seating.

- The process for handling exhibits, including sharing with the jury, will be: the double jury courtroom has a modern electronic exhibit display system that includes a document camera, an oversized screen on the courtroom wall opposite the jury, a large monitor above and behind the witness box, a monitor facing the gallery and individual monitors on counsel tables. Once an exhibit is admitted, it can be universally published via all screens/monitors.

Paper exhibits are discouraged, but if necessary, multiple copies will be made for jurors. If a physical exhibit is introduced, it can be examined by jurors using gloves that are available for this purpose.

The process for handling exhibits in other courtrooms is for multiple copies of paper exhibits to be made for jurors. If a physical exhibit is introduced, it can be examined by jurors using gloves that are available for this purpose.

Seated jurors will be provided with a zip-lock bag containing multiple masks, gloves, tissue, hand sanitizer, pens and note taking pad for their use during the trial.

- The process for hearing motions outside the presence of the jurors will be: jurors will be excused, social distancing and masks to be worn, as they are taken to the jury management space which is designated for seating consistent with social distancing.
- The process for addressing a seated juror who does not pass the health screening or who becomes ill during the proceedings will be: the juror will be advised not to enter the courthouse and seek appropriate medical treatment.

If based on symptoms and medical advice, a COVID 19 risk is identified and a test advised, the court will make a rapid test available through the Genesee County Sheriff Department or other testing options as may be available and necessary.

If negative results are obtained, but the juror remains ill, he/she will be considered for excusal from further jury service.

If the test is positive, the juror will be excused from further jury service.

The trial judge shall consult with the Chief Judge relative to appropriate and additional action. The Chief Judge shall consult with the Health Officer, Genesee County Health Department, or her designee, before making a final determination.

- The process for juror breaks and refreshments will be: jury management office has designated socially distanced seating, with many of the seats at tables for juror convenience. Bottled water and individually wrapped nutritional snack bars will be available for breaks. If lunch is to be provided, it will be ordered for delivery in individual boxes for limited handling.

Section 6. Jury Deliberations

[Select the ones that apply]

- 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.
- Other: (please list)

Section 7. Public Access

[Select the ones that apply]

- 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.
 - Other: (please list) public access for jury selection will be via YouTube, audio only. In-person public access to the trial will be in the courtroom with a limited number of marked seats to permit social distancing. Court security at the facility entrance will have public access passes available for distribution.
- Keep a record of all jury proceedings held that includes case number and date of jury proceeding, to submit to SCAO as requested.

Date: 2.22.2021

Duncan M. Beagle /s/
Duncan M. Beagle, Chief Judge
Genesee County Probate Court
7th Judicial Circuit Court