

**IN THE MAGISTRATE COURT OF HABERSHAM COUNTY
MOUNTAIN JUDICIAL CIRCUIT
STATE OF GEORGIA**

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David C. Wall

**IN RE: Compliance with
May 11 and June 12, 2020
Orders of the Chief *
Justice of the Georgia *
Supreme Court; The * Standing Order of the Court
Superior Court Judges *
of the Mountain *
Judicial Circuit ***

**STANDING ORDER FOR ONLINE AND IN-PERSON PROCEEDINGS
DURING THE COVID-19 PANDEMIC**

I. PURPOSE AND DURATION

The Chief Justice of the Georgia Supreme Court on May 11, 2020 entered an order requiring that each court must develop written guidelines as to how “...in-court proceedings generally and particular types of proceedings will be conducted to protect the health of the litigants, lawyers, judges, court personnel, and visitors.” That order further mandates that the written guidelines must address certain specific matters to ensure compliance with the recommendations of public health authorities. The terms of the May 11 Order were continued in force by subsequent order entered on June 12, 2020.

The following standing order is, therefore, entered to ensure recommended best practices are in place for the purpose of promoting the safety of all participants in the judicial process. It is anticipated that this order shall remain in effect for so long as the Covid-19 virus remains a public health threat in the communities served by the Magistrate Court of Habersham County.

The issue of health screening of court personnel also required to be addressed by the Order of the Chief Justice is not contained herein but is provided for by separate

internal operating procedures of the courts or by written personnel policy adopted by the court.

The Chief Justice has established a task force for the purpose of providing assistance and guidance concerning many of the issues addressed by this order. It is, therefore, anticipated that this order may be amended based on guidance provided by the task force or based on a change in recommended best practices.

Therefore, in accordance with the order and direction of the Chief Justice and the Superior Court Judges of the Mountain Judicial Circuit, this Standing Order is entered after consideration of guidelines issued by the Centers for Disease Control (CDC), the Georgia Department of Public Health (DPH), the National Center for State Courts (NCSC), the Georgia Court Reopening Guide, and consultation with State and Local Health officials.

II. ONLINE PROCEEDINGS

The Chief Justice's Order contemplates that whenever practicable proceedings shall continue to be held online. The subject matter jurisdiction of the Habersham County Magistrate Court may be heard online unless the court finds that the hearing should take place in-person as a result of the impracticality of presenting the case online or because an in-person hearing is required to secure a criminal defendant's rights to confrontation.

Provided, however, that in the event that it appears that a virtual hearing is not feasible because, for example, of technical issues or language barriers, the court may, sua sponte or on the motion of a party, recess a virtual proceeding and reschedule the matter for an in-person hearing at the court's earliest convenience, subject to the requirements that high-risk persons be accommodated.

III. PROCEDURE FOR ONLINE/VIRTUAL HEARINGS

The Judges of the Magistrate Court of Habersham County have selected an online platform known as Microsoft Teams through which court proceedings may take place. The attorneys and litigants participating online by personal computer, tablet, or smartphone, through the selected platform, must be able to hear the other participants, the Court, and any witnesses. The participants shall also have access to video to the extent feasible.

Attorneys and their clients must be able to communicate privately during the proceedings both orally and in writing either through a private meeting function on the platform application, by muting the other participants, or by private text or cell-phone conversation. The Court may grant reasonable breaks to permit the attorneys to speak privately to their clients.

The oath may be administered to witnesses by the Court or the attorney calling the witness. A witness sworn online will be considered for all purposes as the oath having been administered in person.

Although the Magistrate Court of Habersham County is not a court of record, a party may request and provide for a court reporter. The court reporter may be present in the courtroom with the judge or online with access to the audio and video for any proceedings.

To ensure that all proceedings are open to the public as required by law: Each daily court session shall be assigned a link by which any member of the public may listen to and/or view the entirety of the proceedings by joining the “meeting” as an observer or “webinar” participant.

Notice that the proceedings will be held online shall be posted on the websites of Habersham County, the Clerk of Magistrate Court, and shall also be distributed to

the media, along with a notice that anyone who wishes to attend should contact the office of the Clerk or the office of the assigned judge for the link to be used to access the particular court session or proceeding.

If the number of persons seeking to attend a virtual proceeding exceeds the limit permitted by the platform or application (e.g. 250 on Microsoft Teams), the proceedings shall be continued until the first available date following the expiration of the emergency order or until arrangements can be made for the proceedings to be live-streamed so that they may be viewed by an unlimited number of persons, whichever first occurs.

There shall be made available in each courthouse at least two (2) computers (with a webcam, if possible) for use by litigants. Each such computer shall be maintained in a separate room in the courthouse so as to avoid any contact between litigants, particularly in proceedings relating to or concerning allegations as defined pursuant to the Family Violence Act. O.C.G.A. 19-13-1.

All proceedings shall be subject to the provisions of O.C.G.A. § 15-1.10.1 and Uniform Magistrate Court Rule 11 (or the applicable rule of any other court). Therefore, the proceedings may not be recorded except in accordance with the rules of court. Attorneys and unrepresented parties may record the proceedings after giving notice to the Court. Members of the public may only record after making a request and being granted permission to record pursuant to the rule.

The outgoing sound or voice for members of the public observing proceedings shall be muted and they shall not speak or use any messaging feature of the application to communicate publicly or privately with the Court, the litigants, or the attorneys. This shall not prohibit private communications between the attorneys and their clients or staff.

Members of the public observing the proceedings shall not “unmute” themselves so that they can be heard, nor shall they speak or otherwise disrupt the proceedings. Attorneys, parties and observers in any online proceeding are expected to behave as they would in a courtroom. Any person who disrupts a proceeding shall be subject to removal from the proceedings. A person who seriously or repeatedly disrupts proceedings, thereby interfering in the administration of justice, shall be subject to the contempt power of the court.

Instructions for attending a virtual hearing shall be provided to litigants or their attorney of record by the Clerk of Magistrate Court and shall be as follows:

“As a result of the Covid-19 pandemic and in the interest of public safety and substantial justice, the following are instructions for attending an in-person or virtual hearing.

It should be noted that you must have internet connection speeds or appropriate data available that can support live streaming and audio. Data rates and charges may apply to your device and is not the responsibility of the Magistrate Court of Habersham County or any associates of this Court. By accessing the virtual link follow the instructions on the screen. Make sure your video is on and your microphone is muted until it is your turn to talk.

1. The Uniform Resource Locator or URL can be accessed by simply typing the link into your web browser from your computer in the comfort of your own home; or, (see attached illustration)
2. The Quick Response Code or QR can be accessed by the scanner application on your smart phone or tablet; or, (see attached illustration)
3. A Copy of the link and QR code has been attached to your hearing notice or you can contact the Clerk of Magistrate Court by phone at 706-839-0300 and

provide your email address and a link will be sent to you via email; or,

4. If joining via a smartphone, you will need to install the Teams Meeting application (app) onto your phone; or,

5. Click the “Join on the web instead” option. This will bring you to the meeting. Type in your name and click “Join”.

6. If you do not have the above resources or there are other adverse contributing factors, there are two computers, equipped with audio and video cameras, located in the law library on the basement floor of the Habersham County Courthouse at 295 Llewellyn Street, Clarkesville, Ga. 30523. Remember to adhere to Social Distancing requirements, personal protective equipment, and the rules concerning Covid-19 prevention safety measures established by the Standing Order of the Mountain Judicial Circuit Superior Court, Habersham County Magistrate Court, and the Habersham County Sheriff’s Office for entering the Habersham County Courthouse.

If you have questions or concerns please contact the Habersham County Clerk of Court or the presiding judge. If you have a legitimate request to have an in-person hearing, please arrive just prior to the designated time of your hearing indicated on your hearing notice or contact us so we can discuss your options at least 72 hours prior to your hearing date and time. You are expected to comply with the Standing Order for Online and In-Person Proceedings During the Covid-19 Pandemic for Habersham County Magistrate Court.”

The illustration shall be attached to the above information, which shall be known as the instruction sheet, and shall be as follows:

How to scan a QR code

1. Open the Camera app from the Home screen, Control Center, or Lock screen on your Smart phone.
2. Select the rear facing camera. Hold your device so that the QR code appears in the viewfinder in the Camera app. Your device recognizes the QR code and shows a notification.
3. Tap the notification to open the link associated with the QR code.

Example of a QR code



How to open the URL Link

1. Open Google Chrome on your computer.
2. Type the URL Link in the address bar.
3. Click Join Conversation.



Address Bar Search Bar

If an attorney or party believes that a proceeding cannot effectively be heard or presented in the manner required, they may move the assigned judge for an order waiving the requirements of this rule and providing for an in-person hearing.

IV. IN-PERSON PROCEEDINGS

As to proceedings held in-person:

- A. The total number of persons inside the bar of the court and in the courtroom

audience shall not exceed the maximum occupancy as posted outside the Habersham County Magistrate courtroom or other space.

- B. Persons seated in the courtroom shall maintain at least 6 feet of distance from other persons. Provided, however, that persons who occupy the same household shall not be required to distance from each other, but only from other persons in the courtroom. Attorneys may move closer to their clients as needed to communicate confidentially.
- C. The pre-determined seating arrangements that allow for four people with a minimum of at least 6 feet of distance between participants inside the Habersham County Magistrate Court room shall be marked with blue masking tape in the shape of an "X".
- D. All persons shall wash their hands with soap and water prior to entering the courtroom. If hand-washing stations are available outside the courthouse, they shall be used prior to entry into the courthouse.
- E. Hand Sanitizer shall be available at each counsel table.
- F. All persons present in the courtroom shall use a face covering. PPE may be provided by the court or county if available.
- G. Attorneys shall not be permitted to approach a witness who is testifying.
- H. If necessary to comply with the occupancy limits for the courtroom in which the case is being heard, litigants, attorneys, and witnesses in cases not yet reached may be asked to wait outside until their case is called and shall adhere to the recommended social distancing.
- I. All matters shall be set for a specific time with a break before the next scheduled matter to allow for the courtroom surfaces to be cleaned.
- J. All matters expected to last longer than 45 minutes shall be specially set for a date

certain based on the time estimate provided by counsel or the parties (if self-represented or an agent representative). Attorneys or parties shall contact the Habersham County Clerk of Magistrate Court or his designee.

- K. Proceedings shall be scheduled sufficiently in advance.
- L. Beginning on the 15th day of June, 2020, the operating hours of the Magistrate Court for in-person and virtual hearings of the Habersham County Magistrate Court shall be as follows:
 - M. Monday; first appearances, bond hearings, and extradition hearings; times to be determined by presiding Judge.
 - N. Tuesday; warrant application hearings shall be 7 per day, unless the number of pending cases is less, with one hour between and shall begin at 9:00 a.m.; lunch between 12:00 noon and 1:00 p.m. Hearings shall resume at 1:00 p.m. with the last scheduled hearing at 4:00 p.m. in compliance with the Habersham County Magistrate Court Standing Order for online and In-Person Proceedings during the Covid-19 Pandemic.
 - O. Wednesday; first appearances, bond hearings, and extradition hearings; times to be determined by presiding Judge.
 - P. Wednesday; civil calendar mediation and/or hearings shall be 7 per day, unless the number of pending cases is less, with one hour between and shall begin at 9:00 a.m.; lunch between 12:00 noon and 1:00 p.m. Hearings shall resume at 1:00 p.m. with the last scheduled hearing at 4:00 p.m. in compliance with the Habersham County Magistrate Court Standing Order for online and In-Person Proceedings during the Covid-19 Pandemic.
 - Q. Thursday; dispossessory calendar shall be 7 per day, unless the number of pending cases is less, with one hour between and shall begin at 9:00 a.m.; lunch between

12:00 noon and 1:00 p.m. Hearings shall resume at 1:00 p.m. with the last scheduled hearing at 4:00 p.m. in compliance with the Habersham County Magistrate Court Standing Order for online and In-Person Proceedings during the Covid-19 Pandemic.

- R. Friday; County Ordinance Arraignment, Deposit Account Fraud Arraignment , and Preliminary /Commitment Hearings shall be 7 per day, unless the number of pending cases is less, with one hour between and shall begin at 9:00 a.m.; lunch between 12:00 noon and 1:00 p.m. Hearings shall resume at 1:00 p.m. with the last scheduled hearing at 4:00 p.m. in compliance with the Habersham County Magistrate Court Standing Order for online and In-Person Proceedings during the Covid-19 Pandemic.
- S. The last Friday of each month shall be reserved for Bench Trials for County Ordinance and Deposit Account Fraud Citations/Accusations and shall be 7 per day, unless the number of pending cases is less, with one hour between and shall begin at 9:00 a.m.; lunch between 12:00 noon and 1:00 p.m. Hearings shall resume at 1:00 p.m. with the last scheduled hearing at 4:00 p.m. in compliance with the Habersham County Magistrate Court Standing Order for online and In-Person Proceedings during the Covid-19 Pandemic..
- T. Friday; first appearances, bond hearings, and extradition hearings; times to be determined by presiding Judge.
- U. Mondays shall be reserved for special circumstances concerning continuances, recusals, bond revocations, and for previously scheduled matters expected to last longer than 45 minutes shall be specially set for a Monday date certain based on the time estimate provided by counsel or the parties (if self-represented or an agent representative) and other matters in the interest of substantial justice.

V. First appearances, bond hearings, and extradition hearings held after hours, on the weekends, and holidays will be held at the discretion of the on-call Magistrate pursuant to the Official Code of Georgia and Uniform Rules of Magistrate Court. The hearing dates and times shall be orchestrated with the Habersham County Sheriff's Office Detention Center Staff and that information shall be made available to the public upon request. The public shall have the opportunity to observe the hearing via teleconferencing through the virtual Microsoft Teams link or Quick Response (QR) code that shall be provided via electronic mail and shall be made available to the public by the Habersham County Detention Center personnel.

V. SECURING PUBLIC ACCESS TO PROCEEDINGS AND CRIMINAL DEFENDANTS' RIGHT TO OPEN COURTROOMS

A. The Habersham County Magistrate courtroom seating capacity is insufficient to accommodate persons who wish to attend the hearings. Further, it is necessary to accommodate persons who wish to attend a proceeding concerning those which occur at night, on holidays, weekends, and after business hours. Those interested parties and members of the public shall be provided with access to view the proceedings remotely. During normal court operations business hours, remote access may be provided by either "broadcast" of the proceeding to a monitor in another location within the courthouse where additional seating is available or in addition to during normal court business hours or exclusively after hours, which includes nights, holidays and weekends, by providing remote access to the aforementioned link and instruction sheet whereby the proceedings may be viewed online. In any event where members of the

public are accommodated by remote access, the proceedings shall be accessible with “live” sound and video.

B. Additionally, with notice and approval of the court, family members, friends or interested members of the public may designate someone present in the courtroom to broadcast the proceedings to them by phone or video.

VI. ACCOMODATION FOR HIGH-RISK INDIVIDUALS

“High Risk” means someone who has a risk factor for severe illness if they contract the Coronavirus and is defined by the CDC as including:

- People 65 years and older;
- People living in a nursing home or long-term care facility;
- People who have chronic lung disease or moderate to severe asthma;
- People who have a serious heart condition;
- People who are immunocompromised;
- People with severe obesity (body mass index [BMI] of 40 or higher);
- People with diabetes;
- People with chronic kidney disease undergoing dialysis; and/or
- People with liver disease.

Any person who is considered “high risk” shall not be required to participate in in-person proceedings. If the person who is high-risk is a witness, their testimony may be presented by videoconference. If the high-risk person is a party or attorney, the matter shall be continued and rescheduled to take place at such time as a change in their health or the public health situation relating to Covid-19 makes this requirement moot. Provided, however, that if the matter is urgent and cannot be continued, the proceedings shall take place online, so long as in criminal cases, the Defendant

consents to such procedure or their right to confrontation is determined to be satisfied.
U.S v. Carter, 907 F. 3d 1199, 1208 (9th Cir. 2018).

VII. SANITIZATION OF THE COURTHOUSES AND COURTROOMS

All common areas of the Habersham County Magistrate courtroom shall be sanitized in accordance with the CDC publication *Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools and Homes* by use of approved cleaning products and routine disinfection of frequently touched surfaces. The Habersham County Magistrate Courtroom shall be cleaned daily after or before court is held. Before leaving when their business is concluded, Litigants, Attorneys, and Court Personnel shall wipe down counsel tables and chairs that they have used with provided disinfectant wipes or spray and paper towels. To the extent practicable the published CDC guidance regarding building ventilation shall also be followed.

VIII. ACCESS TO THE COURTHOUSE AND COURTROOMS

In order to protect the public health, including the health of court employees, parties, court participants and all individuals, the Sheriff of each county is directed to prominently post notices in the following form and to enforce the terms thereof:

NOTICE: BY ORDER OF THE JUDGES OF MAGISTRATE COURT OF HABERSHAM COUNTY:

IN ORDER TO PROTECT THE PUBLIC HEALTH, YOU MUST NOT ENTER THE HABERSHAM COUNTY MAGISTRATE COURTROOM IF:

- 1. YOU OR ANYONE YOU HAVE HAD CONTACT WITH IN THE LAST 14 DAYS HAS TESTED POSITIVE FOR COVID-19/CORONAVIRUS;**
- 2. YOU HAVE BEEN DIRECTED TO SELF-QUARANTINE BY A PHYSICIAN, MEDICAL PROFESSIONAL OR PUBLIC HEALTH OFFICIAL; OR**
- 3. YOU ARE NOW OR HAVE EXPERIENCED THE FOLLOWING**

SYMPTOMS WITHIN THE LAST 14 DAYS: COUGH, SHORTNESS OF BREATH OR DIFFICULTY BREATHING, FEVER, CHILLS, MUSCLE PAIN, HEADACHE, SORE THROAT, NEW LOSS OF TASTE OR SMELL, NAUSEA, VOMITING OR DIARRHEA.

IF YOU ARE SUBJECT TO ANY OF THE REQUIREMENTS ABOVE, YOU MUST NOTIFY THE DEPUTY STATIONED AT THE COURTHOUSE ENTRANCE. WHILE YOU WAIT OUTSIDE, ONE OF THE JUDGES OR THE OFFICE YOU ARE SEEKING TO VISIT WILL BE CONTACTED IMMEDIATELY AND WILL DETERMINE HOW YOUR BUSINESS MAY BE ACCOMODATED WITHOUT ENTRY INTO THE COURTHOUSE.

ALL PERSONS SEEKING TO ENTER THE HABERSHAM COUNTY MAGISTRATE COURTROOM ARE SUBJECT TO HAVING THEIR BODY TEMPERATURE CHECKED BY INFRARED THERMOMETER. ANY PERSON WHOSE BODY TEMPERATURE EXCEEDS 100° FARENHEIT SHALL BE REFUSED ENTRY

ALL VISITORS TO THE HABERSHAM COUNTY MAGISTRATE COURTROOM ARE REQUIRED TO WASH THEIR HANDS PRIOR TO ENTERING THE HABERSHAM COUNTY COURTHOUSE, IF HAND-WASHING STATIONS ARE AVAILABLE. IF NOT, THEY MUST DO SO IMMEDIATELY UPON ENTRY. VISITORS ARE REQUESTED TO WEAR A FACIAL COVERING WHILE THEY ARE IN THE BUILDING

NOTICE: BY ORDER OF THE JUDGES OF THE HABERSHAM COUNTY MAGISTRATE COURT:

ALL PERSONS ENTERING THE COURTROOM SHALL WEAR A FACE COVERING OVER THEIR MOUTH AND NOSE, UNLESS DOING SO WOULD ADVERSELY AFFECT THE HEALTH OF THE INDIVIDUAL OR WHERE THE INDIVIDUAL IS LESS THAN TWO YEARS OF AGE.

NOTICE: BY ORDER OF THE JUDGES OF THE HABERSHAM COUNTY MAGISTRATE COURT:

IF YOU ARE CONSIDERED MEDICALLY "HIGH RISK" FOR SEVERE ILLNESS IF YOU WERE TO CONTRACT THE CORONAVIRUS, DEFINED BY THE CDC AS INCLUDING:

- **PEOPLE 65 YEARS AND OLDER;**
- **PEOPLE LIVING IN A NURSING HOME OR LONG-TERM CARE FACILITY;**
- **PEOPLE WHO HAVE CHRONIC LUNG DISEASE OR MODERATE TO SEVERE ASTHMA;**
- **PEOPLE WHO HAVE A SERIOUS HEART CONDITION;**
- **PEOPLE WHO ARE IMMUNOCOMPROMISED;**
- **PEOPLE WITH SEVERE OBESITY (BODY MASS INDEX [BMI] OF 40 OR HIGHER);**
- **PEOPLE WITH DIABETES;**
- **PEOPLE WITH CHRONIC KIDNEY DISEASE UNDERGOING DIALYSIS; AND/OR**
- **PEOPLE WITH LIVER DISEASE.**

YOU ARE NOT REQUIRED TO ENTER THE HABERSHAM COUNTY MAGISTRATE COURTROOM OR PARTICIPATE IN IN-PERSON PROCEEDINGS IF YOU BELIEVE THAT YOU ARE "HIGH-RISK". YOU SHOULD CONTACT THE MAGISTRATE COURT CLERK'S OFFICE OR THE ASSIGNED JUDGE FOR INSTRUCTIONS OR ASK THAT THE CLERK OF COURT OR COURTHOUSE SECURITY DO SO ON YOUR BEHALF. THE SAFETY OF HIGH-RISK PERSONS SHALL BE SECURED BY MAKING ARRANGMENTS FOR THEM TO ATTEND COURT ONLINE, BY VIDEO OR TELEPHONE CONFERENCE, OR BY CONTINUANCE OF THE MATTER TO A LATER DATE.

IX. CONCLUSION

This Standing Order shall be prominently posted at the courthouse entrances and on the websites of the Clerk Habersham County Magistrate Court so as to give advance notice to the litigants, the lawyers and the public.

Additionally, as required by Order of the Chief Justice, the Superior Court Judges of the Mountain Judicial Circuit, and consistent with public health guidance, the provisions set forth above limiting access to the Habersham County Magistrate Courtroom based on illness or exposure are made applicable to all Habersham County Magistrate courthouse personnel, including the judges, assigned staff of the Habersham County Clerk of Magistrate Court, and assigned deputies of the Habersham County Sheriff's Office.

Further, the assigned Habersham County Sheriff's Office personnel, the assigned Habersham County Clerk of Magistrate Court, the designated C.S.R.A. Probation Services

Page 15 of 16

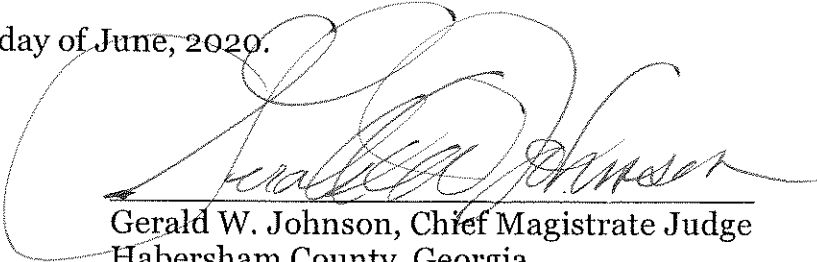
representative, any assigned Ninth District Alternative Dispute Resolution or other assigned mediator, interpreters, et al may attend proceedings virtually using the aforementioned links through the Microsoft Team's application.

IT IS FURTHER ORDERED that the undersigned shall immediately notify and serve Chief Justice Harold D. Melton of the Supreme Court of Georgia with a copy of this Order, such service to be accomplished via email to Tee Barnes, the Clerk of the Supreme Court of Georgia, at barnest@gasupreme.us and to the Georgia Administrative Office of the Courts at <https://georgiacourts.gov/covid-19-court-operating-guidelines-form>.

IT IS FURTHER ORDERED that the undersigned shall immediately notify and serve a copy of the order on the Chief Superior Court Judge and the Clerk of Habersham County Superior, State, Juvenile, and Magistrate Court to assure expeditious receipt; and

IT IS FURTHER ORDERED that the undersigned shall give notice of the issuance of this Order to the affected parties, counsel for the affected parties, and the public.

IT IS SO ORDERED this 15th day of June, 2020.



Gerald W. Johnson, Chief Magistrate Judge
Habersham County, Georgia
Mountain Judicial Circuit