

**IN THE MUNICIPAL COURT OF THE CITY OF BROOKHAVEN
DEKALB COUNTY
STATE OF GEORGIA**

City of Brookhaven
Municipal Court
Received and Filed:

IN RE: Court Procedures for COVID-19

This 21st of July, 2020

Date: July 20, 2020

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Court Signature

SECOND STANDING ORDER ON COURT PROCEDURES

WHEREAS, the Governor of the State of Georgia determined that a Public Health State of Emergency exists in the State of Georgia due to the spread of the Coronavirus/COVID-19;

WHEREAS, the Chief Justice of the Supreme Court of Georgia determined that a Statewide Judicial Emergency exists pursuant to O.C.G.A. § 38-3-60 et seq., and entered multiple Orders on the subject, that may be amended or renewed;

WHEREAS, the City of Brookhaven is situated in DeKalb County, Georgia, and is likewise experiencing the Public Health State of Emergency and the Judicial Emergency;

WHEREAS, the Judicial Emergency substantially restricts the normal functioning of the judicial system as it relates to interaction between individuals, including public court sessions;

WHEREAS, Brookhaven Municipal Court (the "Court") formulated a plan to reopen the Court, dated June 4, 2020, and pursuant to the Supreme Court's Order dated July 10, 2020, updated that plan to reopen Court, dated July 20, 2020, incorporated herein by reference;

NOW THEREFORE, the Court hereby Orders as follows:

Regularly scheduled in-person Court sessions shall resume on June 15, 2020. All in-person Court sessions shall be conducted using the following procedures:

1. Prior to entry into the building individuals, including court personnel, will be required to:

- a. Have their temperature taken with non-contact thermometer (cleaned and disinfected according to manufacturer's instructions) and will be refused admittance if the temperature reading is 100.4°F (38.0°C) or above.
- b. Respond to the following screening and be refused admittance with any affirmative answer to:
 - i. Are you feeling ill?
 - ii. Have you recently had chills or a fever?

- iii. Have you recently had a cough, shortness of breath, or difficulty breathing?
 - iv. Have you recently had a sore throat?
 - v. Have you or anyone you've been in close contact with tested positive for COVID-19 within the past 14 days?
 - vi. Are you or anyone you've been in close contact with suspected of having COVID-19 within the past 14 days?
- c. Wear a face mask covering the nose and mouth at all times while inside the Brookhaven Public Safety Building. Masks will be provided to individuals who do not bring their own.
 - d. Use hand sanitizer provided by the court when entering the court room.
 - e. Anyone who refuses a, b, c, or d, above, will not be admitted into the building except to obtain a reset notice at the clerk's window after all other cases have been resolved and all other defendants have left the building.
 - f. Anyone who violates these rules after entering the building may be held in direct contempt of Court and be subject to fines and incarceration.
2. No one under the age of 17 will be admitted to the building unless that individual is a victim or witness on a case. If a defendant does not have available childcare, their case will be reset to a future date.
 3. Family and friends will be discouraged from entering the building except in cases where a parent or guardian is accompanying a defendant who is 17 to 21 years old or a victim or witness under the age of 17.
 4. The general public will not be allowed to wait in the lobby except for one person at the clerk's window and one person undergoing security screening.
 5. The number of individuals in the courtroom shall be limited to 30, including court personnel.
 6. Every individual shall maintain a minimum of six feet of space between themselves and other individuals except when consulting with counsel or a family member or exchanging required paperwork.
 7. Chairs in the courtroom shall be spaced to maintain six feet of distance between individuals. The floor will be marked where chairs should be placed. Extra chairs and tables will be removed from the courtroom.
 8. Defendants and their attorneys will be given the opportunity to meet with the solicitor in the courtroom prior to or during the playing of the court's audio recording, and again after playing the audio recording.
 9. Hand sanitizer will be available to individuals leaving the building.

10. Pens used to sign requisite documents shall be discarded.
11. Individuals will be asked to avoid touching surfaces such as the podium, tables, etc. except when necessary to sign documents.
12. The courtroom will be cleaned and sanitized between court sessions.
13. Online and outside the building general guidelines will be posted in English and Spanish.
14. A copy of this Order shall be posted outside the building for public review.

IT IS SO ORDERED this 20th day of July, 2020.

Jonathan R. Granade

Jonathan R. Granade, Chief Judge
Brookhaven Municipal Court
DeKalb County, Georgia

Laura Stevenson

Laura Stevenson, Judge
Brookhaven Municipal Court
DeKalb County, Georgia

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Brookhaven Municipal Court Memorandum

To: Christian Sigman, City Manager

From: Jonathan R. Granade, Chief Judge

Laura Stevenson, Sr. Associate Judge

Shirley Archer, Court Administrator

Greg Schwarz, Solicitor

Date: July 20, 2020

Re: Revised Brookhaven Municipal Court Reopening Plan (updating Plan dated June 4, 2020)

I. Introduction

The Brookhaven Municipal Court (the “Court”) has remained open during the COVID-19 pandemic providing access to justice in cases of an essential and critical nature and to address matters that can be handled remotely. The Court has reopened for in-person, non-essential matters as of June 15, 2020. This document updates the previous Brookhaven Municipal Court Reopening Plan dated June 4, 2020, to address additional requirements set forth in the Georgia Supreme Court’s “Fourth Order Extending Declaration of Statewide Judicial Emergency,” dated July 10, 2020. This document outlines the requirements and procedures for the Court to remain open, taking into consideration both our legal mandates as well as public health guidance.

The Supreme Court of Georgia first declared a statewide “judicial emergency” on March 14, 2020, due to COVID-19, and has since extended the emergency declaration through August 11, 2020. The original declaration and first extension restricted courts to performing only essential and critical functions¹ in person and encouraged the use of video/remote conferencing where allowable and available. Otherwise, hearings and conferences were to be conducted remotely.

The Supreme Court’s May 11, 2020 extension order authorized reopening courts to non-essential, in-person hearings so long as courts: (1) develop written guidelines as to how public health will be protected, and (2) adhere to both: (a) public health guidance,² and (b) the requirements of the United States and Georgia constitutions and applicable statutes and court rules, including the public’s right of access to judicial proceedings and a criminal defendant’s rights to

¹ In our court, essential and critical functions are where an immediate liberty or safety concern is present, generally involving search warrants, arrest warrants, initial appearances, probation warrants, and bond reviews. The Court’s regularly scheduled arraignment and trial dates are not considered essential functions.

² “Public health guidance” means “the most specific current guidance provided by the federal Centers for Disease Control (CDC), the Georgia Department of Public Health (DPH), and [the] local health [department].” Supreme Court Order, p. 1, May 11, 2020.

confrontation and open courtrooms. Implementation of the public health guidance is necessary for the protection of court staff, security personnel, defendants, victims, witnesses, attorneys, and the general public. Keeping the court open to the public is constitutionally required and maintains the transparency and confidence in our system of justice.

Operationalizing these mandates will require the continued assistance and cooperation of multiple City departments, staff, and contractors, including the clerk's office, the police department, the solicitors, the interpreter(s), the IT department, finance/purchasing department, the communications department, the sanitation contractors, and the judges.

II. Re-Opening Date and Schedule

The Court reopened regularly scheduled in-person court sessions on June 15, 2020, with its twice per week arraignment calendars and once per month trial calendar.³ The trial calendars recommenced on July 15, 2020.

III. Procedures for In-Person Court Sessions

The Court holds in-person court sessions for arraignments, trials, failure to appear (FTA) hearings, probation revocation hearings, and motion hearings. Each of these presents unique challenges for in-person interaction and will be specifically addressed below. However, several general procedures for all in-person court sessions will be followed:

1. Prior to entry into the building individuals, including court personnel, will be required to:
 - a. Have their temperature taken with non-contact thermometer (cleaned and disinfected according to manufacturer's instructions) and refused admittance if the temperature reading is 100.4°F (38.0°C) or above.
 - b. Health and history screening – any affirmative response will require resetting of case.
 - i. Are you feeling ill?
 - ii. Have you recently had chills or a fever?
 - iii. Have you recently had a cough, shortness of breath, or difficulty breathing?
 - iv. Have you recently had a sore throat or diarrhea?
 - v. Have you or anyone you've been in close contact with tested positive for COVID-19 within the past 14 days?
 - vi. Are you or anyone you've been in close contact with suspected of having COVID-19 within the past 14 days?
 - c. Wear a face mask covering the nose and mouth at all times while inside the Brookhaven Public Safety Building. Masks will be provided to individuals who do not bring their own.
 - d. Use hand sanitizer provided by the court when entering the court room.

³ The Court last held an arraignment calendar on March 16, 2020.

- e. Anyone who refuses a, b, c, or d, above, will not be admitted into the building except to obtain a reset notice at the clerk's window after all other cases have been resolved and all other defendants have left the building.
 - f. Anyone who violates these rules after entering the building may be held in direct contempt of Court and subject to fines and incarceration.
2. No one under the age of 17 will be admitted to the building unless that individual is a victim or witness on a case. If a defendant does not have available childcare, their case will be reset to a future date.
 3. Family and friends will be discouraged from entering the building except in cases where a parent or guardian is accompanying a defendant who is 17 to 21 years old or a victim or witness under the age of 17.
 4. The general public will not be allowed to wait in the lobby except for one person at the clerk's window and one person undergoing security screening.
 5. The number of individuals in the courtroom shall be limited to 30, including court personnel.
 6. Every individual shall maintain a minimum of six feet of space between themselves and other individuals except when consulting with counsel or a family member or exchanging required paperwork.
 7. Chairs in the courtroom shall be spaced to maintain six feet of distance between individuals. The floor will be marked where chairs should be placed. Extra chairs and tables will be removed from the courtroom.
 8. Defendants and their attorneys will be given the opportunity to meet with the solicitor in the courtroom prior to or during the playing of the court's audio recording, and again after playing the audio recording.
 9. Hand sanitizer will be available to individuals leaving the building.
 10. Pens used to sign requisite documents shall be discarded.
 11. Individuals will be asked to avoid touching surfaces such as the podium, tables, etc. except when necessary to sign documents.
 12. The courtroom will be cleaned and sanitized between court sessions.
 13. Online, outside the building, and in the lobby general guidelines will be posted in English and Spanish. Guidelines will also be mailed to defendants with their reset notice.

A. Arraignments

The Court's largest calendars are for arraignments, which often also include FTA hearings and probation revocation hearings. Typical arraignment calendars have 40-80 defendants on them. Not all defendants appear for their arraignment; however, defendants that do appear frequently bring counsel, family, and friends. Also present in Court for arraignments are eight additional individuals – a judge, a solicitor, two clerks, a probation officer, an interpreter, and at least two police officers.

Until further notice, arraignment calendars will be capped at 40 defendants in two (2) sessions. Arraignment calendar sessions will generally be held at 2 p.m. and 3:30 p.m. on Mondays and Thursdays. If additional arraignment dates become necessary to adhere to social distancing guidelines and to clear any backlog, the Court will add additional arraignment dates or times as necessary to allow for social distancing.

1. **Jail Cases.** Incarcerated defendants will not appear with non-incarcerated defendants in an effort to social distance the jail population from the general public. Incarcerated defendants will be brought into the Court at 1 p.m. on arraignment days.
2. **Probation Cases.** Probation revocation hearings will be required to be scheduled for 3:30 on arraignment dates unless the probationer is incarcerated. (See Probation section below).
3. **Interpreter Cases.** Because of the large Spanish-speaking population in and around the City, the Court will schedule a Spanish interpreter for all court sessions. Defendants who speak languages other than English and Spanish and require the use of an interpreter will be asked to contact the clerk in advance of their court date to arrange for an interpreter to be present.

B. Failure to Appear (“FTA”) Hearings

FTA Hearings occur when a defendant has failed to appear for his regularly scheduled court date and a bench warrant was issued for his arrest. The defendant is almost always in police custody and brought over from the DeKalb County Jail. Because the defendant is in custody, these are not regularly scheduled, but occur as needed during the Court's regular arraignment or trial calendars, or if Court is closed for a long period of time, then on an ad hoc basis.

To avoid interaction and potential cross-infection between the jail population and the general public, jail cases will be brought into Court at 1 p.m. on arraignment days unless and until a remote option becomes available. The Court and the police department will continue to explore securing a remote hearing option between the Court and the DeKalb County Jail through video conferencing.

C. Probation Revocation Hearings, Warrants, and Tolling

To the extent possible, all probation revocation hearings will be scheduled for 3:30 p.m. on arraignment dates. Probation revocation hearings may be scheduled for the next available arraignment date at 1 p.m. if the probationer is incarcerated.

D. Motion Hearings

To the extent possible, all motion hearings will be conducted virtually via telephone or a widely available communications application, such as FaceTime, Skype, Zoom, etc. If unable to be held virtually, motion hearings will be scheduled for 1 p.m. on regular trial dates or, when appropriate, in coordination with the solicitor and defense counsel.

E. Trials

Trials will be held as regularly scheduled, generally the third Wednesday of the month, at 8:30 a.m. Because of the additional individuals needed for trials (police, victims, witnesses, etc.), the trial calendars will be limited to 10 defendants. If additional trial dates become necessary to adhere to social distancing guidelines, the Court will add additional trial dates.

IV. Continuances and Bench Warrants

Because of the concern for those impacted by or susceptible to COVID-19, the court will freely consider continuances of cases involving the following individuals whether defendants, witnesses, victims, or counsel:

1. you currently have, or someone staying with you currently has, symptoms of COVID-19, including but not limited to cough, breathing difficulties, fever, chills, muscle pain, sore throat, or new loss of taste or smell (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>);
2. during the past 14 days, you, or someone staying with you, had symptoms of COVID-19, including but not limited to fever, tiredness, cough, or breathing difficulties (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>);
3. you are, or someone staying with you is, subject to voluntary or mandatory quarantine or isolation (<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine-isolation.html>);
4. during the past 14 days, you have, or someone staying with you has, traveled internationally (<https://www.cdc.gov/coronavirus/2019-ncov/travelers/after-travel-precautions.html>);
5. you are a senior (65 years or older) or live in a nursing home or long-term care facility according to the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>);
6. you have an underlying medical condition (such as heart, lung or kidney disease, diabetes, severe obesity, or a condition that suppresses your immune system) according to the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>); or
7. you do not have available childcare or eldercare;
8. you are a healthcare worker.

The Court will not consider issuing bench warrants for a defendant's failure to appear at an arraignment date until September 1, 2020. Those defendants failing to appear for an arraignment scheduled between now and August 31, 2020, will have their case reset to a future date. The court will consider issuing bench warrants for failure to appear at an arraignment for sessions occurring on or after September 1, 2020.

Bench warrants for defendants and other individuals under subpoena who fail to appear for trials, motion hearings, probation revocation hearings, and other non-arraignment sessions will be in the judge's discretion.

V. Notices

Notices to defendants, attorneys, and witnesses rescheduling court dates will be provided in English and Spanish and will contain information about how to resolve cases remotely, to obtain a continuance (see Section IV, above), and, generally, the safety precautions the Court is taking.

VI. Courtroom and Entry Setup

The courtroom has been modified to provide a minimum of 6 feet of distance between chairs. The podium, tables where the solicitor and probation meet with parties, and security stations have been fitted with a "sneeze guards" providing a physical barrier. To cut down on the need for passing significant amounts of papers back and forth, the Court is working to increase use of electronic signature of documents which requires reconfiguring locations of the remote signature pads. Three no-touch hand sanitizer stations are being added at entry and exit points.

VII. Isolation and Quarantine Procedures⁴

With regard to everyone who works in the court facility, the guidelines require isolation of any person with known or suspected COVID-19 and quarantine of any person with COVID-19 exposure likely to result in infection, in accordance with the DPH Seventh Amended Administrative Order for Public Health Control Measures, or any subsequent version thereof.

When there is reason to believe that anyone who works or has visited the court facility has been exposed to COVID-19, DPH or the local health department shall be notified and notification of persons who may have been exposed shall occur as directed by DPH or the local health department.

City of Brookhaven

Municipal Court

Received and Filed:

This 21st of July, 2020

[Signature]
Court Signature

⁴ See Supreme Court's "Fourth Order Extending Declaration of Statewide Judicial Emergency," p. 7, July 10, 2020.