

**IN THE SUPERIOR COURT OF FRANKLIN COUNTY
STATE OF GEORGIA**

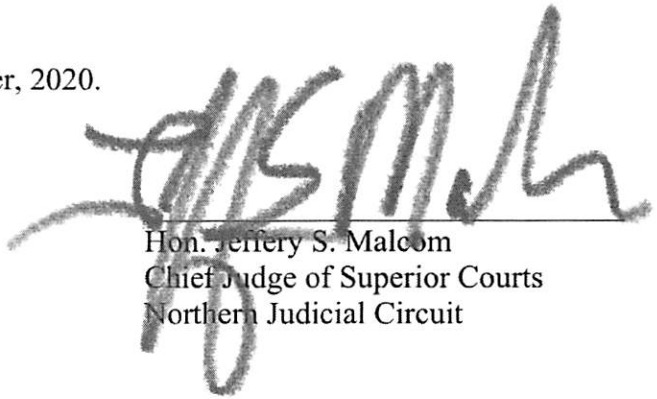
**IN RE: ORDER ADOPTING COUNTY *
*
PLAN FOR RESUMING JURY TRIALS *
*
*
*
*

ORDER ADOPTING FRANKLIN COUNTY PLAN FOR RESUMING JURY TRIALS

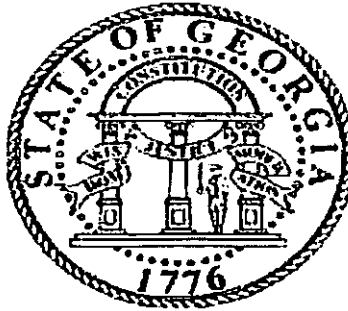
On March 14th, 2020, in response to the COVID-19 pandemic, the Honorable Harold D. Melton, as the Chief Justice of the Supreme Court of Georgia, issued an Order Declaring Statewide Judicial Emergency pursuant to O.C.G.A. §38-3-61. That Order has been extended eight times, with modifications, by Orders issued on April 6th, May 11th, June 12th, July 10th, August 11th, September 10th, October 10th, and November 9th, 2020. Pursuant to the Chief Justice’s Sixth Order Extending Declaration of Statewide Judicial Emergency and the Guidance for Local Committees on Resuming Jury Trials, a committee of judicial system participants was formed to develop a detailed and locally tailored plan to resume jury trials in Franklin County. The plan was completed and adopted by a majority of the committee members on November 25th, 2020.

After review of the plan and consulting with District Attorney D. Parks White, the plan is hereby adopted in full. The Court reserves the right to amend or rescind this Order approving said plan, based on additional information received. A copy of this Order will be filed with the Administrative Office of the Courts. The Clerk of Superior Court is hereby directed to place a copy of this Order in the Minutes and Final Records of the County.

SO ORDERED, this 9th day of December, 2020.



Hon. Jeffery S. Malcom
Chief Judge of Superior Courts
Northern Judicial Circuit



NORTHERN JUDICIAL CIRCUIT

FRANKLIN COUNTY GUIDE FOR RESUMING JURY TRIALS

NOVEMBER 2020

COMMITTEE MEMBERS:

- Lauren A. Watson, Judge of Superior Court – Committee Chair
- D. Parks White, District Attorney or designee
- Amanda Grantham, Chief Public Defender
- Melissa Holbrook, Clerk of Superior Court
- Stevie Thomas, Franklin County Sheriff
- Lauren Shuckerow, MPH, designee of Georgia Department of Public Health, District 2
- Beth Thomas, County Manager
- Terry Harris, EMS Director
- Doug Kidd, Attorney
- Justin Berlec, Attorney

The members of the Franklin County COVID-19 Jury Committee established by the Judges of the Northern Judicial Circuit Superior Court pursuant to a Statewide Judicial Emergency order issued by the Honorable Harold Melton, Chief Justice of the Georgia Supreme Court have convened, inspected and considered the available facilities and infrastructure, consulted with the medical and/or public health officials who are members of the Committee and consistent with the Order of the Chief Justice and the Guidelines promulgated by the Judicial COVID-19 Task Force, having endeavored to

develop a plan for resuming jury trials which ensures the health, safety and constitutional protections of all participants in the judicial system, including jurors and potential jurors, litigants, witnesses, lawyers, judges, court personnel and the public.

The Committee met as a whole on Thursday, September 24th and communicated regarding the subject of the report by email. The report was adopted by email consent of a majority of the committee members on November 25, 2020. The Chief Judge of each court that conducts jury trials will decide whether to fully adopt or amend the portions of the committee's recommended plan that are applicable to their court and will then incorporate a final jury trial plan into the court's written operating guidelines for in-person proceedings.

I. LOCATION OF FACILITIES FOR JURY ASSEMBLY, VOIR DIRE AND JURY TRIALS

Jury Assembly, Voir Dire and Jury Trials shall take place at the former Carnesville Elementary School, 825 Hull Avenue, Carnesville GA 30521, subject to the designation by the local Commission by resolution to utilize such facility. This alternative location is selected based on the fact that the courtroom located at the Franklin County Courthouse has insufficient space and utilities to safely conduct jury trials.

The facility is owned and operated by the Franklin County Board of Education. An anticipated agreement is expected to be entered into between Franklin County Board of Commissioners, the governing authority of Franklin County, and the Franklin County Board of Education. The former elementary school is a suitable location because it has more than adequate space to allow social distancing of all persons in attendance; adequate restroom facilities; a second room large enough to accommodate all of the jurors when matters must be taken up outside of their presence; adequate parking; and unobstructed interior space which can be easily arranged to provide for the seating of the judge, jurors, attorneys, litigants, witnesses and the public.

II. GENERAL PUBLIC HEALTH AND SAFETY GUIDELINES

The following guidelines shall be in force at all times during jury assembly, voir dire, and trial:

A. Sanitization Procedures

All common areas of the facility, including the courtrooms, hallways, and bathrooms 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. Courtrooms shall be cleaned daily by cleaning staff 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.

B. Face-Covering Requirements

All visitors and court personnel, including jurors, litigants, witnesses, attorneys, security officers, bailiffs and the public are required to wear face-coverings to enter the courthouse, and they must remain in proper position over nose and mouth, unless instructed by the judge to remove them. All courthouse deputies, bailiffs, and other staff will remain vigilant and politely ask anybody in the courthouse seen without a mask to put it back on. Any jurors that arrive without a mask will be provided one at the checkpoint.

Jurors will be provided a mask for use during the proceedings, if they do not have their own. Neck gaiters and bandanas are not acceptable face-coverings for use by those who are present in the courtroom or a facility being used as a courtroom.

In order to ensure that a witness's face can be clearly seen, witnesses shall testify without a face-covering from behind a plexi-glass shield or may wear a face-shield. In the event that medical-grade "clear masks" are available, such masks shall be worn by the witnesses. If sufficient quantity of the clear-masks is available, such masks may be worn by the attorneys during their closing argument.

C. Social-Distancing Protocol

The seating for all visitors, participants, court personnel, and the public shall be arranged

such that they are located at least six (6) feet from all other persons. Provided they remain properly masked, Counsel may sit closer to their clients in order to communicate as necessary. The Court will provide breaks as may be necessary to allow the attorneys to meet privately with their clients in the rooms available in the Courthouse which will allow them to have confidential discussions while socially-distancing. If available, the attorneys and litigants shall be provided with head-sets which will allow them to speak privately with their clients while seated at distance at counsel table.

D. Posting of Notice at the Entrance to the Facility

A conspicuous written notice shall be posted at the entrance to the Facility at any time when it is being used as a judicial facility. The notice shall state that persons who are currently experiencing the symptoms of COVID-19, have experienced such symptoms within 14 days prior, have been exposed to COVID-19, or have tested positive for the virus are not permitted to enter the facility. The notice shall further provide that any such persons who have necessary business involving the proceedings shall contact the Clerk of Court or the Court for direction as to how they participate by virtual means (or how they may be otherwise accommodated).

E. Notification of Stakeholders that a Courthouse visitor or Courthouse personnel have tested positive for the Coronavirus

Each judge, elected official, or other public official with an office in a courthouse shall notify the County Manager or Administrator and Chief Judge of any instance where they are notified that an employee working in the courthouse or courthouse visitor has been diagnosed with COVID-19, is awaiting the results of COVID-19 testing, or has reported to the supervising official that they are experiencing symptoms of COVID-19. The Chief Judge or County Manager/Administrator shall then immediately notify the other officials or department heads with offices in the facility, so that they can determine whether any of their employees have had contact with the other employee which would put them at risk of contracting the virus.

Current Department of Public Health Guidelines do not require the isolation or quarantine of court personnel who have been exposed to the virus as they are considered as essential or critical workers. Those guidelines require, instead, that such exposed workers must mask, distance, and monitor their temperature and symptoms. However, because of the danger posed to the public and other employees working in a court facility,

in the event that a judge, public official, officer or supervisor becomes aware that an employee has been exposed to the virus within the meaning of the CDC/DPH guidelines, that employee SHALL NOT enter the court facility nor shall they have any contact with other court personnel until their supervisor has consulted with the Chief Judge and Public Health officials to assess the extent of their exposure and the potential risk that they may pose to the public and other employees.

F. Miscellaneous Provisions

Hand Sanitizer shall be available at each counsel table, in the jury room, in the restrooms, and at the entrance to the facility. The temperature of all persons entering the facility shall be checked and anyone who has a temperature of 100 degrees Fahrenheit or greater shall not be permitted to enter.

Crucial to the health and safety provisions of the plan are the specific guidelines set forth below which provide:

- For the excusal of any prospective jurors who are considered to be “vulnerable” to serious complications from the COVID-19 virus;
- For inquiry into whether a prospective juror is experiencing any of the symptoms of COVID-19 or has been exposed to the virus;
- For the notification of stakeholders when courthouse personnel or visitors to the facility have tested positive for the virus; and
- For the procedure to be followed when a juror, litigant, attorney or other participant present during the proceedings experiences possible COVID-19 symptoms or has an exposure to the virus during the trial.

III. SPECIFIC PROCEDURES FOR THE SUMMONING, SELECTION, AND EMPANELLING OF JURORS AND TRIAL

A. Summons

When jurors are initially summoned, whether for grand jury or trial jury, the Clerk will mail:

- A Summons directing jurors to report to the former elementary school, with staggered report times. It will also provide a contact person to call with health-related questions or concerns.
- A COVID-19 letter from the Court, that expresses how much they are

appreciated, assures them that the court understands their concerns for safety.

- A COVID-19 Insert highlighting the steps taken by the courts to ensure their health and safety. A modified excusal request form that temporarily waives the requirement that it be notarized before submission.
- A COVID-19 Questionnaire that includes their contact information (name, address, cell phone number, and email) and a series of questions to determine whether they are in a category of persons identified by the CDC as being at an increased risk for severe illness from COVID-19.
- A questionnaire to be developed cooperatively by the District Attorney and the Defense Bar, including the Public Defender, that requests information generally asked by attorneys when selecting a jury. In civil cases, the attorneys may agree on the form of a questionnaire to be provided to the jurors at the time that they are summoned.

B. Excusals and/or Deferrals

Prior to jurors reporting on the date of their service, the Court and Clerk's Office will work cooperatively to determine whether any prospective juror should be excused or have their service deferred due to medical concerns. The Clerk shall be authorized to excuse any prospective juror who:

- Meets the statutory criteria for excusal or deferral;
- Is considered to be "vulnerable" for complications from the Coronavirus;
- Reports that they are experiencing any of the symptoms of the Coronavirus;
- Reports that they have been exposed to the virus; or
- Reports that they have tested positive for the virus or have experienced the symptoms of the virus within 14 days prior to the date they are scheduled to report.

Prospective jurors will be provided a contact number and shall be instructed to call within 48 hours in advance of the appearance date to determine when and if they are to appear and to confirm that they are not experiencing any symptoms of COVID-19 and have not been exposed to the virus. In the event that the juror reports that within 14 days prior to the date they would be required to report they have experienced the

symptoms of COVID-19, have received a positive test for the virus or have been exposed to the virus and certifies such fact in a manner prescribed by the Clerk, they shall be excused.

Any questions concerning an excusal or deferral shall be addressed by the Clerk to the presiding judge.

C. Check-In

On the morning of service, jurors will encounter the following safety precautions:

- **Staggered Reporting Times** - Because of the potential bottleneck at security and check-in, juror summons will include staggered report times. Jurors reporting more than five minutes before their summoned time will not be checked in and directed to wait outside until their report time arrives.
- **Health Screenings**. Everyone entering the facility will be screened for illness and COVID- 19 exposure. Any prospective juror prohibited from entering on the date of their service will be instructed to fill out an information form that includes their name, address, phone number, and juror number. The form will be given to the Clerk and presented to the presiding judge so that service can be deferred.
- If any juror reports having been diagnosed with COVID-19 in the previous 14 days, or in contact over the previous 14 days with someone who has been diagnosed with COVID-19, or that they are concerned they may have been exposed or infected, they will not be permitted to enter.
- If any juror reports having experienced a persistent cough, difficulty breathing or fever above 100.4 degrees within the previous three days, they will not be permitted to enter.

D. Jury Selection

Jury Selection (voir dire) will take place in panels of 12 persons, with only one panel present in the same room at the same time.

E. Trial

1. General Protocols

- a) The protocols set forth above relating to social-distancing, face-coverings and sanitization will apply at all times during the trial.
- b) The judge will provide jurors with a point of contact if potentially exposed to COVID-19 or experiencing symptoms of COVID-19. Jurors reporting exposure to COVID-19, experiencing symptoms, or any juror who does not pass the temperature check or COVID screening questions will be instructed to return to their vehicle outside of the facility and the Clerk will speak with them by phone with instructions as to how they should proceed after speaking to the judge if necessary.
- c) Jurors selected to serve shall be instructed to contact the Clerk if they learn that they were exposed to the virus prior to or during the trial or if they experience any COVID-19 symptoms. Such jurors will be excused and instructed not to report and to contact the Health Department. If available, rapid testing will be made available to those jurors. The remaining jurors will be notified of the event without naming the excused juror and they will also be offered the opportunity to have a rapid test. In the event that there is a concern as to whether any other jurors should be excused or whether another participant may have to be isolated or quarantined requiring a continuance or mistrial, the Court and the attorneys will consult with the District Health Director or their designee prior to making a decision.

2. Evidence Presentation and Examination of Witnesses

Courtroom evidence should be displayed to the jurors in a digital format whenever possible, making use of large television monitors or projection screens.

Attorneys will present their case from the podium and will seek

permission from the Court before moving freely about the courtroom.

Otherwise, they will remain at counsel table and the podium. Attorneys will be provided wipes and will be responsible for wiping down the podium, and anything else they touched, before returning to their table. They will also be asked to wipe down their table at the end of the day.

The bailiff will have a supply table with extra disposable masks, hand sanitizer, paper towels, gloves, tissues, juror pads and pencils, bottled water, and disinfecting spray. Jurors should keep up with their own items, so as to prevent sharing.

Jurors will be assigned a seat by the bailiffs and should use the same seating area for the duration of the trial.

Jurors will be permitted to leave at lunchtime and return, or the judge may decide to bring in a meal.

3. Timing of Resumption of Jury Trials

The court anticipates criminal jury trials to commence in Franklin County in February 2021. Subject to a change in the public health situation in the community, the Committee believes that with the implementation of these guidelines jury trials can safely commence as scheduled.

As set forth in the most recent prior Statewide Declaration of Judicial Emergency issued by the Chief Justice, priority will be given to the trial of criminal cases, specifically those where a demand for speedy trial has been filed or where the Defendant is in custody. Civil cases, particularly pending condemnation cases, may be scheduled as “back-up” to the criminal trial calendar.

Priority will be given to cases which can be tried in one week or less. Longer trials will, to the extent possible, be scheduled for trial later in the year.

The timing of trials may necessarily be affected by the public health circumstances existing at the time that proceedings are scheduled. In the event that there is any question as to whether trials may safely take place, the judges of the effected court will consult with the District Health Director before making the decision as to whether scheduled trials should be reset.

4. Protection of Constitutional and Statutory Rights for Litigants, Witnesses, Victims and Observers

In the event that the courtroom seating capacity is insufficient to accommodate all those persons who wish to attend, priority for courtroom seating in criminal cases shall be given to the victim or victim's family and the family of the Defendant and then to the public on a first-come, first-served basis. Those who cannot be accommodated shall be provided with access to view the proceedings remotely. Remote access may be provided by either "broadcast" of the proceeding to a monitor in another location within the facility or in the Courthouse where additional seating is available or by providing remote access to a link whereby the proceedings may be viewed online, or both. In any event where members of the public are accommodated by remote access, the proceedings shall be accessible with "live" sound and video.

5. Public Notification of Public Health Precautions Taken by the Court

In addition to the provisions set forth above, the Chief Judge will issue a press release outlining the terms of the plan to media outlets in the Circuit, including local radio stations, newspapers, and internet news providers. Additionally, the judges and other available Committee members will participate in community education opportunities such as speaking to community organizations and the like.