

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

**In Re: Jury Trial Guidance  
Date: December 1, 2020**

**ORDER**

The Superior Court Judges of the Mountain Circuit established a Covid-19 Jury Committee for Habersham County pursuant to the Order of the Chief Justice of the Georgia Supreme Court. The Committee met, inspected the available facilities, and has unanimously approved the attached Plan for Resuming Jury Trial Operations dated November 19, 2020.

In accordance with the Declaration of Statewide Judicial Emergency issued by the Chief Justice of the Georgia Supreme Court and the Guidance for Local Committees on Resuming Jury Trials, the attached Plan for Resuming Jury Trial Proceedings having been unanimously approved by the Local Committee, this Court adopts the Plan as the official guidance in the above-referenced County with regard to jury trials and the provisions contained therein shall be mandatory in all jury proceedings held in Superior Court;

IT IS FURTHER ORDERED, that the attached previously entered Mountain Judicial Circuit Operating Guidelines are hereby modified to incorporate the provisions of the attached Plan.

Furthermore, in accordance with the Chief Justice's Statewide Declaration of Judicial Emergency, a copy of this order shall be to the Administrative Office of the Courts at <https://georgiacourts.gov/covid-19-court-operating-guidelines/> for

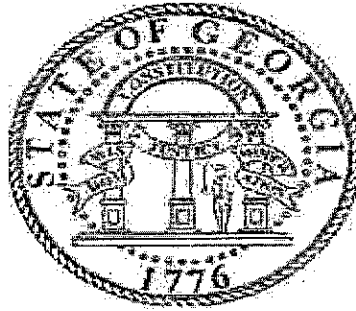
posting in conjunction with the previously filed operating guidelines. Copies shall also be prominently posted at the courthouse entrances and on court and local government websites to provide notice to litigants, lawyers, and the public.

**SO ORDERED**, this the 15 day of December, 2020.



---

Russell W. Smith, Chief Judge  
Superior Courts  
Mountain Judicial Circuit



## **MOUNTAIN JUDICIAL CIRCUIT**

---

### **HABERSHAM COUNTY GUIDE FOR RESUMING JURY TRIALS**

---

**November 19, 2020**

#### **COMMITTEE MEMBERS:**

- B. Chan Caudell, Judge of Superior Court – Committee Chair
- M. Steven Campbell, Chief Judge of State Court
- George Christian, District Attorney
- Drew Powell, Chief Public Defender
- William R. Oliver, Solicitor of Habersham State Court
- Henry Simmons, State Court Public Defender
- David Wall, Clerk of Superior Court
- Joey Terrell, Habersham County Sheriff
- Zachary Taylor, M.D., Acting Director, Georgia Department of Public Health, District 2
- Phil Sutton, Habersham County Manager
- Matthew S. Cathey, Attorney, Cathey & Strain
- P. Gerald Cody, Attorney, McDonald & Cody
- David Bray, M.D.
- Tracy Williamson, Habersham County IT Director
- Kurt Cooper, Habersham County Recreational Director

The members of the Habersham County Covid-19 Jury Committee established by the Judges of the Mountain 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 three occasions and communicated regularly regarding the subject of the report by email. The plan was adopted by email consent of all committee members on November 19, 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**

Superior Court Jury Assembly, Voir Dire and Jury Trials shall take place at the **Ruby C. Fulbright Aquatic Center Gymnasium**, subject to the designation by the Habersham County Board of Commissioners by resolution of such facility. The Aquatic Center storage room shall be used as a jury room and for purposes of jury deliberations. The Aquatic Center is an approximately 59,000 square foot facility owned and operated by the Habersham County Board of Commissioners. The gymnasium is an approximately 8,300 square foot facility within the Aquatic Center.

The Committee identified the Aquatic Center as 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.

State Court Criminal Jury Trials (6 person juries with alternate) shall continue in the Habersham County Courthouse, 295 Llewellyn Street, Clarkesville, Georgia. So long as this plan remains in full force and effect, State Court Civil Trials, if necessary, shall take place at the Ruby C. Fulbright Aquatic Center Gymnasium, subject to designation as set out above

and the guidelines, protocols, and requirements provided in this plan.

## **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 courtroom, hallways, bathrooms and elevators 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 Courtroom shall be cleaned daily by cleaning staff before and after court is held. Before leaving, 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. "Gators" and bandanas are not acceptable face-coverings. 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. At the beginning of each proceeding, a representative from the Health Department will provide all of the participants, including the jurors, with a tutorial on the proper use, fit and handling of their face-coverings.

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 may 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 arguments.

### **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.

### **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 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.

Current Department of Public Health Guidelines do not require the 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 otherwise authorized to do so by their supervisor.

#### **F. Miscellaneous Provisions**

Hand sanitizer shall be available throughout any facility in use pursuant to the terms of this plan. 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 appropriate facility, 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, signed by all the Judges, that expresses how much the prospective jurors are appreciated, and assures them that the court understands their concerns for safety.

- A COVID-19 Insert highlighting the steps taken by the courts to ensure jurors 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 jurors' 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 a 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 proscribed 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 Clerk of Court David Wall 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 up to 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) Jurors will be provided with a point of contact if potentially exposed to COVID-19 or experiencing symptoms of COVID-19. Jurors reporting exposure to COVID-19 or experiencing symptoms of COVID-19 will be excused. 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. The Clerk may consult with the judge as 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. 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.

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 access to reasonable COVID-19 supplies, which may include, but are not limited to 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 2021 Circuit Calendar provides for criminal jury trials to commence in Habersham County in January 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 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 less than a week. Longer trials will, to the extent possible, be scheduled for trial later in the year.

Prior to the adoption of the plan by the Chief Judge of each court which conducts jury trials a “run-through/mock trial” may take place with available members of the committee and other courthouse personnel substituting for the litigants, attorneys, and jurors. The participants should simulate the location of the participants during each portion of the trial process, including jury selection, opening statements, examination of witnesses, the excusal of jurors to the jury-assembly room, and closing argument. All participants in a “run-through/mock trial” will use the required precautions set forth above. Any feedback from the participants will be provided to the Chair of the Jury Committee and shared among the committee members.

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, a copy of this plan will be released to the public. Additionally, the judges and other available Committee members may participate in community education opportunities such as speaking to community organizations and the like.

#### **6. Modification of the Plan**

This plan will be subject to modification or revision in accordance with any change in CDC or DPH guidelines, a change in best practices recommended by the Chief Justice's Covid-19 Task Force, or experience gleaned from application of the plan in trial proceedings. Any proposed changes or revisions to the plan will be considered by the Committee prior to adoption.