



FLINT JUDICIAL CIRCUIT

HENRY COUNTY SUPERIOR COURT GUIDE FOR RESUMING JURY TRIALS

February 23, 2021

COMMITTEE MEMBERS:

- Brian J. Amero, Chief Judge of Superior Court – Convener, Local Committee
- Holly W. Veal, Judge of Superior Court - Chair, Superior Court Working Group
- Pandora E. Palmer, Judge of Superior Court
- Darius Pattillo, District Attorney
- Debbie Venuto, Chief Assistant District Attorney
- Jennifer Lewis, Chief Public Defender
- Rochelle Gordon, Chief Assistant Public Defender
- Sabriya Hill, Clerk of Superior Court
- Debbie Redmon, Jury Clerk, Superior Court
- Reginald Scandrett, Sheriff
- Pam Bettis, Solicitor Co-Chair, State Court Working Group
- Ben W. Studdard, III, Chief Judge of State Court, Co-Chair State Court Working Group
- David B. Brown, Judge of State Court
- Danielle P. Roberts, Judge of State Court

- Vincent “Vinny” Lotti, Judge of State Court
- Lynne Policaro, Clerk of State Court
- Elizabeth Pier, Jury Clerk, State Court
- Timika Woods Dennis, Lister and Holt: Indigent Defense
- Cheri Matthews, County Manager
- Skip Floyd, Technology Operations Administrator
- Holly Lafontaine, Director, Risk Management
- Melissa Robinson, County Communications
- Angie Sorrow, Court Financial Administrator
- John Parker, President of the Henry County Bar
- Miranda N. Hanley, Secretary of the Henry County Bar
- Dr. Beverley Townsend, Interim District Health Director for District 4 Public Health
- Xavier Crockett, Emergency Management Specialist with the Department of Public Health
- Ashton Harris, Epidemiologist with the Department of Public Health
- Alex Wright, Epidemiologist with the Department of Public Health

The members of the Henry County Covid-19 Jury Committee established by the Judges of the Flint Judicial Circuit Superior Court pursuant to a Statewide Judicial Emergency Order issued by the Honorable Harold D. 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, have 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 Local Committee and Superior and State Court working groups met on several occasions and communicated regularly regarding the subject of the guidelines.

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

Jury Assembly, Voir Dire and Jury Trials where a 12-person jury is required by law are targeted to take place in Courtroom A of the Henry County Courthouse located at 1

Courthouse Square, McDonough, Georgia 30253.

State Court Jury Trials (6 person juries with alternate) shall continue in the Judicial Center, 44 John Frank Ward Blvd, McDonough, Georgia.

II. GENERAL PUBLIC HEALTH AND SAFETY GUIDELINES

The following guidelines shall always be in force during jury assembly, Voir Dire, and trial:

A. Sanitization Procedures

All common areas of the facility, including the courtrooms, 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. 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 either the courthouse or the facility, and they must remain in proper position over nose and mouth. All courthouse deputies, bailiffs, and other staff will remain vigilant and politely ask anybody in the courthouse or facility 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 KN-95 masks (if available) for use during the proceedings. "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.

To ensure that a witness's face can be clearly seen, witnesses shall testify without a face-covering from behind a plexiglass shield or may wear a face-shield. If medical grade "clear masks" are available, such masks shall be worn by the witnesses. If enough of the clear masks are 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 and extension building 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 courthouse and 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 of 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 a visitor to the courthouse/facility 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 or visitor 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 courthouse or facility nor shall they have any contact with other court personnel until their supervisor has consulted with the Chief Judge and Public Health officials.

F. Miscellaneous Provisions

Hand Sanitizer shall be available at the entrance and throughout the Courthouse and the facility. The temperature of all persons entering the courthouse or facility shall be checked and anyone who has a temperature of 100.4 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, or from the Clerk that expresses how much they 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 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 will 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 authorized 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 precaution.

- Expanded Reporting Window - Jurors will be instructed in their reporting message to report to the tent outside of the courthouses which will have 2 long tables and chairs with removable plexiglass. The check in table will have masks, gloves, face shields, hand sanitizer, Lysol spray and wipes on hand. They will be given an expanded report time from 8:30 a.m. – 9:30 a.m. Jurors will be given staggered reporting times on their summons, so they don't all arrive at the same time. They will be screened through a daily thermal scanning process to check their temperatures.
- Temperature Screening - Any potential juror who reports with a 100.4-degree temperature or higher must give his/her name and contact information to the employee overseeing the thermal scanning. The clerk's office will receive the potential juror's information and contact the juror to be rescheduled. As with

- all visitors, any person with a reading above the threshold will be given a fifteen-minute cool-down period and will be re-tested, before being excused.
- Masks – All visitors are required to wear masks to enter the courthouses, and the mask must remain in proper position over nose and mouth, unless instructed by their assigned Judge to remove it. All deputies, bailiffs, and other staff will remain vigilant and politely ask anyone seen without a mask to put it back on. Any jurors that arrive without a mask will be provided one as they enter the line for the checkpoint.
 - Touchless Scanning – There will be two check-in stations where jurors will scan their summons. There will be no exchange of documents, and social distancing will be maintained. Following check-in, jurors will be directed to their seats.
 - Disposable Badges – At check-in, each juror will receive a disposable badge, rather than the clip-on badges.
 - Hand Sanitization Stations – There will be several hand sanitization stations strategically placed throughout the courthouse or facility.
 - HEPA Filtration – A new portable Merve 13 filtration system will be used in the courthouse or facility to provide additional protection.
 - Deep Cleaning of courthouse or facility – Community Service workers will sanitize the courthouse or facility during the proceedings and in the mornings before the proceedings commence based on the guidelines from the Department of Public Health.

D. Jury Selection

- Jury Selection will take place in panels of 12 persons, with only one panel present in the same room at the same time with sufficient space for social distancing.
- Panel “A” reports to the designated area, and the Judge will provide reporting instructions to Jury Administration for Panels “B,” “C,” and “D.”
- The Judge shall re-qualify the jurors when they arrive to the courtroom, in the presence of the defendant and on the record.

- Although each Judge and each case may necessitate variations to this process, the suggested selection process is as follows: 45 minutes per panel per side, for a total of one and a half hours per panel. For example, if Panel “A” is at 10:00 a.m., that panel can be completed before lunch. Panel “B” can report at 1:00 p.m. Panel “C” can report back at 2:30 p.m. If things are on schedule, Panel “D” can report in at 4:00 p.m. With this schedule, it would be possible to pick a jury by 6:00 p.m.
- For a one-day jury selection, each panel will be excused for the day after being questioned. Jurors would call in after 7:00 p.m. to see if they were selected for the jury and will report back the following morning for service on the case for which they were selected.
- More complex cases may not lend themselves to the exact times described above, and jury selection may take two or more days. However, these procedures can be easily modified by the Judge and Jury Administration, with appropriate communication to the jurors.
- Strikes for cause should be taken up panel-by-panel, before that panel is released.
- At least two alternate jurors are recommended for each case and long trials may necessitate more.
- Any panels still physically present in the courthouses would not be brought back into the courtroom while the lawyers exercise their strikes. See *Martin v State*, 205 Ga. App. 591 (1992).

E. Trial

1. General Protocols

- a) The protocols set forth above relating to social-distancing, face-coverings and sanitization will always apply 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. Any juror who does not pass the temperature check or COVID screening questions will be instructed to return to their vehicle outside of the courthouses 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.
- d) Judges should require mandatory pretrial conferences with all lawyers participating in the cases called for trial. At a minimum, said conferences should take place the week before trial to make sure both sides are clear on all the changes that COVID-19 has necessitated. At the conference, the Judge should try to handle as many pretrial issues as possible, so that they do not delay the jurors reporting to the courtroom on the morning of trial. During the pretrial conferences, the lawyers and the Judge will discuss the number of witnesses and timing for their appearance in the courthouse or facility, as well as where each party's witnesses will wait until called to testify. To the extent possible, the lawyers should stagger witness report times, but should only do so after a consultation with the Judge and the other side to ensure that jurors are not left waiting around for witnesses to arrive. It is also important to make sure both sides are familiar with the technology, especially the digital presentation of evidence.

The Court should endeavor to have clear masks for jurors and witnesses on

standby to accommodate Voir Dire and witness testimony. Due to difficulties guiding the jurors throughout the courthouses, it is anticipated that trials will necessitate the use of three bailiffs. Each time jurors report back to the courthouse or facility, they will be re-screened. Bailiffs will meet the jurors, at the designated time, at the thermal check station and escort the jurors to the jury room after they pass the thermal scanner and answer the two COVID-related questions. Any returning juror who does not pass the temperature check or COVID screening questions will be brought to the trial Judge's attention immediately. Meanwhile, the Jury Administration bailiff will wait with the juror until instructions are received from the trial Judge.

e) COURTROOM LAYOUT

For *Voir dire* and for seating during the trial, twelve jurors will be spaced 6 feet apart in the courtroom in the marked seats. All seats shall have clear sightlines to the witness stand, the Judge's bench, and the courtroom screen, if used for evidence.

Once jurors receive a seat assignment, they will remain in their assigned seat for the duration of the trial unless they need to be moved due to a hearing or vision issue.

Care should be taken to accommodate those jurors with hearing or vision impairments and place them in the jury box for the closest proximity to the witness stand.

Courtroom audio-visual technology will be employed so that the witnesses may be seen and heard from all areas of the courtroom. Jurors will be instructed to let the Judge know if they are having any difficulty hearing or seeing.

Three HEPA filtration units will be positioned throughout the courtroom. The first will be placed by the witness stand and Judge's bench. The second will be placed in the well of the courtroom. The third will be placed in the courtroom gallery.

Space will be assigned in the facility for anyone wishing to view the proceedings such as the defendant's immediate family members, victims and their immediate family, general public, and media. In the event of a large crowd, overflow facilities will be provided for video viewing.

The Court reporter will sit in the clerk's chair directly to the left of the Judge. The clerk may appear by Webex or zoom.

If the Defendant and the Defendant's counsel need to conference or the Assistant District Attorney with a witness, etc., a separate room shall be designated for such purpose.

If a Rule 22 request is received and approved by the Court, the Judge shall discuss camera angles and the unusual seating arrangement of the jurors with the covering news agency to ensure that no jurors are shown in the coverage.

2. Evidence Presentation and Examination of Witnesses

Documentary exhibits shall be tendered, admitted, and published to the jury in electronic format. Exhibits shall be displayed to the jury on the large screen television placed in the courtroom or through the courtroom projection system.

If an item of physical evidence is admitted, anyone handling the exhibit shall wear gloves. If the item of physical evidence is passed among the jurors for examination, they shall be provided with gloves which will be worn while they are handling the item and disposed of immediately afterwards.

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.

A plexiglass shield will be installed at the witness stand to ensure the safety of the witness.

The witness stand and chair will also be wiped down after each witness finishes his/her testimony and before the next witness is called.

Attorneys will present their case from the lectern. Attorneys will seek permission from the Court before moving freely about the courtroom. Otherwise, they will remain at counsel table and the lectern.

BENCH CONFERENCES

- It will be difficult to usher the jury in and out of the courtroom for routine arguments that normally happen outside of their presence.
- Bench conferences between the Judge and lawyers are encouraged.
- Pursuant to *Zamora v State*, 291 Ga 512 (2012), a defendant has a right to be present at a bench conference. However, that right is waivable. The Court shall have a discussion on the record, before the start of trial, to see if the defendant will waive his/her right to be present at bench conferences.
- Since a bench conference will necessarily take place less than six feet from the microphone on the bench, all parties to the conference should wear their masks and face shields while taking care to speak directly at the bench microphone for the benefit of the court reporter.
- Bailiffs will be stationed outside of each door to the jury room and shall keep the area secure.
- Bailiffs will escort jurors to the closest restrooms. Bathroom use is limited to 2 people at a time.
- Each jury room will have a hand sanitization station.

- Jury rooms will be cleaned every morning. Jury restrooms will be cleaned at lunch and nightly. Cleaning wipes, soaps and sprays will also be available in the restrooms for juror use to clean before and after use.

3. Timing of Resumption of Jury Trials

Subject to a change in the public health situation in the community, the Committee believes that with the implementation of these guidelines, jury trials could safely commence during the month of April 2021.

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 less than a week. Longer trials will, to the extent possible, be scheduled for trial later in the year.

Prior to the first jury trial scheduled to take place while this plan is in effect, a “run-through/mock trial” may be scheduled 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 the “run-through/mock trial” will use the required precautions set forth above. Any feedback from the participants may be provided to the chairs of the state and superior court working groups and shared among the committee members.

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

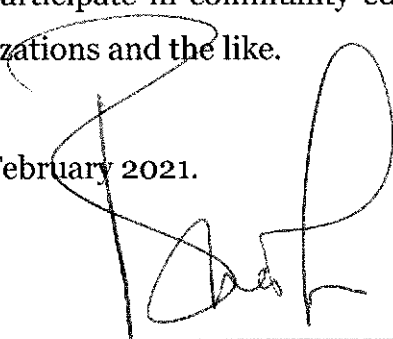
In the event that the courtroom seating capacity is insufficient to accommodate all those persons who wish to attend, priority for courtroom seating in criminal cases shall be given to the victim or victim’s family and the family of the Defendant and then to the public on a first-come, first-served basis. 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 may participate in community education opportunities such as speaking to community organizations and the like.

Submitted, this 23rd day of February 2021.



BRIAN J. AMERO, CHIEF JUDGE
SUPERIOR COURT OF HENRY COUNTY