

COMPREHENSIVE PLAN FOR RESUMING JURY TRIALS IN THE FOUR COUNTIES OF THE LOOKOUT MOUNTAIN JUDICIAL CIRCUIT

Courthouse Physical Space Preparation

General Protocols

Prominently display mask and face covering, social distancing, and other protocols.

Masks or other face coverings should be worn in the courthouse at all times except when directed by the court for case-specific reasons or by security personnel or as otherwise provided below.

Place social distancing directional markers around the courthouse, at the counter, check-in area, lobby and courtroom.

Make available hand sanitizer dispensers at the courthouse entrances, near security checkpoints, and in every room where trial participants or the public will be present.

Jury rooms and witness waiting rooms shall be used where courtroom proceedings cannot be seen or heard.

Install physical barriers (such as plexiglass) between court personnel and visitors. Barriers shall be used between witness, jury and counsel.

Counsel has the option of using a mask, a face shield, or utilize plexiglass during his/her address to the jury, the court or witness.

Plexiglass shall be placed at each counsel table, witness chair, bench, and between jury.

Restrooms located in back of the courtrooms should be used by trial participants during breaks. Plan to clean and disinfect restrooms and at the end of the day.

Disinfectant products shall be available in the jury room and the restroom.

Courtroom

Use of markers or tape shall be used to delineate proper socially distanced seating in the courtroom.

Limited number of chairs shall be used in the courtroom to assure distancing. Courtroom seating should be prioritized for the defendant's immediate family members, victims and their immediate family, and at least some space for members of the general public and the media. If space is limited, those who cannot sit in the courtroom to observe the trial, it shall be made available by livestreaming the proceedings into a nearby room.

Plan for public access to court proceedings, including setting up areas where the public can watch remotely from within the courthouse in compliance with Uniform Superior Court Rule 22.

Ensure that each juror, party, and counsel can see and hear the proceedings from their places around the courtroom.

Security

To the extent possible, arrangements shall be made for security personnel and court staff to meet with potential jurors at building entrances. Said personnel and staff shall use a predetermined set of questions to determine each visitor's COVID-19 status.

See CDC screening tool:

<https://www.cdc.gov/screening/index.html>.

At the building entrances, Security personnel, and members of the clerk's staff shall take potential jurors' temperature when the screening questions are asked as set forth above.

Additional deputies will be needed in order to handle juror management, transport and monitoring of in-custody defendants, and transport and monitoring of in-court witnesses.

Personnel, staff, and the clerk of each court shall immediately notify the presiding trial judge of information about any trial participant turned away for COVID-19 exposure reasons or have had recent exposure to COVID-19.

To the extent possible, personnel and staff shall provide masks or other face coverings at the entrance for anyone who does not have one.

Court shall accommodate individuals who cannot wear a mask for Americans With Disabilities ACT (ADA) reasons and how to handle individuals who refuse to wear a mask.

Jury Trial Scheduling and Pretrial Conferences

Jury Trial Scheduling

A “master calendar” will be provided to the judge who will be holding jury trials to avoid scheduling conflicts. Calendar call prior to trial shall be conducted in manner where defendants are summoned to court in a staggered process so as to avoid overcrowding of the courtrooms of the respective counties in the Lookout Mountain Circuit.

Pre-trial Conferences

Pretrial conferences in all but the most routine cases shall be conducted before scheduling cases for jury trials. Whenever possible, pretrial conferences shall be conducted remotely instead of in-person.

The court shall then notify all parties of the remaining jury trials and the order each will be called.

Admission of Exhibits

Court shall encourage parties to stipulate to the authenticity or admissibility of exhibits and to compile a unified set of exhibits to minimize handling of duplicates.

Parties shall use digital exhibits where feasible to reduce the handling of paper or physical evidence in the courtroom. The court and/or the parties can develop a protocol for the exchange of digital evidence, including the software platform to be used. When it is necessary for jurors to handle physical exhibits, the court shall provide hand sanitizer for use after handling or gloves that are discarded immediately after use to avoid cross-contamination.

During deliberations, the court shall encourage jurors to socially distance while reviewing exhibits.

Court shall direct the parties to advise the court promptly and on an ongoing basis if any trial participants associated with the party (including litigants, counsel, and witnesses) are individuals at increased risk for severe illness from COVID-19, ¹ have tested positive for or are exhibiting symptoms of COVID-19, have had recent exposure to COVID-19, or otherwise may not be able to attend trial proceedings.

¹Individuals who are at increased risk for severe illness from COVID-19 are generally defined by the Centers for Disease Control and prevention as individuals who are over age 65 and individuals of any age with serious underlying health conditions, such as cancer, chronic kidney disease, chronic obstructive pulmonary disease, obesity, serious heart conditions, sickle cell disease, and type 2 diabetes mellitus, and individuals in an immunocompromised state from solid organ transplant. Those persons who live with or care for an individual who is at increased risk for severe illness from COVID-19 may also need accommodations, including alternatives to in-person court appearances and avoiding the need to travel to the courthouse. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html

Summoning Jurors

Jurors should be summoned only for a specific term of court.

The clerk shall summon considerably more jurors than normal in anticipation that fewer jurors will report due to pandemic-related vulnerabilities or hardships such as being in a health or age-related risk category for COVID-19, lacking childcare, or holding a job in an essential industry.

The clerk should issue summonses considerably earlier than normal to ensure that requests for hardship excusals or deferments are timely received and reviewed.

The notice that accompanies the summons should include language regarding the public health emergency and the specific steps the court is taking to ensure the jurors' safety, including designated parking, security screening measure, the provision of food and drinks for jurors (or information about whether jurors can bring their own drinks, snacks, or lunches), the facilities designated for jury assembly and deliberation, and similar information.

The notice shall include a phone number or link to a website that will provide additional safety information.

The notice should include easy-to-read contact information and the process for accommodating individuals who are deaf, hard of hearing, or have English-language difficulties.

A questionnaire shall be submitted to identify individuals at increased risk for severe illness from COVID-19, and persons with known or suspected exposure to or symptoms of COVID-19 so that they can be excused or deferred in advance without requiring them to appear at the courthouse.

Any notices should clearly communicate that excusal from or deferral of jury duty other than upon proof of a statutory exemption shall be at the discretion of and upon approval of the judge.

Courts shall use its discretion in reviewing requests for excusal or deferment from jurors who submit medical forms and relevant documentation indicating that they are at increased risk for severe illness from COVID-19, have tested positive for or are exhibiting symptoms of COVID-19, or have had recent exposure to COVID-19. This excusal or deferment shall occur without the individual juror appearing at the courthouse and may include conducting a virtual interview of the potential juror before rendering a decision on excusal or deferment.

Juror Arrival and Assembly

Stagger juror arrival times. This shall be used to limit the number of people in the court house.

If a juror or trial participant has symptoms, they shall be excused immediately. Personnel shall then notify the court.

At check-in, staff members should have a jury assembly room seating chart to direct jurors to the room and where to sit.

Use the small and large courtrooms to accommodate the number of jurors with appropriate social distancing.

Chairs shall be separated with enough distance to allow for social distancing between each juror.

Jury trials shall be conducted at the direction of the trial judge to the extent that adequate rooms are available for jury assembly. In Chattooga and Catoosa Counties, due to the limited space available for jury assembly and deliberation, only one trial shall commence at any one time. In Dade and Walker Counties, adequate rooms are available with sufficient spacing requirements such that two trials can be conducted at the same time. All safety measures shall be complied with regardless of the number of trials being conducted.

Jurors shall be allowed to report by phone or electronically each morning of trial to confirm that court will be in session and that the juror has not experienced any symptoms of or had exposure to COVID-19. If a juror reports symptoms or exposure, the juror should not be allowed to come to the courthouse, and shall be immediately reported to the court.

Impaneling and Qualifying of Jurors

In-person

Socially distance the jurors for questioning. Conduct specific individual juror follow up questioning immediately after general voir dire.

Question jurors in smaller panels that comply with the social distancing requirements of each specific courtroom.

Deal with challenges for cause either immediately as grounds for the challenge arise or after the entire panel of jurors has been examined and prior to being excused for examination of the next panel. This will allow for the prompt excusal of unqualified jurors. Each case shall have at least one alternate.

Maintain a contingency plan in advance for COVID-19 issues arising during jury selection and instruct the potential jurors about the plan at the beginning of jury selection. The protocol should include providing jurors with a point of contact if potentially exposed to COVID-19 or experiencing symptoms of COVID-19 during the voir dire process.

Provide breaks during the proceedings in designated space outside of the courthouse for jurors to take off masks to get fresh air while remaining distanced from others.

Seating the Jury and Conducting the Trial

Place the jury in the courtroom gallery instead of jury box. Ensure that each juror, party, and counsel can see and hear the witnesses.

Remove unused chairs to promote social distancing.

In Catoosa County, The jury will deliberate in the small courtroom. In Chattooga County, the jury will deliberate in the Grand Jury Room or Small Courtroom. In Dade and Walker Counties, the jury will deliberate in a room designated by the presiding judge (Grand Jury room, small courtroom, etc.) as sufficient spaces are available in those counties to allow two trials to be conducted at any given time.

Post guidelines for the use of restrooms and how jurors are to conduct themselves during breaks (maintain social distancing, directional arrows and six-foot markers, frequent handwashing or use of hand sanitizer, etc.).

Have a supply of single-use notebooks and writing instruments on hand, or have jurors bring their own.

Presentation of Evidence

When it is necessary for jurors to handle physical exhibits, provide hand sanitizer for use after handling or gloves that are discarded immediately after use to avoid cross-contamination.

During deliberations, encourage jurors to take socially distanced turns reviewing exhibits placed on a table rather than handling around the exhibits.

Consider where feasible and agreeable with counsel having certain witnesses testify remotely via Zoom or a similar live-streaming platform with the “share screen” function to display and explain certain exhibits.

Managing Witnesses

Witnesses should testify behind plexiglass without masks or wear face shields rather than masks so their demeanor can be fully evaluated. The judge should make sure that the jury’s view of the proceedings and ability to hear is not obscured.

On each day of trial, parties should confirm that witnesses are not exhibiting COVID-19 symptoms and have not had recent exposure to someone with COVID-19.

Attorney Communications with Client During Trial

For criminal trials, starting at least 30 days before trial and then during the proceeding, the defense attorney should be provided confidential and safe access to any detained client to discuss trial proceedings. Doing so will ensure that scheduled trials can stay on schedule and the parties can be prepared to go forward as scheduled.