

IN THE SUPERIOR COURTS FOR THE CONASAUGA JUDICIAL CIRCUIT
STATE OF GEORGIA

ORDER ESTABLISHING GUIDELINES FOR IN PERSON COURT PROCEEDINGS
CONASAUGA JUDICIAL CIRCUIT

On May 11, 2020, the Honorable Chief Justice Harold D. Melton of the Supreme Court of Georgia issued the Second Order Extending Declaration of Statewide Judicial Emergency (Exhibit "A") addressing continuation of essential court services and the re-opening of non-essential court services. Paragraph numbered 4 of said Order states:

Except for jury and grand jury proceedings as discussed in Section 2 above, courts have discretion to conduct essential and non-essential in-person judicial proceedings, but only in compliance with public health guidance and with 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 confrontation and open courtrooms.

Before conducting extensive in-person proceedings, particularly in non-essential matters, each court should develop comprehensive, written guidelines as to how in-court proceedings generally and particular types of proceedings will be conducted to protect the health of litigants, lawyers, judges, court personnel, and the public. Guidelines should specify who should be admitted to the courthouse and courtroom and how public health guidance will be followed regarding such matters as health screening of court personnel and visitors, social distancing (including by capping the occupancy of courthouses, interior areas, and courtrooms based on their size), availability and use of personal protective equipment (PPE) by court personnel and visitors, and sanitation practices. Guidelines should provide for accommodations for high-risk individuals. Courts should consider the use of staggered, smaller proceedings to conduct proceedings involving many cases or participants, such as calendar calls and arraignments. Guidelines should be prominently posted at courthouse entrances and on court and government websites to provide advance notice to litigants, lawyers, and the public.

Support for the development of guidelines will be provided by the Judicial COVID-19 Task Force discussed in Section 7 below, as well as by the councils for each class of court. Courts of different classes that share courthouse facilities or operate in the same county should seek to coordinate their guidelines.

Based upon the authority granted to the Superior Courts of the Conasauga Judicial Circuit, in the exercise of judicial discretion, the court issues the following order establishing

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WHITFIELD COUNTY, GA.

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guidelines to protect the health of litigants, lawyers, judges, court personnel, and the public (hereafter referred to as the “Guidelines”) for in person court proceedings.

1.

The health of each litigant, lawyer, judge, court personnel, and the public is first and foremost the responsibility of each person. The court cannot guarantee, nor does it attempt to guarantee, that strict adherence to the guidelines will prevent the contraction or spreading of any infectious disease, including but not limited to COVID-19. If any person has an objection to attendance or participation in an in person court proceeding, then such objection shall be made known to the court at least three days prior to the scheduled court proceeding, or as soon as is practicable, and shall accompany such objection with a proposed reasonable accommodation to such attendance. The court will consider the request, and in its discretion, will rule as to which accommodation, if any, is appropriate.

2. Number of Persons Admitted to the Courthouse and Courtroom

A. Courthouse.

Other constitutional officers, Juvenile, Magistrate and Probate Judges, and other occupants such as tax assessors, elections office, clerk’s offices, and other governmental entities that maintain office space in the courthouse shall develop occupancy guidelines consistent with public health guidelines, courthouse safety plans and other relevant factors. Admittance to the courthouse will be in the discretion of the Sheriff of each county, consistent with public health guidelines, courthouse safety plan, the guidelines established by varying occupants of each courthouse, and other relevant factors in the discretion of each Sheriff.

B. Superior Court Courtrooms

The term "Courtroom" shall include, but not be limited to, the common areas of the courthouse immediately adjacent to a Superior Court courtroom, jury rooms, jury assembly rooms, witness sequestration rooms, judge's chambers, law libraries attendant to the courtroom, and any other room regularly used when Superior Court is in session.

Admittance to the Courtroom shall be governed by public health guidelines, specifically but not by way of limitation, social distancing guidelines. In each courtroom, the number of persons allowed shall not exceed the number that can be admitted in the visitor section of the courtroom while exercising social distancing guidelines. Spaces for occupancy shall be marked by the Sheriff. A person may be seated only on a marker. Once the visitor section is fully occupied using such social distancing guidelines, then no additional persons may enter the courtroom

In the front of courtroom, where the hearing/trial is conducted, all persons, including but not limited to the judge, court reporter, clerk, and attorneys and her or his client shall exercise social distancing guidelines. If an attorney and client need closer contact for confidential matters, they shall request to be excused from the courtroom for such contact. Sequestered witnesses shall observe social distancing guidelines. Furthermore, while court is in session, the Sheriff shall assure that social distancing is being followed by all persons in the courtroom, as the term courtroom is defined above.

3. Health Screening

Health Screening shall be conducted on each person entering the courthouse. The Sheriff of each county shall conduct a health screening on each person entering the courthouse by using

the tool provided as Exhibit B to this Order. The Sheriffs of each county shall make best efforts to procure sufficient no-contact thermometers for use in measuring the temperature of persons entering the courthouse. If a Sheriff is unable to locate sufficient no-contact thermometers for use by health screening personnel, then the Sheriff shall not be required to take the temperature of those entering the courthouse, but shall ask all questions and document all responses of all persons entering the courthouse on the tool provided on the attached Exhibit B.

4. Personal Protective Equipment

Personal Protective Equipment (“PPE”), including but not limited to masks (paper or cloth) and gloves, may be worn by all who enter the courthouse and all who enter a courtroom. All visitors who enter a courtroom are encouraged, but not required, to wear PPE, however, each judge shall have the discretion to order all visitors and court personnel to wear PPE for the courtroom in which that judge presides. In the event PPE is required in a particular courtroom, a notice shall be posted on the door of the courtroom and PPE will be provided by the Court. Otherwise, Court personnel and litigants may use PPE in their discretion. The Court has a limited supply of PPE for use by court personnel and visitors to a courtroom. If a visitor desires to use PPE and does not have access to PPE, then he or she shall notify the health screening personnel of such need, and PPE shall be provided to such visitors for so long as limited supplies last.

5. Accommodations for high risk individuals.

The following persons are defined as high risk individuals:

- a. Those persons who are 65 years of age or older.

- b. Those persons who live in a nursing home or long-term care facility, including inpatient hospice, assisted living communities, personal care homes, intermediate care homes, community living arrangements, and community integration homes.
- c. Those persons who have chronic lung disease.
- d. Those persons who have moderate or severe asthma.
- e. Those persons who have severe heart disease.
- f. Those persons who are immunocompromised. Many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medication.
- g. Those persons, of any age, with class III or severe obesity.
- h. Those persons diagnosed with the following underlying medical conditions: diabetes, liver disease, and persons with chronic kidney disease undergoing dialysis.

If any lawyer, party, or witness falls into one of the above categories of high risk individuals, then the lawyer for such party or lawyer who subpoenaed such witness shall notify the court of such condition at least three days prior to the scheduled court proceeding, or as soon as is practicable, and shall accompany such notification with a proposed reasonable accommodation for such lawyer, party, or witness. If a party is self-represented, then such party shall follow the same procedure as an attorney for a party. The court will consider the request, and in its discretion, will rule as to which accommodation is appropriate.

6. Use of remote conferencing.

If all parties agree and wish to have a hearing conducted by remote means via the Zoom Application, they shall make that request of the Court at least 24 hours prior to the scheduled hearing.

If the parties to an in-court hearing agree, than subject to the approval of the Court, witnesses may appear by remote conferencing. The parties must present their agreement for the Court's approval at least 24 prior to the scheduled hearing.

In the event a party desires an ex parte by remote conferencing, they shall contact the office of the presiding judge for scheduling.

The Superior Court will accept on-line courses for the Divorcing Parents Seminar until 30 days after the expiration of Justice Melton's order of May 11, 2020 and any extensions thereof.

7. Resources.

All individuals should educate themselves about the relative dangers of attending gatherings of people, including in person court proceedings. The CDC and the Georgia Department of Public Health are excellent resources for use in such educational process. Each individual is responsible for his or her education in this matter.

8. Implementation.

Except as otherwise specified herein, the Sheriff of each county, in the exercise of his discretion, shall be responsible for implementation of these guidelines.

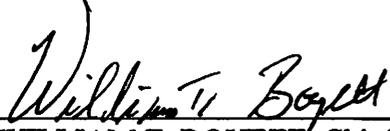
9. Publication and Dissemination of Guidelines.

This order and guidelines shall be published on the websites for both Murray and Whitfield County Government and posted at the entrance to each courthouse. A copy of this order shall be filed with the Clerk of Superior Court office of each county within the Conasauga Judicial Circuit. Furthermore, the Superior Court Administrator is ordered to email a copy of this order to each attorney who has an office within the respective counties according to the latest directory of the State Bar of Georgia.

10. Duration

This order shall be effective until termination of the Declaration of Judicial Emergency by the Supreme Court of Georgia.

SO ORDERED on this the 12th day of May, 2020.



WILLIAM T. BOYETT, Chief Judge
Conasauga Judicial Circuit

Exhibit A

Second Order Extending Declaration of Statewide Judicial Emergency

(Comprised of 8 pages not including this page)



SUPREME COURT OF GEORGIA

FILED
Administrative Minutes
May 11, 2020

Thérèse S. Barnes,

Clerk/Court Executive

SUPREME COURT OF GEORGIA

SECOND ORDER EXTENDING DECLARATION OF STATEWIDE JUDICIAL EMERGENCY

On March 14, 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 OCGA § 38-3-61. Due to the continuing statewide emergency, on April 6, 2020, the Order was extended until May 13, 2020. While the work of the courts in Georgia has gone forward on essential and critical matters, and most courts have continued some non-essential court operations, in particular by using technology to conduct proceedings remotely, most court facilities are not prepared to comply with social distancing and other public health requirements to safeguard the health of litigants, lawyers, judges, court personnel, and the public during extensive in-court proceedings or proceedings involving a large number of people. After consulting with the Judicial Council of Georgia and other judicial partners, and recognizing that most in-court proceedings compel the attendance of various individuals rather than allowing them to decide how best to protect their own health, it is hereby determined that the statewide judicial emergency Order should be extended, with some clarifications and modifications as well as directions regarding efforts to resume court operations in a manner that protects public health.

Accordingly, the Order Declaring Statewide Judicial Emergency, which would have expired on Wednesday, May 13, 2020, at 11:59 p.m., is further extended until Friday, June 12, 2020, at 11:59 p.m. All Georgia courts shall continue to operate under the restrictions set forth in that Order as extended, with the following clarifications, modifications, and directions. Where this order refers to “public health guidance,” courts should consider the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), the Georgia Department of Public Health (DPH), and their local health departments.

1. Guidance on Application of the Order

Included in the Appendix to this Order are several guidance documents that clarify the application of the Order in particular contexts: tolling of filing deadlines; tolling of statutes of limitations; deadlines and time limits defined by reference to terms of court; and the continued authority of grand juries impaneled prior to the issuance of the Order. Additional guidance documents may be posted on the AOC's website at <https://georgiacourts.gov/judicial-council/aoc/>. It should be noted, however, that as discussed in Section 6 below, judges are being granted authority on a case-specific basis to reimpose certain deadlines that would otherwise be tolled by the Order or establish new deadlines or schedules.

2. Prohibition on Jury Trial Proceedings and Most Grand Jury Proceedings

Current public health guidance recommends social distancing and other measures that make it impracticable for courts to protect the health of the large groups of people who are normally assembled for jury proceedings, including jury selection. Accordingly, until further order, all courts are prohibited from summoning new trial jurors and grand jurors and from conducting criminal or civil jury trials.

Grand juries that are already impaneled or are recalled from a previous term of court may meet to attend to time-sensitive essential matters, but these grand juries should not be assembled except when necessary and only under circumstances in which social distancing and other public health guidance can be followed.

As discussed below, efforts are being pursued to allow the safe resumption of jury trials. The clerks and court administrators of trial courts that conduct jury trials and convene grand juries will be provided sufficient notice of the resumption of jury proceedings to allow the complicated process of summoning potential jurors to be completed. Information about this issue will be provided to trial court clerks and court administrators.

3. Proceedings Conducted Remotely Using Technology

All courts should continue to use and increase the use of technology to conduct remote judicial proceedings as a preferred alternative to in-person proceedings, both to ensure that essential court functions are continued and to conduct non-essential proceedings to limit the backlog of such matters when the judicial emergency is terminated. Courts should understand and utilize the authority provided by the emergency amendments made to court rules on videoconferences and teleconferences.

Courts may compel the participation of litigants, lawyers, witnesses, and other essential personnel in remote judicial proceedings, including civil non-jury trials and other non-jury adjudicative proceedings, where allowed by court rules (including emergency amendments thereto). Such proceedings, however, must be consistent with public health guidance, must not impose undue burdens on participants, and must not be prohibited by the requirements of the United States or Georgia constitutions or applicable statutes or court rules.

In civil, criminal, and juvenile proceedings, parties may expressly consent in the record to remote proceedings not otherwise authorized and affirmatively waive otherwise applicable legal requirements. Courts must ensure the public's right of access to judicial proceedings and, unless affirmatively waived in the record, a criminal defendant's rights to confrontation and open courtrooms.

4. In-Court Proceedings; Development of Guidelines

Except for jury and grand jury proceedings as discussed in Section 2 above, courts have discretion to conduct essential and non-essential in-person judicial proceedings, but only in compliance with public health guidance and with 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 confrontation and open courtrooms.

Before conducting extensive in-person proceedings, particularly in non-essential matters, each court should develop written guidelines as to how in-court proceedings generally and particular types of proceedings will be conducted to protect the health of litigants, lawyers, judges, court personnel, and the public. Guidelines should specify who should be admitted to the courthouse and courtroom and how public health guidance will be followed regarding such matters as health screening of court personnel and visitors, social distancing (including by capping the occupancy of courthouses, interior areas, and courtrooms based on their size), availability and use of personal protective equipment (PPE) by court personnel and visitors, and sanitization practices. Guidelines should provide for accommodations for high-risk individuals. Courts should consider the use of staggered, smaller proceedings to conduct proceedings involving many cases or participants, such as calendar calls and arraignments. Guidelines should be prominently posted at courthouse entrances and on court and government websites to provide advance notice to litigants, lawyers, and the public.

Support for the development of guidelines will be provided by the Judicial COVID-19 Task Force discussed in Section 7 below, as well as by the councils for each class of court. Courts of different classes that share courthouse facilities or operate in the same county should seek to coordinate their guidelines.

5. Discretion of Chief Judges to Declare More Restrictive Local Judicial Emergencies

Nothing in the Order Declaring Statewide Judicial Emergency as extended and modified limits the authority of the Chief Judge of a superior court judicial circuit under OCGA §§ 38-3-61 and 38-3-62 to add to the restrictions imposed by the statewide judicial emergency, if such additional restrictions are constitutional, necessitated by local conditions, and to the extent possible ensure that courthouses or properly designated alternative facilities remain accessible to carry out essential judicial functions. However, no court may disregard the restrictions imposed by the Order as extended and modified.

6. Discretion of Judges to Reimpose Deadlines in Specific Cases

After the date of this order, and with the exception of deadlines regarding jury trials and grand juries, judges are granted the following authority to reimpose deadlines set by statutes, rules, regulations, and court orders that have been suspended, tolled, or extended by the Order Declaring Statewide Judicial Emergency as extended and modified and to establish new deadlines and schedules. In pending or newly filed cases, a judge may reimpose or establish such deadlines on a case-by-case basis after considering the particular circumstances of the case, including any public health concerns and known individual health, economic, and other concerns regarding the litigants, lawyers, witnesses, and other persons who may be involved in the case. The judge must enter a written order in the record for the case identifying the deadlines that are being reimposed or established. Standing orders applicable to multiple cases and orders simply reimposing previous scheduling orders are not permitted. The judge should allow any party or other participant in a case to seek reconsideration of such an order for good cause shown.

Judges should in particular consider reimposing deadlines that do not require any or only insignificant in-person contact, such as deadlines for filing and responding to pleadings, motions, and briefs, written discovery in civil cases, scheduling of depositions that may be taken remotely or require few participants, and scheduling of hearings requiring only legal argument or few participants.

7. Judicial COVID-19 Task Force; Comments Solicited

A Judicial COVID-19 Task Force is hereby established to assist courts in conducting remote proceedings and in restoring more in-court proceedings, in particular jury trials and grand jury proceedings. The Task Force will include judges from the various classes of court and will obtain input from key stakeholders including the State Bar of Georgia, prosecutors and public defenders, civil plaintiff and defense attorneys, court clerks, sheriffs, and the public.

To assist in evaluating the effects of the Order Declaring Statewide Judicial Emergency as extended and modified, comments are

solicited from judges, lawyers, and the general public. Comments should be delivered in Word or PDF format by email to JCTFcomments@gasupreme.us.

8. Professionalism

With regard to all matters in this challenging time, all lawyers are reminded of their obligations of professionalism. Judges are also reminded of their obligation to dispose of all judicial matters promptly and efficiently, including by insisting that court officials, litigants, and their lawyers cooperate with the court to achieve that end, although this obligation must not take precedence over the obligation to dispose of matters fairly and with patience, which requires sensitivity to health and other concerns raised by court officials, litigants and their lawyers, witnesses, and others.

9. Notice Provisions

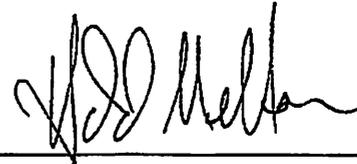
Notice will be provided as to the expected termination of the Order as extended and modified at least one week in advance to allow courts to plan for the transition to fuller operations.

The impact of COVID-19 varies across the state, and the level of response and adjustment will likewise vary among courts. Courts are strongly encouraged to make available to the public the steps they are taking to safely increase operations while responding to the COVID-19 pandemic. Recognizing that not all courts have a social media presence or website, the Administrative Office of the Courts will continue to post court-specific information as it becomes available on the AOC website at <https://georgiacourts.gov/covid-19-preparedness/>.

Pursuant to OCGA § 38-3-63, notice and service of a copy of this order shall immediately be sent to the judges and clerks of all courts in this State and to the clerk of the Court of Appeals of Georgia, such service to be accomplished through means to assure expeditious receipt, which include electronic means. Notice shall also be sent to the media, the State Bar of Georgia, and the officials and entities listed below and shall

constitute sufficient notice of the issuance of this order to the affected parties, counsel for the affected parties, and the public.

IT IS SO ORDERED this 11th day of May, 2020.



Chief Justice Harold D. Melton
Supreme Court of Georgia

Appendix

Guidance on Tolling of Filing Deadlines (March 27, 2020)

Guidance on Tolling of Statutes of Limitation (April 6, 2020)

Guidance on Deadlines and Time Limits Defined by Reference to Terms of Court (May 4, 2020)

Guidance on Grand Juries (May 4, 2020)

Further Guidance on Grand Juries (May 11, 2020)

cc:

Governor Brian P. Kemp
Lt. Governor Geoff Duncan
Speaker David Ralston
State Bar of Georgia
Administrative Office of the Courts
Judicial Council of Georgia
Council of Superior Court Clerks of Georgia
Department of Juvenile Justice
Criminal Justice Coordinating Council
Council of Accountability Court Judges
Georgia Commission on Dispute Resolution
Institute of Continuing Judicial Education of Georgia
Georgia Council of Court Administrators
Chief Justice's Commission on Professionalism
Judicial Qualifications Commission
Association County Commissioners of Georgia
Georgia Municipal Association
Georgia Sheriffs' Association
Georgia Association of Chiefs of Police
Georgia Public Defender Council
Prosecuting Attorneys' Council of Georgia
Department of Corrections
Department of Community Supervision
Georgia Court Reporters Association
Board of Court Reporting
State Board of Pardons and Paroles
Constitutional Officers Association of Georgia
Council of Magistrate Court Clerks
Council of Municipal Court Clerks

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the
minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto
affixed the day and year last above written.

 , Clerk

Exhibit B

Health Screening Tool (Comprised of 1 page not including this page)

