IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
AUTHORIZING LIMITATION OF	)	Administrative Order
COURT OPERATIONS DURING A	)	No. 2020 - 75
PUBLIC HEALTH EMERGENCY	)	(Replacing Administrative
AND TRANSITION TO RESUMPTION	)	Order No. 2020-70)
OF CERTAIN OPERATIONS	)	
	)	

Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona declared a statewide public health emergency on March 11, 2020 pursuant to A.R.S. § 26-303 and in accordance with A.R.S. § 26-301(15). Since March 18, 2020, several administrative orders have been issued in response to the COVID-19 public health threat that limited and modified court operations to ensure justice in Arizona is administered safely. The most recent such order, Administrative Order No. 2020-70 issued on April 24, 2020, directed Arizona's courts to conduct business in a manner that reduced the risks associated with COVID-19. This order supersedes that administrative order and provides direction on transition to resumption of certain operations in an orderly way that prioritizes the safety of the public, judges, and employees of the judiciary.

For the purposes of this order, the term "judicial leadership" refers, as applicable, to the chief judge of the court of appeals, the presiding superior court judge, the presiding judge of a limited jurisdiction court that has multiple judges, or, for limited jurisdiction courts that have only one judge, the judge of such court.

Arizona courts remain open to serve the public. Nevertheless, given the ongoing threat to public safety, certain limitations and changes in court practices and operations are still necessary. These changes will occur in phases consistent with this order and the Standards in Attachment A.

Therefore, pursuant to Article VI, Sections 3 and 5, of the Arizona Constitution,

IT IS ORDERED that all Arizona Courts and the office of the presiding disciplinary judge may begin transitioning to in-person proceedings on June 1, 2020 to the extent this can be safely accomplished.

IT IS FURTHER ORDERED that presiding superior court judges continue to meet with local criminal justice system stakeholders to coordinate how best to handle the phasing-in of normal procedures in criminal proceedings, including resuming petit and grand jury proceedings.

IT IS FURTHER ORDERED that presiding superior court judges shall determine for the courts in their respective counties how in-person court proceedings and courthouse activities are

to be phased-in and conducted, consistent with this order, in a manner that protects the health and safety of all participants. The chief judge of each court of appeals division shall determine how in-person court proceedings are to be phased-in and conducted.

IT IS FURTHER ORDERED that:

I. TO PROTECT COURTHOUSE SAFETY:

1. The presiding superior court judge of each county and the chief judge of each division of the court of appeals is authorized to adopt or suspend any local rule or order needed to address the current public health emergency in cooperation with public health officials and to take any reasonable action that circumstances require to enable necessary operations of the Court of Appeals (COA) and the superior, justice and municipal courts in each COA division or county.

2. Until Arizona enters Phase II and except where the size of the staff or other constraints will not allow, judicial leadership shall implement a staffing plan, which may include dividing personnel into two or more teams or using other methods to prevent all or a substantial portion of court personnel from becoming infected or requiring quarantine at the same time due to work-related contact. The presiding judge may exempt personnel who perform critical court functions from this provision if there is no practical alternative.

3. Courts should modify operations to limit the number of transportation events to necessary in-court hearings for individuals in custody or receiving services pursuant to court order, including combining hearings subject to maximum gathering size required by this order, and to minimize mixing of populations to eliminate avoidable quarantines when such individuals are returned to custody following court hearings.

4. Rule 10.2, Rules of Criminal Procedure; Rule 42.1, Rules of Civil Procedure; Rule 2(B), Rules of Procedure for Juvenile Court; Rule 6, Rules of Family Law Procedure; and Rule 133(d), Justice Court Rules of Civil Procedure, all of which provide litigants with a change of judge as a matter of right, are suspended until December 31, 2020 to reduce the risk of virus exposure inherent in out-of-county judges' travel, and to ensure adequate judicial resources for backlog reduction.

5. Judicial leadership shall adopt practices following the gathering size and social distancing standards in Attachment A, considering the size of the courtrooms and other spaces where people gather in and around the courthouse. A court should not schedule in-person multiple, simultaneous proceedings that are inconsistent with these standards. Until Phase II, in extraordinary circumstances and with appropriate precautions, judicial leadership may authorize a maximum of 30 persons to gather in one location provided social distancing measures are taken. The intent of this requirement is to discourage scheduling of multiple

court hearings at a single date and time. Courts should coordinate with law enforcement to require staggered citation appearance times.

6. Judicial leadership must require all participants in court proceedings, including attorneys, parties, victims, witnesses, jurors, court personnel, and other necessary persons, to notify the court prior to appearing at the courthouse, of any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities and to make alternative arrangements to participate.

7. Until Phase III, judicial leadership should limit any required in-person proceedings to attorneys, parties, victims, witnesses, jurors, court personnel, and other necessary persons, where necessary to maintain the recommended social distancing within the courthouse, including each courtroom, and the judge in each proceeding is authorized to make reasonable orders to ensure the health and safety of hearing participants consistent with the parties' right to due process of law.

8. Judges shall liberally grant continuances and make accommodations, if necessary and possible, for attorneys, parties, victims, witnesses, jurors, and others with business before the courts who are at a high risk of illness from COVID-19 or who report any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities.

9. The Administrative Office of the Courts shall provide judicial leadership with a health screening protocol used to detect COVID-19-related symptoms consistent with recommendations by public health officials to prevent the spread of the virus. Through Phase I, judicial leadership should implement the COVID-19 screening protocol for court and judicial personnel. Not later than June 1, 2020, court staff and judicial officers shall wear their own or court-provided masks, face coverings, or face shields when having any in-person contact with other personnel or the public, or as allowed by section I(11).

10. The Administrative Office of the Courts shall provide judicial leadership with a health screening protocol used to detect COVID-19-related symptoms consistent with recommendations by public health officials to prevent the spread of the virus. Through Phase I, judicial leadership should implement the COVID-19 screening protocol for the public. Through Phase I, and where courthouse entrance security screening is available, the COVID-19 screening protocol may require body temperature screening for the public. Judicial leadership shall require court participants and visitors to wear their own or a court-provided mask or other face-covering in the courthouse beginning not later than June 1, 2020. Courts shall exclude persons from the courthouse who refuse to cooperate with or who do not pass established screening protocols or refuse to wear a mask or face covering. Judicial leadership shall post these requirements at entrances and on their public website.

11. During in-courtroom proceedings, the judge may authorize removal of masks or face coverings for purposes of witness testimony, defendant identification, making an appropriate record, or other reasons as deemed necessary by the judge provided that appropriate social distancing or other protective measures are followed.

12. Judicial leadership should establish and implement social distancing and sanitation measures established by the United States Department of Labor and the CDC.

II. TO USE TECHNOLOGY TO MINIMIZE IN-PERSON PROCEEDINGS:

1. Proceedings in all Arizona appellate, superior, justice, juvenile, and municipal courts and before the presiding disciplinary judge may be held by teleconferencing or video conferencing, consistent with core constitutional rights.

2. During Phases I and II, judicial leadership should limit in-person contact as much as possible by using available technologies, including alternative means of filing, teleconferencing, video conferencing, and use of email and text messages to reasonably ensure the health and safety of all participants.

3. Judges may hold ex parte and contested hearings on orders of protection electronically.

4. Judicial leadership may authorize the use of available online dispute resolution (ODR) platforms to resolve cases.

5. Judicial leadership may authorize the use of electronic, digital, or other means regularly used in court proceedings to create a verbatim record, except in grand jury proceedings.

6. When the public is limited from attending in-person proceedings, beginning July 1, 2020, to the extent logistically possible, the presiding judge of the superior court shall provide public access by video or audio to civil and criminal court proceedings typically open to the public to maximize the public's ability to observe court proceedings. The presiding judge or single judge of a limited jurisdiction court should make video and audio proceedings, excluding small claims cases, available to the public to the greatest extent possible. The presiding judge of the superior court should also list the availability of video and audio proceedings on the AZCourt site.

7. The 100-mile distance requirement for a limited jurisdiction court to accept a telephonic plea under Rule 17.1 (f) of the Rules of Criminal Procedure is suspended through December 31, 2020.

8. Clerks may attend court proceedings by teleconferencing or video conferencing to comply with A.R.S. § 12-283(A)(1).

9. Title 36 Chapter 5, A.R.S. matters are confidential and not open to persons other than the parties, witnesses, and their respective counsel. When these proceedings are not conducted in-person, judicial leadership must use technology in a manner that protects the patient's rights to privacy and confidentiality.

10. The judge in each proceeding conducted using video-conferencing may limit and permit recording as appropriate to apply the policies provided in Rule 122, Rules of the Supreme Court, to those proceedings.

III. TO APPROPRIATELY PRIORITIZE CASE PROCESSING:

1. Constitutional and statutory priorities for cases continue to apply unless otherwise waived.

2. For cases where the right to a jury trial has not been waived, but where limits on courthouse facilities or judicial or court personnel capacity require prioritization and recognizing that constitutional and statutory preferences govern for specific issues raised in a specific case, cases shall be scheduled in the following order of priority:

   (a) Criminal felony and misdemeanor cases, where the defendant is in custody;
   (b) Sexually violent person trials;
   (c) Criminal felony cases, where the defendant is not in custody;
   (d) Criminal misdemeanor cases, where the defendant is not in custody; and
   (e) Civil and any other jury trial cases.

3. Where limits on courthouse facilities or judicial, or court personnel capacity require prioritization and recognizing that constitutional and statutory preferences govern for specific issues raised in a specific case, cases shall be scheduled in the following order of priority:

   (a) Juvenile;
   (b) Criminal;
   (c) Mental Health;
   (d) Family (involving minor children);
   (e) Family (not involving minor children);
   (f) Probate (involving protected persons);
   (g) Civil;
   (h) General Probate; and
   (i) Tax and Administrative cases.

4. Where backlogs exist, judicial leadership should expand case disposition capacity, including calling back retired judges, using judges pro tempore and temporarily reassigning judges from other assignments.

IV. TO SAFELY PROVIDE FOR JURY TRIALS AND GRAND JURIES:

1. Trials of cases to a jury may resume when Arizona enters Phase I, but not prior to June 15, 2020.

2. The presiding judge of the superior court in each county should determine when jury trials can safely begin, taking into consideration the physical space of individual courthouses and courtrooms. Judicial leadership shall employ appropriate social distancing and other measures necessary for the protection of jurors and the general public and shall post on court websites a schedule and information describing the protective measures taken.

3. Until December 31, 2020, to reduce the number of citizens summoned to jury duty, procedural rules (including Rule 18.4(c), Rules of Criminal Procedure; Rule 47(e), Rules of Civil Procedure; and Rule 134(a)(1), Justice Court Rules of Civil Procedure) are modified to afford litigants only two peremptory strikes for potential jurors per side in all civil and felony cases tried in the superior court, and one peremptory strike per side in all misdemeanor cases, and all civil cases tried in limited jurisdiction courts. This provision does not apply to capital murder cases.

4. To accommodate social distancing standards, courts may stagger times for prospective jurors to report for jury duty, direct them to individual courtrooms rather than jury assembly rooms, and conduct voir dire remotely or in multiple groups. At the direction of the presiding judge, prospective jurors may be summoned to non-courthouse facilities that can accommodate larger numbers of individuals.

5. Judicial leadership may authorize the use of technology to facilitate alternatives to in-person appearance for selecting grand and petit jurors and for conducting grand jury proceedings, and with the permission of the presiding superior court judge, for jury trials.

6. As required by A.R.S. § 21-202(b)(2), jury commissioners must temporarily excuse prospective jurors whose jury service would substantially and materially affect the public welfare in an adverse manner, including but not limited to those who report a COVID-19 diagnosis, symptoms, or notification by a public health official of exposure to COVID-19 and may temporarily excuse potential jurors who are highly vulnerable to COVID-19.

7. The presiding judge of the superior court in coordination with the county attorney in each county may determine when grand juries can be resumed in a

safe manner with proper social distancing. Grand jury selection may be conducted in-person by staggering the appearance of prospective jurors or by electronically screening them. The presiding judge may authorize grand jury proceedings to be held by video-conferencing.

V. TO CALCULATE TIME CONSIDERING THE EMERGENCY:

1. The period of March 18, 2020 through August 1, 2020 is excluded from calculation of time under rule provisions and statutory procedures that require court proceedings to be held within a specific period of time, including Rule 8, Rules of Criminal Procedure; Rules 17, 25, 79 and 100, Rules of Procedure for the Juvenile Court; Rules 2, 3, and 15, Rules of Procedure in Eviction Actions; and Rule 38.1(d)(2), Rules of Civil Procedure. A judge, pursuant to Rule 8, may extend this exclusion of time in criminal cases, for good cause including, but not limited to COVID-19 illness, quarantine and travel restrictions.

2. The time for conducting preliminary hearings for in-custody defendants under Rule 5.1(a) and (d) and probation revocation arraignments under Rule 27.8 (a)(1), Rules of Criminal Procedure is extended to twenty (20) days from an initial appearance that occurs through July 3, 2020.

3. Until August 1, 2020, notwithstanding Rule 6 (b)(2), Rules of Civil Procedure, in an individual case, the court may extend the time to act under Rules 50(b), 52(b), 59(b)(1), (c), and (d), and 60(c) as those rules allow, or alternatively, may extend the time to act under those rules for 30 days upon a showing of good cause.

4. The following are not excluded from calculations of time:

   (a) For persons held in-custody: initial appearances, arraignments, preliminary hearings, in-custody probation violation, and conditions of release;
   (b) Domestic violence protective proceedings;
   (c) Child protection temporary custody proceedings;
   (d) Civil commitment hearings and reviews;
   (e) Emergency protection of elderly or vulnerable persons proceedings;
   (f) Habeas corpus proceedings;
   (g) COVID-19 public health emergency proceedings;
   (h) Juvenile detention hearings;
   (i) Election cases; and
   (j) Any other proceeding that is necessary to determine whether to grant emergency relief.

5. For the period of March 18, 2020 through August 1, 2020, if a judge is unable to rule on a pending matter due to the judge's illness or is otherwise unable to work, the judge is deemed to be physically disabled, and the period of time the judge is ill or unable to work is excluded from the calculation of the 60 days

from the date of submission in which a matter must be determined under A.R.S. § 12-128.01 or § 11-424.02.

VI. IN GENERAL:

1. Court offices shall remain accessible to the public by telephone and email during their regular business hours to the greatest extent possible, including using drop boxes for documents that cannot be e-filed if it becomes necessary to close court offices to the public.

2. During this period of reduced operations, courts and court clerks shall make reasonable efforts to provide alternative methods of accessing court records.

3. Probation officers are authorized to use social distancing and technology of all types to supervise those on criminal and juvenile probation, including, where appropriate, for contacts with such individuals.

4. Clerks of the court shall continue to issue marriage licenses and may do so remotely if the available technology allows licenses to be properly issued.

5. A judge may perform a marriage ceremony at the courthouse with no more than 10 persons present with proper social distancing and may perform a marriage ceremony in the electronic presence of the couple and witnesses at the parties' request.

6. The Administrative Office of the Courts may use technology to ensure social distancing for its operations, including the Court Appointed Special Advocate program, the Foster Care Review Boards program, and the Certification and Licensing programs under Part 7, Chapter 2, of the Arizona Code of Judicial Administration.

7. Limited jurisdiction judicial leadership may issue orders as necessary to implement the provisions of this order and take actions consistent with this order and orders issued by their presiding superior court judge.

8. Judicial leadership must notify court customers, the public, and the Administrative Director of all administrative orders issued under the authorization provided by this order using the most effective means available.

9. Judicial leadership must provide information regarding court access and operations in both English and Spanish.

10. The presiding superior court judge of a county and judges and staff in leadership in the limited jurisdiction courts in the county shall periodically meet to coordinate county-wide court activities impacted by the current COVID-19 crisis. Attendance at such properly scheduled meetings is mandatory unless excused by the county presiding judge.

Dated this 8th day of May, 2020.

FOR THE COURT:

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ROBERT BRUTINEL
Chief Justice

ATTACHMENT A

Standards for Resumption of On-site Court Operations During a Public Health Emergency

In planning for a phased resumption of on-site court operations, courts[1] must consider the following factors:

1. The status of the pandemic in each local court jurisdiction;
2. The size and functionality of courthouse facilities, both in terms of courtrooms and other public meeting areas; and
3. The size of the bench and supporting court staff.

The timing of the phases will be largely determined by Arizona specific directives. The Administrative Office of the Courts (AOC) will notify the judicial leadership in advance of phase transition dates. Taking these factors into account, local courts should systematically resume on-site operations as follows:

Phase Zero (Current Phase): Due to the statewide public health emergency, all in-person court proceedings should be avoided to the greatest extent possible, consistent with constitutional rights.

- Courts should follow CDC social distancing guidelines and limit the number of persons at any court event to 10. Judicial leadership may authorize groups larger than 10, but not to exceed 30.
- The empaneling of new petit juries is suspended.
- In-person contact is to be limited through the use of virtual hearings (audio or video), electronic recording of court proceedings and electronic transmission of documents.
- Certain state and local court rules are suspended or amended to maximize public safety.

Phase I: Courts may begin transitioning to in-person proceedings to the extent this can be safely accomplished on June 1, 2020 in compliance with the following standards:

- Courthouse Safety:
    - Until Arizona enters Phase II and except where the size of the staff or other constraints will not allow, judicial leadership shall implement a staffing plan, which may include dividing personnel into two or more teams or other methods to accomplish the goal of preventing all or a substantial portion of court personnel

[1] In this attachment, courts include Arizona courts, Office of the Presiding Disciplinary Judge, and Court of Appeals.

from becoming infected or requiring quarantine at the same time due to work-related contact.
    - Judicial leadership shall limit any required in-person proceedings to attorneys, parties, victims, witnesses, jurors, court personnel, and other necessary persons.
    - Judicial leadership should modify operations to limit the number of transportation events to necessary in-court hearings for individuals in custody.
    - Courts should follow CDC social distancing guidelines and limit the number of persons at any court event to 10. Judicial leadership may authorize groups larger than 10, but not to exceed 30.
    - Courts shall utilize the AOC's health screening protocol.
    - Courts shall require masks or face coverings to be worn in the courthouse.
    - Courts shall exclude persons failing the screening protocol from entry to the courthouse.
    - Rules which provide litigants a change of judge as a matter of right are suspended until December 31, 2020.
    - Courts shall exclude persons failing the screening protocol from entry to the courthouse and attempt to make alternative arrangements for them to conduct court business. If an excluded person is attempting to attend a scheduled court proceeding, the appropriate court shall be notified of the person's inability to enter the courthouse.
- Technology
    - Courts shall continue the use of virtual hearings, electronic recording and electronic transmission of documents.
    - Courts shall provide public access by video or audio to court proceedings which are typically open to the public, specifically for the case types designated in this Administrative Order.
    - Courts shall consider and encourage the use of on-line dispute resolution (ODR).
- Appropriately Prioritize Case Processing
    - Courts shall follow the prioritization of case types, both for jury and non-jury cases.
    - Courts shall expand case disposition capacity, using retired judges and judges pro tempore and temporarily reassigning judges from other assignments.
- Jury Trials and Grand Juries
    - Jury trials may resume on June 15, 2020, subject to the approval of the presiding superior court judge.
    - Courts shall utilize appropriate social distancing and measures necessary for the protection of jurors, including the use of technology for virtual selection of petit and grand jurors and conducting of grand jury proceedings and, with the approval of the presiding superior court judge, for jury trials.
    - The presiding superior court judge may determine when grand juries can be resumed.
- In General
    - Courts may use drop boxes for filing documents that cannot be e-filed.

Phase II: Scheduling of in-person court proceedings can resume, while limiting the projected number of courthouse visitors during peak times.

- Courthouse Safety
    - On-site court staffing should systematically increase during Phase II, as necessary to serve the increased number of visitors at the courthouse. Courts should continue to maintain two or more teams, with some teams working at the courthouse while others work remotely, or otherwise ensure that an exposed employee will not interrupt the operations of the court.
    - Courts should follow CDC social distancing guidelines and limit the number of persons at any court event to 30. Judicial leadership may authorize groups larger than 30, but not to exceed 50.
- Technology
    - The use of technology should continue, both to maximize public safety and to maximize efficiencies in court operations.
- Appropriately Prioritize Case Processing
    - Some courts may no longer have a need to expand case disposition capacity.
- The other Phase I provisions remain in effect during Phase II, specifically the sections of this Administrative Order regarding:
    - Jury Trials and Grand Juries
    - In General

Phase III: Scheduling of in-person court proceedings and other on-site court services can fully resume, while limiting the projected number of courthouse visitors during peak times.

- Courthouse Safety
    - On-site court staffing should be largely restored during this phase to serve the increased number of visitors at the courthouse. Courts may still opt to have some staff continue working remotely. These staff would be available for deployment to the courthouse in the event that on-site staff become infected.
    - Courts should follow CDC social distancing guidelines and limit the number of persons at any court event accordingly.
    - Consistent with guidance from CDC, courts may relax screening protocols for court participants and visitors, including the wearing of masks in the courthouse.
- Technology
    - The use of technology should continue, both to maximize public safety and to achieve efficiencies in court operations.
- Jury Trials and Grand Juries
    - Courts should continue to employ appropriate social distancing and other measures necessary for the protection of jurors, including the use of technology for virtual selection of petit and grand jurors and conducting of grand jury

proceedings and, with the approval of the presiding superior court judge, for jury trials.

- In General
  - Courts should continue to use drop boxes for documents that cannot be e-filed.

Phase IV: Return to normal operations – no restrictions.