



**FIFTH JUDICIAL DISTRICT, STATE OF COLORADO  
CLEAR CREEK COUNTY, EAGLE COUNTY, LAKE COUNTY,  
AND SUMMIT COUNTY**

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**ADMINISTRATIVE ORDER )  
REGARDING COURT OPERATIONS ) 2020-102A-9  
UNDER COVID-19 ADVISORY ) AMENDED  
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With the recent shift in federal, state and local guidance regarding face coverings, physical distancing requirements, and group size limitations, including, but not by way of limitation, Executive Order D 2021 103 issued by Governor Polis on May 14, 2021, and the authority granted under the Order Regarding Safety in Colorado Courthouses issued by Chief Justice Boatright on May 17, 2021, the following administrative order is issued to ensure safe operation of the courthouses and probation offices in the 5<sup>th</sup> Judicial District.

Pursuant to the authority granted in Chief Justice Directive 95-01 and Chief Justice Order dated May 17, 2021, it is hereby ORDERED as follows:

**1. OPERATIONS.**

a. **Hours and Filings.** All courts will be open 8:00 a.m. to 5:00 pm., Monday to Friday, excepting legal holidays. Courts may be closed temporarily to from time to time for staff meetings. During operating hours court filings will be accepted at the window in each location. The court will accept electronic filings through ICCES for the case types in the ICCES system and by email in JV, JA, MH and relinquishment cases pursuant to the District’s Email Filing Protocol (collectively “ICCES” as used herein). Filers that do not have ICCES should contact the court for assistance with filing by fax or other electronic means. Clerks of Court are encouraged to assist parties without access to ICCES to file by electronic means.

b. **Limitations on Entry.** Persons who meet any of the following criteria are **prohibited from entering any courthouse** and instead should call the court to reschedule their court date, request to appear by phone, or receive further instructions:

- i. Anyone currently diagnosed with COVID-19 and that does not have written verification that the person has received a subsequent test confirming that person is currently virus-free;
- ii. Anyone who has been in direct contact with someone who has been diagnosed with COVID-19 within the preceding fourteen days;
- iii. Anyone experiencing a fever, cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, new loss of taste or smell, or any other respiratory illness or flu-like symptoms;
- iv. Persons with a temperature in excess of 100.4°F.

c. **Face-Coverings and Physical Distancing.**

- i. Definitions: For purposes of this Order:
  1. **“face coverings”** means medical or non-medical cloth face coverings that cover the mouth and nose and are intended to reduce transmission of viruses, including those associated with COVID 19 and its variants.
  2. **“private areas of the courthouses and probations offices”** are defined as areas within said buildings only accessible by way of key, key card, or access code by authorized personnel.
  3. **“public”** means all persons that are not employees of the Fifth Judicial District courts or probation department.
  4. **“staff”** means employees of the 5<sup>th</sup> Judicial District, including judges.
- ii. **Private Areas.** **Face coverings are not required** to be worn by staff in the private areas of the courthouses and probation offices **unless:** (1) staff are meeting in a private area with member(s) of the public that have not been vaccinated against COVID 19 or whose vaccination status is unknown; or (2) staff are in the private area of

the courthouse or probation office but interacting with the public through or at a clerk's window/counter. In these two instances face coverings will continue to be required for all persons (staff and public).

- iii. Public Areas. **Face coverings are required for all persons** when in the public areas of the courthouses and probation offices, **except** when the only persons present are staff (e.g. if a judge and CJA are in a courtroom, but no one else is present, then the judge and CJA may remove their face coverings).
- iv. Jury Trials. Face coverings are required for all persons during jury trials and may be removed temporarily only with the permission of the presiding judge.
- v. Physical Distancing – Private Areas. Physical distancing of three feet (3') is encouraged in all private areas of the courthouses and probation offices.
- vi. Physical Distancing – Public Areas. Three feet (3') of physical distancing shall be observed and maintained between persons in public areas of the courthouses and probation offices.
- vii. Staff Screening. All staff continue to utilize the Judicial Department's online symptom screening for all employees daily.
- viii. Unvaccinated Individuals. Per Executive Order D 2021 -103, and notwithstanding any other provision of this Order, "Any individual, age eleven (11) and older, who is not fully vaccinated is encouraged to wear a medical or non-medical cloth face covering that covers the nose and mouth when entering or within an indoor space where members of different households are present."
- ix. Discretionary Face Coverings. Any individual may chose to continue wearing a face covering at their discretion and individuals are expected to be amenable to requests from others to apply a face covering when meeting in individual offices and/or personal work stations in the private areas of the courthouses and probation offices.

## 2. JURY TRIALS AND JUROR SERVICE.

- a. **Jury Trials.** Jury trials and grand jury proceedings may continue to proceed. Where multiple trials are scheduled to commence on the same day in the same division, the presiding judge shall determine which case proceeds to trial. Where multiple trials are scheduled to commence on the same day in the same courthouse, caution shall be exercised to ensure the provisions of Section 1 of this Order are observed at all times in the public areas of the courthouses. In the event multiple trials are scheduled to commence on the same date in the same courthouse, the presiding judges shall confer to determine how to proceed safely and with due regard to the respective parties' rights and interests. All prospective jurors shall be screened for COVID 19 symptoms prior to jury service.
- b. **Jury Calls.** Jury trials will continue to proceed. Staggered jury calls are encouraged. The provisions of Chief Judge Administrative Order 2020-101 Regarding the Release of Jurors for Health Reasons shall continue to apply.

## 3. HEARINGS IN PERSON AND BY ELECTRONIC MEANS.

- a. **Hearings by Electronic Means.** The courts are encouraged to continue to utilize WebEx interactive audio-visual means ("Electronic Means"), in accordance with the protocol set forth in section 5 below, when appropriate to improve access to court proceedings, permit public observation, and conserve litigant the judicial resources. Subject to any applicable rule of procedure, in all matters where an in-person proceeding is contemplated, the presiding judge shall have discretion to conduct the hearing by any combination of Electronic Means and in-person participation.
- b. **Civil Matters.** Except for evidentiary hearings, jury trials, and bench trials, all civil matters and small claims shall be conducted by Electronic Means unless specifically ordered by the presiding judge.
- c. **Domestic Relations Cases.** Except for evidentiary hearings, case management, advisements, and other hearings in domestic relations cases shall be conducted by Electronic Means unless specifically ordered by the presiding judge.

- d. **Evictions and Debt Collection.**
- i. **Evictions.** Forcible entry and detainer actions (“eviction(s)”) should be in compliance with the Governor’s Executive Order, as amended. Additionally, where appropriate, pleadings should address the applicability of the CARES Act. Persons filing eviction actions should contact the court prior to filing to obtain an appropriate return date.
  - ii. **Debt Collection.** Extraordinary debt collection activities are subject to the limitations set forth in SB 20-211 signed by Gov. Polis on June 29, 2020.
- e. **Criminal Cases.**
- i. **Presumption for In Person Proceedings.** All criminal proceedings shall be conducted in person unless otherwise approved in advance by the court. It shall be the responsibility of the party and/or counsel to request appearance by Electronic Means.
  - ii. **Audio and Video Connections Required.** Unless approved by the presiding judge, all persons participating in any hearing by Electronic Means shall have an audio and video connection.
  - iii. **Public Participation.** Regardless of whether the proceeding is being conducted in person or by Electronic Means, courts are encouraged to permit the public to observe criminal proceedings via WebEx.
  - iv. **Interpreters via WebEx.** Courts are encouraged to utilize WebEx to facilitate interpretation for those with limited English proficiency or who may require ASL to fully participate.
  - v. **Rule 43.** Notwithstanding any provision of this Order to the contrary, Crim.P. 43 shall continue to apply.
  - vi. **Unrepresented Defendants.** Defendants that have court or returns dates and that do not have an attorney must appear in person.
  - vii. **Conferral Required.** Counsel that desire to appear by electronic means must meaningfully confer with opposing counsel prior to filing a motion for any hearing to be conducted by Electronic

Means. Any such motion must reflect that it is either “unopposed” or “contested” in the caption.

4. **PROHIBITION AND SIZE LIMIT ON GROUP GATHERINGS.** The capacity of all public and private areas of the courthouses shall be restricted to the maximum number of persons allowable by application of the physical distancing limitations, provided, however, that there shall be no gatherings of groups larger than forty (40) persons in any of the public areas of the courthouses or probation offices.

5. **PROTOCOL FOR HEARINGS BY ELECTRONIC MEANS.** The following protocol shall apply to all hearings conducted by Electronic Means.

- a. In the absence of exigent circumstances, all hearings by Electronic Means shall be conducted utilizing the court’s systems for providing electronic participation such that the audio content of proceeding may be heard from the subject courtroom regardless of whether any participants in the hearing are physically present in the courtroom, and all such hearings shall be conducted on the record utilizing the court’s recording machines.
- b. Participants in hearings conducted by Electronic Means will be limited solely to the attorneys, parties, and witnesses, and, if necessary, victims, victim’s advocates, and interpreters. Unless otherwise ordered by the presiding judge, members of the public may observe (including by electronic means) but shall not participate in the hearing and hear access information shall be provided to the public on request. If the hearing is being conducted on an open WebEx line, no attorney or party should identify themselves until their case is called. Unless and until a case is called, all participants must mute their audio/video device(s). **If participants in a hearing conducted by Electronic Means must confer privately, they shall make arrangements for an alternate means of communication in order to preserve confidentiality.**
- c. Any exhibit necessary for a hearing conducted by Electronic Means must be uploaded via ICCES prior to the hearing. If there are confidentiality or constitutional concerns relating to compliance with this protocol, the proponent of the exhibit should contact the court’s division clerk prior to the hearing for guidance on filing in sealed status.
- d. Participants shall speak one at a time and not over one another. Special care shall be taken in order to facilitate sequential translation when an interpreter is being utilized.

- e. Prior to participation in a hearing conducted by Electronic Means, the participants shall meet and confer by phone or electronically in an effort to resolve or streamline issues necessary for resolution during the hearing.
- f. A hearing via Electronic Means may be conducted using telephone, video, WebEx or other electronic means, or any combination thereof, as determined to be appropriate by the presiding judge. The presiding judge may also provide for an “open” electronic proceeding where the public or other interested observers may listen to and/or observe the proceedings.
- g. **Secondary communication (e.g. text messaging or emails) between any witness(es) and any other party during the witness(es)’s testimony is prohibited without the express permission of the presiding judge.**
- h. **Except for the official court record or an approved request for Expanded Media Coverage, recording and/or reproduction, via any means, of any portion of a Remote Hearing is strictly prohibited. Violation of this provision may result in the imposition of sanctions including contempt of court.**

6. **PROTOCOL FOR ANY IN-PERSON HEARING OR JURY TRIAL.**

- a. Jury Selection. The following procedures shall apply:
  - i. The provisions of Chief Judge Administrative Order 2020-101 Regarding the Release of Jurors for Health Reasons shall apply and all prospective jurors will be screened in accordance therewith.
  - ii. During jury selection, public seating in the gallery may be limited. Court staff shall reserve, subject to social distancing requirements, areas in the gallery for victims and/or persons supporting victims and/or the accused. Prospective jurors shall be seated in a manner consistent with social distancing requirements.
  - iii. The presiding judge shall conduct jury selection individually or in small groups in a manner deemed appropriate by said judge and consistent with current health advisories, including, without limitation, restrictions on group size.
- b. Restrictions During In-Person Proceedings.

- i. During any in-person proceeding, public seating in the gallery may be limited. Court staff shall reserve, subject to social distancing requirements, areas in the gallery for victims and/or persons supporting victims and/or the accused, media, and other participants.
- ii. All participants, including empaneled jurors, in an in-person proceeding shall maintain social distancing at all times and all in-person proceedings shall be subject to any applicable limit on group size.
- iii. Attorneys shall address the court from counsel tables and shall address the jury and/or witnesses from the lectern or counsel table as determined by the presiding judge.
- iv. Attorneys shall not approach witnesses and all exhibits shall be filed electronically prior to any hearing. If there are confidentiality or constitutional concerns relating to compliance with this protocol, the proponent of the exhibit should contact the court's division clerk prior to the hearing for guidance on filing in sealed status.
- v. Unless an original of an exhibit is required (e.g. a physical object), duplicates of all exhibits must be available for independent use by each witness.
- vi. There shall be no bench conferences. If matters must be heard outside the presence of the jury, the judge may make such orders as may be necessary to conduct proceedings in chambers or otherwise outside the presence of a jury.
- vii. During recesses, jurors may be separated into smaller groups across multiple jury rooms. During deliberations, the court may order the deliberations be undertaken in the courtroom in order to preserve social distancing and may take such steps deemed necessary or appropriate to restrict access to the courtroom during deliberations.
- viii. Upon completion of testimony, unless a witness is a victim, witnesses are encouraged to immediately leave the courthouse.
- ix. Even in the case of an in-person hearing, the parties are encouraged to maximize the use of electronic means to permit the remote appearance of counsel, parties, witnesses and other persons



interested in the proceeding, subject to the orders of the presiding judge.

7. **PRESIDING JUDGE ORDERS.** In individual cases, the presiding judge has the authority to enter orders to address issues specific to the needs of the case so long as those orders are not less restrictive than the mandatory procedures for all cases set forth in this Order or in the Chief Justice's Orders. The presiding judge in each case may modify the protocols set forth in sections 5 and 6 as necessary.

8. **FAMILY COURT FACILITATOR AND OTHER CONFERENCES BY PHONE OR ELECTRONIC MEANS.** All conferences with the Family Court Facilitator, collections investigator(s), self-represented coordinator, and protected proceedings monitor, and all case management conferences shall be conducted by telephone conference or Electronic Means only, pending further Order of the Chief Judge.

9. **MEDIATION AND SETTLEMENT CONFERENCES.** Mediation and settlement conferences provided by the court shall be via Electronic Means where possible. Any in-person mediation services provided by the courts shall be subject to the limitations on group size and other provisions of this Order. Parties ordered to mediate in any proceeding may participate remotely following any protocols established by the mediator.

10. **PROBATION.** Probation clients shall be supervised in a modified manner as directed by the Chief Probation Officer.

11. **EFFECTIVE DATE, MODIFICATION, AND BINDING EFFECT.** This Order is effective immediately upon the date and time entered below. Circumstances continue to change and this Order may be updated or modified frequently. All persons are encouraged to check regularly on the 5<sup>th</sup> Judicial District homepage which can be found on the website for the Colorado Judicial Branch at [www.courts.state.co.us](http://www.courts.state.co.us) for the latest information. The Order shall be deemed filed in each and every case filed in the District and binding on all parties and attorneys in each case.

SO ORDERED this 14<sup>th</sup> day of June, 2021.

  
Mark D. Thompson  
Chief District Court Judge

