

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
16TH JUDICIAL CIRCUIT, STATE OF MISSOURI**

**In Re: Updated Court Operations under Missouri Supreme Court Operational Directives and New Guidelines in Jackson County
- Effective November 20, 2020**

ADMINISTRATIVE ORDER 2020-201

WHEREAS, beginning in the spring of 2020 with the emergence and subsequent spread of COVID-19 into a global pandemic, all aspects of society, business and government have been affected and every person's daily life has been impacted and altered in countless ways; and

WHEREAS, throughout the COVID pandemic, governmental agencies (including this Court) and private businesses have monitored the ever-changing impact of COVID and have modified and adjusted their guidelines, regulations and operations based upon then-current circumstances, said modifications being made with the intent to mitigate against the spread of COVID and promote the health and safety of all persons; and

WHEREAS, the most recent information regarding the existence and spread of COVID in Jackson County, Missouri indicates a precipitous increase in the number of individuals who have contracted COVID; and

WHEREAS, as a result of the increase in the spread of COVID, the City of Kansas City, Missouri ("Kansas City") has issued new Orders/Guidelines which set forth updated requirements, regulations, restrictions and guidelines intended to slow the spread of COVID. Jackson County, Missouri ("Jackson County") has not (as of the issuance of this Administrative Order) issued a new, updated Order; and

WHEREAS, the Kansas City Order exempts from its terms, the performance of "essential governmental functions". Previous Orders issued by Jackson County, Missouri have similarly stated that essential services, including governmental operations and court operations, are exempt, in whole or in part, and shall continue to operate with modifications; and

WHEREAS, the 16th Judicial Circuit ("Court") is the Judicial Branch of Missouri State Government and is an essential governmental agency performing essential governmental services. Throughout the COVID pandemic, the Court has remained open and will continue to remain open and operational performing its core, constitutional judicial functions, often through remote technologies including video and telephone hearings and conferences; and

WHEREAS, the Kansas City Order generally limits crowd gatherings to a maximum of ten (10) people, subject to certain exceptions included in said Order. Previous Jackson County Orders have imposed limits on crowd gatherings; and

WHEREAS, based on the clear language and terms of the Kansas City Order and based on the clear language and terms of prior Jackson County Orders, this Court and its operations are exempt from the requirements, regulations, restrictions and guidelines of said Orders. However, notwithstanding said exemptions, beginning with the initial emergence of COVID and continuing

thereafter, it has been and continues to be imperative and of great importance to the Court that all appropriate steps be taken to protect the health and safety of all Court employees, all judicial officers, all attorneys, all litigants, all victims, all witnesses, all prospective jurors, all members of the general public and any other individuals or entities who have cases and hearings pending in the Court and/or have business with the Court; and

WHEREAS, while giving full consideration to the concerns stated above, the Court has also considered the performance of its constitutional duties as the judicial branch of government, considering and balancing the rights of all parties and litigants to have their cases, hearings, disputes and matters heard and adjudicated; and

WHEREAS, the Missouri Supreme Court has issued several Orders and related Operational Directives regarding court operations, all of which have clearly provided that the courts of this State are open and shall perform their constitutional responsibilities, subject to appropriate modifications. Said Orders have also included strategies to prevent the spread of COVID as well as directives which provide a phased approach regarding restrictions related to court operations, all depending on the unique circumstances presented to each circuit court at any specific point in time; and

WHEREAS, on July 24, 2020, the Missouri Supreme Court issued its most recent Order regarding court operations, including Operational Directives as part of that Order. Those Operational Directives describe criteria to be evaluated and considered regarding the continued operation of the Court as well as the progression or regression to different Phases set forth in the Operating Directives, all of which have been duly considered in the entry of this Administrative Order; and

WHEREAS, among other provisions, the July 24, 2020 Operational Directives contain the following provisions regarding jury proceedings:

Phase One: "... restrict ... jury proceedings to only the most extraordinary, pressing, and urgent cases".

Phase Two: "Increased in-person court proceedings, including the most extraordinary, pressing and urgent ... jury proceedings ... where they can safely be conducted in compliance with social distancing protocols and occupancy rate limitations applicable to the local community."

Phase Three: "Resume in-person court proceedings, including ... jury proceedings, that can be conducted in compliance with social distancing protocols and occupancy rate limitations applicable to the local community."

WHEREAS, throughout the COVID pandemic, the Court has conducted innumerable hearings and trials covering every type of litigation. However, beginning in late March 2020 and continuing to the present, the Court has only been able to safely conduct a small number of jury trials. As a result, countless litigants have regrettably been delayed from having their day in court in front of a jury. Said necessary delays are particularly problematic for defendants in criminal cases, especially those defendants in pre-trial detention. Unfortunately, the unprecedented public health and safety concerns resulting from the existence and spread of COVID which have existed since March 2020, coupled with the recent significant increase in the number of COVID cases

within Jackson County, have outweighed and continue to outweigh each defendant's right to and the public's interest in a speedy trial; and

WHEREAS, the Missouri Supreme Court's Operational Directives include provisions allowing a presiding judge to "change [the] Operating Phase for each court facility [within a circuit] in which judicial functions are carried out"; and

WHEREAS, the Court operates in numerous buildings and courthouses, including the Kansas City Courthouse, the Eastern Jackson County Courthouse, the Family Justice Center and the Albert Riederer Community Justice Complex (which includes facilities at both 1305 Locust and 1315 Locust in Kansas City, Missouri) (herein collectively referred to as "Court Buildings") and various municipal courts in different cities and various buildings throughout the Circuit (herein referred to as "Municipal Courts"). At this time, those various Court Buildings and Municipal Courts are operating in different Phases; and

WHEREAS, circumstances regarding COVID continue to evolve and change, frequently on a daily or weekly basis, including the recent significant increase in COVID cases in Jackson County, resulting in continuing re-evaluation and modification of court operations. Additionally, unique factors and circumstances also exist in different Court Buildings and Municipal Courts which are a part of the continuing re-evaluation of court operations within those specific Court Buildings and Municipal Courts; and

WHEREAS, the Missouri Supreme Court has continued to authorize the Presiding Judge of each Circuit to facilitate local solutions regarding the continuation and/or restoration of court operations, while also considering and maintaining a certain degree of uniformity; and

WHEREAS, the Missouri Supreme Court has continued to encourage judges to utilize all available technologies – including teleconferencing and video conferencing – to limit in person courtroom appearances to the extent not prohibited by the constitution or statutes as to the proceedings; and

WHEREAS, pursuant to Section 478.240.2 R.S.Mo. and Section 15 of the Missouri Constitution, the Presiding Judge has general administrative authority over all judicial personnel and court officials in the Circuit as well as administrative authority over dockets of the Court and administrative and discretionary authority regarding the manner in which any hearings are conducted in the Court.

IT IS HEREBY ORDERED, effective immediately and continuing until rescinded, amended, modified or extended in a subsequent Administrative Order, as follows:

1. The Court will follow the Operational Directives and criteria set forth by the Missouri Supreme Court as it works toward restoration of complete court operations, including the utilization of local solutions appropriate to local conditions.

2. The Court will submit to the Missouri Supreme Court in a regular and timely manner, "Exhibit A, Notice to the Supreme Court of Missouri of Higher/Lower Operating Phase" as set forth in and referenced in the Supreme Court's Order dated May 4, 2020. The Court will

follow the applicable guidelines and directives for the Phase specified in its submitted Exhibit A, supplemented by the specific terms of this Administrative Order and any amendments hereto. To the extent this Administrative Order provides local solutions or additional terms unique to local conditions presented to the Court, those solutions and terms shall continue to apply until rescinded or modified by a subsequent Administrative Order.

3. Effective November 20, 2020, the Court will operate at the following phases of the Missouri Supreme Court's Operational Directives:

- A. Kansas City Courthouse – Phase 1;
- B. Eastern Jackson County Courthouse – Phase 1;
- C. Family Justice Center – Phase 1;
- D. Albert Riederer Community Justice Complex – Phase 1;
- E. Municipal Courts within the Circuit – Phase 1 pursuant to an evaluation of circumstances unique to each Municipal Court.

4. Specifically regarding jury trials, notwithstanding the fact that the Court *could potentially*, under proper circumstances, conduct jury trials while in Phase 1 or in Phase 2 for “extraordinary, pressing, and urgent cases”, the Court Administrator is Ordered and authorized to suspend the impaneling of all jurors through December 31, 2020. All jury trials scheduled from the date of this Order through January 3, 2021 are hereby continued and will be scheduled to a later date by the judicial officer presiding over each said case.

5. The Court shall continue to utilize all available technologies, including teleconferencing and video conferencing, to the greatest possible extent for all proceedings, hearings and/or conferences (collectively referred hereinafter as “proceedings”) so as to minimize, as much as possible, the physical presence of persons in Court Buildings or Municipal Courts for in person proceedings.

6. Subject to the provisions of paragraph 5 above, *in person proceedings may occur* in limited circumstances for extraordinary and urgent situations, based on a determination that alternative methods for conducting said proceedings cannot occur, including a determination by the Judicial Officer presiding over any such proceedings that it is not possible for such proceedings to be conducted by telephone, teleconference, polycom, videoconferencing, or any other method that does not require the physical presence of persons in Court Buildings or Municipal Courts. *In person hearings may be conducted* when other alternative methods to proceed have failed or are otherwise not available. In any situation where disruptions or interference is attempted or occurs for court proceedings that are conducted by telephone, teleconference, polycom, videoconference or any other “not-in-person” method, a Judicial Officer may conduct any/all subsequent proceedings in person.

7. The Court Administrator has previously established procedures for pro se litigants to deliver and/or file pleadings and other documents with the Court via fax filing, email filing, and by creating drop boxes at designated entries to Court Buildings. Those procedures are posted on Court Building doors, posted on the Court's website at www.16thcircuit.org and posted on the Court's Facebook page. Those procedures shall remain in place as alternatives to pro se litigants filing said documents personally at the courthouses. Municipal Courts should develop similar procedures for pro se litigants.

8. In all criminal cases where the defendant is in detention at the Jackson County Detention Center or otherwise in custody at any other detention center or at any other prison:

- A. Said defendant shall be personally transported to a courthouse or Court Building for any hearing where the defendant's personal appearance/presence is required by statute, rule or constitutional provision *and* said hearing is required to immediately proceed;
- B. Said defendant shall *not* be personally transported to or brought into the a courthouse or Court Building for any hearing other than those specifically identified in paragraph A above. All hearings and conferences other than those specifically identified above in paragraph A shall be conducted via teleconference or videoconference, including but not limited to initial appearance, arraignment hearings and pre-trial hearings/conferences.

9. Each Judicial Officer and his/her division staff shall be responsible for notifying all parties and counsel if his/her cases/dockets are being conducted by teleconference, videoconference or the manner in which hearings will be held. Each Judicial Officer and his/her division staff shall also be responsible for re-scheduling new hearing dates and notifying all parties and counsel of new hearing dates in the event cases cannot be heard as scheduled.

10. The Court has been conducting and will continue to conduct in person hearings on cases requesting orders of protection, *provided however that all said hearings continue to be subject to social distancing requirements, the requirement of wearing masks or other face coverings, limitations on the size of gatherings as set forth in the applicable Operational Directives and other limitations set forth in this Administrative Order.* In cases where a Respondent has not been properly served with Summons and process before the scheduled court date, the Court will contact the Petitioner and advise the Petitioner that his/her case will be continued and direct said Petitioner to not appear in Court at the upcoming court date. The Petitioner will also be advised that he/she must provide the Court with updated, valid information which will allow for the Respondent to be served with Summons and process.

Dockets shall be modified as necessary to comply with social distancing requirements and limitations on size of crowds to 10 persons or less. If hearings on full Orders of Protection are required to be continued because of any limitations imposed in Phase 1, any Ex Parte Orders of Protection currently in existence in said cases will be extended by operation of this Administrative Order until the full order of protection hearing can be scheduled and actually occurs. Any in person hearings on full orders of protection that were previously continued by prior Administrative Orders and have not yet been heard, will be re-scheduled by the Court and if possible, given priority regarding hearing dates.

Given potential delays resulting from prior suspension of hearings, all Ex Parte Orders of Protection currently in existence will be extended by operation of this Administrative Order until the full order of protection hearing can be scheduled and heard. If any Ex Parte Orders of Protection entered subsequent to this Administrative Order are not able to be heard within 14 days of the entry of the Ex Parte Order, the Ex Parte Order will be extended by operation of this Administrative Order until a full order of protection hearing can be scheduled and heard.

To the greatest extent possible, all hearings regarding the Order of Protection docket, other than actual trials, shall be conducted by remote technology, including teleconference and/or videoconference. Nothing in this Administrative Order bars or prevents holding hearings on full

orders of protection via teleconference or videoconference. Therefore, if all parties in a particular case are available to allow said hearing to be conducted via teleconference or videoconference, said hearing shall proceed in that manner.

11. When a defendant in a pending criminal case bonds out of the Jackson County Detention Center, he/she is given a date for his/her initial appearance. Any such date provided to a defendant shall be continued and the initial appearance will be held 30 days after the date provided at the time the defendant bonds out of the detention center.

12. While this Administrative Order remains in effect, judges presiding over a civil or domestic case or matter may exercise their discretion to waive, for good cause shown, any filing deadlines or time limitations set through Missouri's e-filing system or by court order, local rule, or Missouri Supreme Court Rules 41 through 81. This authorization does not apply to any deadline or time limitations set by statute or constitutional provision.

13. The Court Administrator/Deputy Court Administrator will continue to provide programming operated by Family Court Services, *provided however*, that said programming can proceed in compliance with the Operational Directives, social distancing requirements, limitations on sizes of gatherings, other terms of this Administrative Order and guidelines of the Centers for Disease Control and Prevention.

14. All Municipal Courts in Jackson County, Missouri are subject to this Administrative Order and are encouraged to take appropriate action consistent with this Administrative Order and Centers for Disease Control and Prevention guidelines. Many Municipal Courts in Jackson County, Missouri operate in facilities that are not specifically dedicated to court operations, but rather are shared with different government offices and facilities, many of which operate under different guidelines and protocols. Therefore, Municipal Courts shall have the discretion to modify their respective court operations consistent with this Order and considering the unique, specific circumstances presented and applicable to each such court.

15. The provision of Circuit Court Local Rule 68.3.1 which requires that *each* party be represented by separate counsel, shall remain temporarily suspended. Therefore, assuming all other requirements of Local Rule 68 are complied with, proposed Judgments may be submitted by Jointly signed Affidavit and entered by the Court when only one party is represented by counsel instead of the requirement that both parties be represented by counsel. All other terms of Local Rule 68 remain in effect.

16. All nonessential court related travel for staff and judicial officers shall continue to remain suspended.

17. All Court staff and all members of the public who appear at any Court Building or Municipal Court for hearings and/or to conduct any court-related business, shall comply with all screening requirements and/or other requirements to mitigate against the spread of COVID which are imposed at all Court Buildings and Municipal Courts, including but not limited to temperature checks and medical screenings in order to enter any Court Building, properly wearing masks or other face coverings as a condition to enter any Court Building or Municipal Court, properly wearing masks or other face coverings in all public areas in all Court Buildings and Municipal Courts and social distancing. Masks shall also be properly worn in all non-public work areas in


Court Buildings and Municipal Courts. Masks or other face coverings must at all times, completely cover the nose and mouth of the wearer. Face shields are not in compliance with the requirement of wearing face masks - if a face shield is worn, a mask must be properly worn under the face shield.

18. The Jackson County Sheriff's Department is responsible for security at Court Buildings. Entrance into any Court Buildings will be denied to any person who is not properly wearing a mask that completely covers that person's nose and mouth. Any person wearing a face shield will likewise be denied entry unless that person is also properly wearing a mask that completely covers that person's nose and mask. Additionally, any person who is seen in any Court Building not properly wearing a mask that completely covers that person's nose and mouth, shall be subject to removal from the Court Building.

THIS ORDER MAY BE AMENDED, RESCINDED, MODIFIED OR EXTENDED AS CIRCUMSTANCES REQUIRE.

IT IS SO ORDERED.

November 18, 2020
Date



David M. Byrn, Presiding Judge

Certificate of Service

This is to certify that a copy of the foregoing was emailed to the following on November 18, 2020.

Missouri Supreme Court
Frank White, County Executive
Darryl Forte, Jackson County Sheriff
Mary A. Marquez, Court Administrator
Ruth Petsch, District Public Defender
Bar Associations located within the 16th Judicial Circuit

16th Circuit Court Judiciary and Staff
Troy Schulte, County Administrator
Captain Robert Tuttle, Sheriff's Dept.
Jean Peters-Baker, Prosecutor
All Municipal Courts

Michelle Bryan

**16TH JUDICIAL CIRCUIT
STATE OF MISSOURI**

Notice to the Supreme Court of Missouri of Higher/Lower Operating Phase

I, David M. Byrn, Presiding Judge of the 16th Judicial Circuit Court, hereby notify the Supreme Court of Missouri that effective November 20, 2020, the 16th Circuit will be operating under the terms of the following Phases of the Supreme Court's Operational Directives, including the utilization of local solutions applicable to local conditions as set forth in this Court's Administrative Order 2020-201, effective November 20, 2020.

Kansas City Courthouse – Phase 1;


Eastern Jackson County Courthouse – Phase 1;

Family Justice Center – Phase 1;

Albert Riederer Community Justice Complex – Phase 1;

Municipal Courts within the Circuit – Phase 1.

Dated: November 18, 2020



David M. Byrn, Presiding Judge