

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

FILED IN THE GENERAL COURT OF JUSTICE
TWENTY-EIGHTH JUDICIAL DISTRICT

2021 MAY 13 4:10:21

ADMINISTRATIVE ORDER

BY: May 17, 2021 *AD*

Re: Buncombe County Courthouse Covid-19 Mask Requirements

This matter comes on before the Senior Resident Superior Court Judge and Chief District Court Judge of the 28th Judicial District, in exercise of their in-chambers jurisdiction, through the “inherent power the court [having] the authority to do all things that are reasonably necessary for the proper administration of justice” (Beard v. North Carolina State Bar, 320 N.C. 126, 129 (1987)) and pursuant to authority delegated by the Chief Justice of the North Carolina Supreme Court. (This document is hereinafter referred to as this “Local Order”).

On May 13, 2021 the U.S. Centers for Disease Control and Prevention issued new recommendations, noting that fully vaccinated people are less likely to transmit COVID-19.

Governor Cooper followed suit on May 14, 2021, issuing an Executive Order citing the improvements in the State’s key COVID-19 metrics and the progress in the State’s COVID-19 vaccinations. Noting the obstacles involved in distinguishing between vaccinated and unvaccinated North Carolinians, the Executive Order provides that the face covering requirement could be lifted in most settings, and the capacity restrictions and social distancing requirements could be lifted for all settings.

The face covering requirement remains in effect with respect to public transportation, childcare centers, camps, long term health care facilities, homeless service providers, and clients of homeless service providers.

Pursuant to the May 10, 2021 Order of the Chief Justice of the Supreme Court of North Carolina (“the Order”) (herewith attached), the Chief Justice directed adherence to Article I, Section 18 of the North Carolina Constitution providing that “[a]ll courts shall be open” and that “justice shall be administered without favor, denial, or delay.” The Order also required the Judicial Branch to fulfill this mandate in ways that prioritize and protect the health and safety of judicial officials and employees and the public.

The Chief Justice determined and declared under N.C.G.S. § 7A-39(b)(2) that catastrophic conditions resulting from the COVID-19 outbreak have existed and continue to exist in all counties of this state.

The Order recognized that “local courthouses are in the best position to address health and safety concerns” and emphasized that, “[g]iven the grave impact of further delaying justice, it is imperative that the Judicial Branch do its best to continue to move closer to fully opening courts.”

Pursuant to the Order, the Chief Justice extended Emergency Directives 2, 3, 5, 8, 11, 12, 14, 15, and 21 for an additional thirty days to ensure the continuing operation of essential judicial functions, and the same shall continue to be carried out by the undersigned. However, pursuant to the May 14, 2021 Modification of the Order (“the Modification”), Emergency Directive 21 (requiring face coverings in common areas of court facilities) is eliminated and “instead leaves that decision to the informed discretion of local court officials.”

Given the large and now increasing volume of business in Buncombe County court facilities and local information regarding COVID-19, the undersigned determine that Emergency Directive 21 shall be extended through June 12, 2021. Therefore, face coverings must be worn by anyone conducting business inside the courthouse unless directed otherwise by a court official. As we monitor the re-opening of the state by way of relaxed COVID-19 protocols, we will re-evaluate remaining safety measures for court facilities.

Buncombe County Courts have operated without a closure for more than one year during the COVID-19 pandemic, and jury trials resumed February 15, 2021. This has been possible because of open lines of communication between courthouse stakeholders and the public, sound guidance from local and state health professionals, and safety modifications to court facilities.

We believe some continued restraint is necessary for the safe operation of our courts and for the safety of court personnel and citizens doing business in the courts. This order will expire June 12, 2021 unless extended by the Senior Resident Superior Court Judge.

Pursuant to the provisions of the Order and Modification of the Chief Justice, it is **HEREBY ORDERED** that:

I.

The Emergency Directives extended pursuant to the Order of the Chief Justice (Emergency Directives 2, 3, 5, 8, 11, 12, 14 15, and 21) shall be extended through June 12, 2021 unless superseded by further order of the Chief Justice.

II.

All judicial officials should minimize large gatherings to the greatest extent possible. The judicial official with jurisdiction over an individual proceeding will determine compliance with this directive.

III.

District Courts will utilize AM, PM time slots as necessary. Calendar calls will occur in District Court for persons who are notified to appear.

IV.

In-person non-jury criminal Superior Court proceedings will continue to be addressed using time slots allocated to each individual case to avoid unnecessary congregation of individuals. Separate calendar calls will continue to be held for morning and afternoon sessions.

V.

Non-jury civil Superior Court proceedings will be scheduled by the Trial Court Administrator. Civil Superior Court calendar calls will not be conducted.

VI.

Non-jury Superior Court, District Court and Clerk of Superior Court proceedings may be conducted through remote audio and video transmissions in the discretion of the judicial official with jurisdiction over an individual proceeding and in compliance with Emergency Directive 3 of the Order of the Chief Justice. In accordance with Section 18 of Article I of the Constitution of North Carolina these proceedings are open to the public and arrangements can be made with the appropriate administrative personnel of the court/Clerk hearing the matter to access the remote proceeding.


VII.

All criminal and civil Superior Court jury trials will continue in-person in compliance with all other provisions of this Local Order and the Order of the Chief Justice. Existing spacing of jurors, witnesses, attorneys, judicial officers and court personnel as well as plexiglass barriers will continue as implemented pursuant to the 28th Judicial District Jury Trial Resumption Plan

VIII.

All District Court jury trials will be continued in the discretion of the presiding judge to a date no sooner than June 14, 2021.

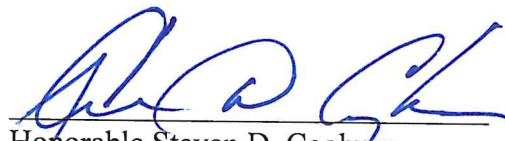
This Order becomes effective immediately, this 18th day May of 2021.



Honorable Alan Z. Thornburg
Senior Resident Superior Court Judge



Honorable J. Calvin Hill
Chief District Court Judge



Honorable Steven D. Cogburn
Clerk of Superior Court