

ADMINISTRATIVE ORDER 20-4

SUPERIOR COURTROOM PROCEEDINGS DURING THE COVID-19 HEALTH CRISIS

BEGINNING JUNE 1, 2020

NOW COMES the undersigned Senior Resident Superior Court Judge and enters this Administrative Order concerning Superior Court operations beginning June 1, 2020.

IT APPEARING TO THE COURT that the Chief Justice of the North Carolina Supreme Court has declared that catastrophic conditions resulting from the COVID-19 outbreak continue to exist in all North Carolina counties. Although the Superior Court will remain open for business, the normal operation of the court will change to contain Emergency Directives to reduce the spread of infection.

THIS ORDER IS ENTERED in accordance with the directives of the Chief Justice, which directives are incorporated herein by reference as if fully set out.

ALL PRIOR ADMINISTRATIVE ORDERS shall remain in full force and effect except as modified herein.

COURTROOM AND WAITING ROOM SEATING AND CAPACITY RESTRICTIONS

1. The following shall be the courtroom and meeting room seating restrictions for the respective counties in the 24th Judicial district:
 - a) Avery County courtroom seating shall be marked at intervals of 6 feet in all directions. Grand Jury and Jury room seating shall be marked at intervals of 6 feet in all directions.
 - b) Madison County courtroom seating shall be marked at intervals of 10 feet in the same row, 6 feet in all other directions. Grand jury and jury room seating shall be marked at intervals of 6 feet in all directions.
 - c) Mitchell County courtroom seating shall be marked at intervals of 6 feet in all directions. Grand jury and jury room seating shall be marked at intervals of 6 feet in all directions.
 - d) Watauga County courtroom, jury assembly room, jury room and other court authorized waiting area seating shall be marked at 6 feet intervals in all directions.
 - e) Yancey County courtroom seating shall be marked at intervals of 10 feet in the same row, 6 feet in all other directions. Grand jury room and jury room seating shall be marked at intervals of 6 feet in all directions.
2. The maximum occupancy for each courtroom shall be the total of all marked seats plus 10. The maximum occupancy for jury assembly rooms, grand jury rooms, jury rooms and/or court authorized waiting areas shall be the total of all marked seats in that room.
3. The established maximum occupancy shall be prominently posed at the entrance to each courtroom or court authorized waiting areas.
4. Court sessions shall recess for lunch from 12:30 until 2:00 to allow for the cleaning of the facilities and all high touch areas. Administrative Order 20-3 is incorporated herein by reference as if fully set out.

5. In addition to the required luncheon recess, the court shall conduct a morning and afternoon recess of enough length, but in any event no less than 20 minutes, to allow courtroom personnel to leave the confines of the courtroom in order to comply with public health guidelines relative to sitting or standing in a confined area for extended periods of time.
6. No session of superior court shall be scheduled or shall continue to proceed if doing so would result in members of the public sitting or standing in close proximity and/or for extended periods of time in contravention of current public health guidelines.
7. This administrative order and the procedures set forth herein shall remain in full force and effect until amended or revoked by the undersigned.

CRIMINAL COURTROOM PROCEEDINGS DURING THE COVID-19 HEALTH CRISIS

BEGINNING JUNE 1, 2020

The following procedures will be implemented for all in-person criminal court proceedings in Superior Court in the 24th Judicial District beginning June 1, 2020. These procedures shall remain in full force and effect until amended or revoked.

1. There shall not be any criminal jury trials through July 31, 2020 in the 24th judicial district. This restriction on jury trials shall continue thereafter until otherwise ordered by the Senior Resident Superior Court Judge. However, once jury trials are deemed to be able to resume safely the social distancing, sanitizing and personal protective equipment rules set out herein shall remain in full force and effect until amended or revoked.
2. Superior Court Judges should continue to make use of remote hearing technology to the greatest extent possible to limit in-person appearances.
3. The setting of cases for in-person disposition (pleas, probation hearings and essential motions) shall be scheduled at 40 minute intervals. If an attorney has multiple clients, the time period will be modified to allow the attorney enough time to complete his cases.
4. Although court will be open, and the public can attend, courtroom access shall be very limited. Entrance and exit of courtrooms shall be through designated doors only. Courtroom seating and capacity shall be designated and limited as provided above and will be strictly enforced. Defendants and witnesses shall be given priority in Courtroom and designated waiting area seating.
5. All individual entering the courtroom shall be required to sign an attendance sheet, or otherwise state their name for the record to allow for appropriate contact tracing in accordance with public health guidelines.
6. All attorneys, non-custody defendants, spectators and witnesses will enter and exit only through doorways so marked. They shall only enter when notified by the bailiff (the bailiff that is at the main courtroom entrance). Upon conclusion of the plea or hearing the non-custody defendant and his attorney shall sanitize and exit through the exit door only. The bailiff will not allow anyone into or out of the courtroom until the attorney and the defendant from the previous case have left the courtroom.
7. **All individuals, including attorneys**, entering the courtroom shall be required to sanitize before entering and exiting the courtroom and all individuals shall be required to wear a mask or facial covering, unless a verified health condition prevents the individual from wearing the same. Counsel for the defendant shall be responsible for notifying the client and any witnesses or

spectators for the defendant that they will be required to sanitize and wear a mask or facial covering while in the courtroom, jury assembly room or court authorized meeting room. It shall be the responsibility of the attorney to ensure that their client(s), any witnesses and any spectators associated with the client's case have the appropriate mask or face covering. The court will not be providing masks or facial coverings.

8. Attorneys shall be given time slots and shall not enter the courtroom until the scheduled time slot and when advised to enter the courtroom by a bailiff. Attorneys will be responsible for advising client(s), witnesses and any spectators associated with the case of the time period that the matter is scheduled to be heard.
9. All spectators and witnesses shall sit in designated seats only. Each defendant will use a pen provided by their attorney. The court will not provide pens to counsel or the defendant.
10. There shall be no more than 10 people in front of the bar in the courtroom at any one time. Those individuals are as follows:
 - a. Judge
 - b. Courtroom Clerk (one or two if they can seat 6 feet apart.)
 - c. Court Reporter
 - d. Assistant District Attorney
 - e. Defense Attorney
 - f. Defendant
 - g. Two (2) bailiffs. One to monitor the defendant and one to monitor the courtroom to ensure that all persons who enter the courtroom are wearing a mask or facial covering, sanitize and sit in designated seating.
 - h. A Probation Officer.
11. All other non-custody defendants and their attorneys shall wait in the court designated waiting area in the county (e.g. jury assembly room, grand jury room, jury room or other court designated place) or in their vehicles and shall remain six feet apart while in the rooms and shall switch out between cases. The number of non-custody defendants shall be scheduled for court in such numbers as to comply with occupancy requirements in the courtroom and the court approved waiting room.
12. The number of custody defendants will be scheduled to comply with transportation, holding cell occupancy requirements, and courtroom restrictions on seating and capacity. The number of defendants that can be transported at one time and the number that can occupy a holding shall be determined by the Sheriff. It shall be the responsibility of the Sheriff to ensure that such transportation and holding cell occupancy complies with public health guidelines.
13. Custody Defendant cases shall be given priority in dealing with the disposition of their cases. All custody defendants shall be required to wear face masks or face coverings while in the courtroom. It shall be the responsibility of the Sheriff to supply face masks or face coverings for these in custody defendants.
14. Only the scheduled attorney and their client will be allowed inside the bar. All others shall wait in the designated waiting area, their vehicle or in designated seating in the courtroom, if applicable.
15. No one will be allowed to approach the bench, the clerk or the court reported without prior permission from the court. No one will be able to approach the bar without prior permission from the court.

16. All documents (i.e. finalized negotiated plea transcripts, prior record level worksheets, motions, briefs and exhibits intended to be offered) shall be forwarded by email to the clerk and the presiding judge prior to the calling of the matter for disposition or hearing.
17. Social distancing of a minimum of 6 feet shall be strictly enforced at counsel tables.
18. The district attorney's staff will forward any plea offers to attorneys in advance of the court date. **The court date and time is not the time to negotiate nor is it the time to meet with the defendant to review the plea transcript or prepare for a hearing. All negotiations and hearing preparations must take place in advance of the court date.** Failure to do so will result in the loss of the time slot and the attorney will need to reschedule the matter with the District Attorney's office. However, if for some unforeseen reason, counsel must confer with opposing counsel or court personal, the court in its discretion may allow the same subject to 6 foot distancing.
19. Any testimony will be taken from the jury box rather than the witness chair. All oaths shall be by affirmation.
20. As there will not be any trials during the months of June and July. All criminal trials set for those terms shall be continued from term to term until jury trials resume.
21. There shall not be a calendar call at any Criminal or Criminal Administrative term of Superior Court until it is determined that they can be resumed safely.
22. At the conclusion of the plea or probation hearing, all original completed documents (and any exhibits offered and received into evidence) shall be placed in a file folder (labeled with the defendant's name) and deposited in a bin located in front of defense table.
23. At the conclusion of a probation hearing, the probation officer shall prepare the appropriate order and place it in a folder labeled with the defendant's name in a bin located in front of the State's table.
24. Those that handle documents must sanitize before handling documents and/or be gloved up.
25. **CRIMINAL BACK UP CALENDARS.** The scheduling of attorney times on criminal back up calendars for civil priority terms shall be coordinated with the Superior Court Trial Coordinator in conjunction with the Clerk of Superior Court and the presiding judge to avoid confusion and issues with social distancing requirements and staffing.

CIVIL COURTROOM PROCEEDINGS DURING THE COVID-19 HEALTH CRISIS

BEGINNING JUNE 1, 2020

The following procedures will be implemented for civil court proceedings in Superior Court for Watauga County beginning June 1, 2020. These procedures shall remain in full force and effect until amended or revoked.

1. There shall not be any civil jury trials through July 31, 2020 in the 24th judicial district. This restriction on jury trials shall continue thereafter until otherwise ordered by the Senior Resident Superior Court Judge. However, once jury trials are deemed to be able to resume safely the social distancing, sanitizing and personal protective equipment rules set out herein shall remain in full force and effect until amended or revoked.
2. Although the court may conduct in person hearings, Superior Court Judges should continue to make use of remote hearing technology to the greatest extent possible to limit in-person

appearances. Remote technology hearings may be done without the consent of the parties in accordance with the Chief Justice's directives and in accordance with Rule 6 of the General Rules of Practice.

3. The setting of cases for in person hearing shall be scheduled by the Trial Court Coordinator in consultation with the presiding judge. Hearings shall be scheduled at time intervals as so to maintain appropriate social distancing and comply with courtroom and waiting area occupancy restrictions.
4. Bench trials may be scheduled in the discretion of the presiding judge after providing appropriate notice and consultation with the Trial Court Coordinator.
5. Attorneys shall be given time slots and shall not enter the courtroom until the scheduled time slot and when advised to enter the courtroom by a bailiff. Attorneys will be responsible for advising client(s), witnesses and any spectators associated with the case of the time period that the matter is scheduled to be heard.
6. Although court will be open, and the public can attend, courtroom access shall be very limited. Entrance and exit of courtrooms shall be through designated doors only. Courtroom seating and capacity shall be designated and limited as provided above and will be strictly enforced. Courtroom seating priority seating will be given to parties and witnesses.
7. All individual entering the courtroom shall be required to sign an attendance sheet or otherwise state their name for the record to allow for appropriate contact tracing in accordance with public health guidelines.
8. All attorneys, parties, spectators and witnesses will enter through the main entrance only. They shall only enter when notified by the bailiff (the bailiff that is at the main entrance). Upon conclusion of the hearing, the attorneys, parties and witnesses, shall sanitize and exit through the exit door. All such individuals shall maintain 6 foot social distancing as they exit. The bailiff will not allow anyone into or out of the courtroom until all individuals associated with the previous case have left the courtroom.
9. **All individuals, including attorneys**, entering the courtroom shall be required to sanitize before entering and exiting the courtroom and all individuals shall be required to wear a mask or facial covering, unless a verified health condition prevents the individual from wearing the same. Counsel for each party shall be responsible for notifying the client(s) and any witnesses or spectators for the party that they will be required to sanitize and wear a mask or facial covering while in the courtroom and jury assembly room. It shall be the responsibility of the attorney to ensure that their client(s), any witnesses and any spectators associated with the client's case have the appropriate mask or face covering. The court will not be providing masks or facial coverings.
10. All parties will use pens provided by their attorney. The court will not provide pens to counsel or the parties.
11. The number of people inside the bar shall be limited to 10 people at any one time. Those individuals are as follows:
 - a. Judge
 - b. Courtroom Clerk (one or two if they can seat 6 feet apart.)
 - c. Court Reporter
 - d. Counsel for the Plaintiff(s)
 - e. Plaintiff(s)

- f. Counsel for the Defendant(s)
 - g. Defendant(s)
 - h. Two (2) bailiffs. One to monitor the defendant and one to monitor the courtroom to ensure that all individuals entering the courtroom sanitize, are wearing face masks or a face covering and are seated no less than 6 feet apart from everyone.
 - i. Trial Court Coordinator (if desired)
12. Social distancing of a minimum of 6 feet shall be strictly enforced at counsel tables.
 13. All other parties and their attorneys shall wait in the designated waiting area room or in their vehicles and shall remain six feet apart while in the designated waiting area and shall switch out between cases. The number of individuals in the designated waiting area shall comply with occupancy requirements
 14. Only the scheduled attorneys and their client(s) will be allowed inside the bar. All others shall wait in the designated waiting area, their vehicle or in designated seating in the courtroom, if applicable.
 15. No one will be allowed to approach the bench, the clerk or the court reported without prior permission from the court.
 16. All documents and exhibits (labeled in advance) shall be forwarded by email to the clerk and the presiding judge prior to the calling of the matter for hearing or trial.
 17. The court date and time is not the time to negotiate. All negotiations should take place in advance of the court date. However, if for some unforeseen reason, counsel must confer with opposing counsel or court personal, the court in its discretion may allow the same subject to 6 foot distancing.
 18. Any testimony will be taken from the jury box rather than the witness chair. All oaths shall be by affirmation.
 19. As there will not be any jury trials during the months of June and July, all civil jury trials set for those terms will be continued from term to term unless counsel for the parties submit a revised scheduling order ten (10) days prior to the scheduled trial date or 10 days prior to the next scheduled administrative session whichever occurs first.
 20. There shall not be a calendar call at any Civil or Civil Administrative term of Superior Court until it is determined that they can be resumed safely by the Senior Resident Superior Court Judge.
 21. At the conclusion of any hearing or bench trial, all exhibits offered and received into evidence shall be placed in a file folder (labeled with the case name) and deposited in a bin located in front of the bench.
 22. Those that handle documents must sanitize before handling documents and/or be gloved up.

This the 27th day of May, 2020.

S/ Gary M. Gavenus

Gary M. Gavenus

Senior Resident Superior Court Judge

24th Judicial District