



## Supreme Court State of Tennessee

CHIEF JUSTICE  
JEFFREY S. BIVINS

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NASHVILLE, TENNESSEE  
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### MEMORANDUM

TO: Judge Clayburn Peeples, presiding judge 28<sup>th</sup> judicial district

DATE: May 1, 2020

RE: 28th Judicial District Re-Opening Plan

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On April 28, 2020, the Tennessee Supreme Court received the 28th Judicial District Re-Opening Plan. Please make the following revisions:

- (1) The number of persons in any courtroom at any one time should not exceed 10, plus the judge, court personnel, and court security.
- (2) What procedures and health screening will be done for entrance to each courthouse or other building in which court is held.
- (3) The plan touches on procedures for law enforcement witnesses. Please provide details for how all witnesses will be handled.
- (4) Please provide more details regarding general cleaning of the buildings and courtrooms.
- (5) Please clarify that any modifications by individual judges would be only to impose additional restrictions, not loosen any restrictions.
- (6) Please clarify whether and how any municipal courts within the district will operate.

A review of other plans that have been approved and posted on the web page should be very helpful.

**PROPOSED TEMPORARY RULES FOR ALL COURTS IN THE**  
**28<sup>th</sup> JUDICIAL DISTRICT**

In keeping with the orders of the Tennessee Supreme Court of March 25, 2020 and April 24, 2020, suspending in-court proceedings in Tennessee courtrooms due to the state of emergency that exists in Tennessee, and in order to mitigate the risks associated with COVID-19, and specifically in regard to the order of April 24, 2020, that requested that the judges of each judicial district formulate a written plan to gradually begin to conduct in-person court proceedings, the following plan is proposed for conducting judicial business in the 28<sup>th</sup> Judicial District.

These guidelines shall be in effect until May 31, 2020 for all matters set for hearing in all courts in the 28<sup>th</sup> Judicial District of Tennessee, which includes Crockett, Gibson and Haywood Counties

In spite of the limited reopening of the courts proposed by this plan, all judges, litigants and their attorneys are urged to continue to use all means of electronic, telephonic, email and other out of court communications to conduct legal business to the fullest extent possible. That said, however, when the interests of justice require that in-court proceedings take place, the following procedures should be used:

**Essential Personnel**

*Essential personnel* shall be allowed inside the courtroom and to remain there for the duration of the time court remains in session, but all persons present shall maintain a distance of at least six (6) feet from all other persons while present in the courtroom.

The term, “*Essential personnel*” includes the judge, court clerks, bailiffs and any other law enforcement officers deemed by the judge to be necessary to secure the safety of the courtroom, necessary youth services employees and probation officers.

**Social Distancing in Waiting Areas**

All other persons shall remain in the waiting areas outside the courtroom, should there be any, and should the waiting areas contain adequate space, and are required to maintain a distance of at least six (6) feet from each other at all times. When seating is available, seats will be spaced appropriately and marked.

If waiting areas are full, insufficient or nonexistent, then in that event no other person shall be allowed to enter such waiting areas until space becomes available and then only by a court officer admitting them. If no adequate waiting area is available within the building housing the court, then in that event attorneys, litigants and witnesses must wait in the parking lot, in their vehicles, until called.

**Attorneys**

Only attorneys whose presence is required in the courtroom for a case that has been called by the judge shall be allowed in the courtroom at any given time.

### Law Enforcement Officers

With the exception of court-assigned deputies, only law enforcement officers whose presence is required in the courtroom for a case that has been called by the judge shall be allowed in the courtroom.

### Criminal and Juvenile Justice Cases

Criminal and juvenile court cases, to include delinquency cases and status offense cases (except truancy cases) shall be heard in the appropriate courtrooms in the following manner:

1. Cases will be set at staggered times on the designated court date by either the child's last name or the defendant's case docket number. All parents, guardians, attorneys and witnesses associated with a child's case shall report to the waiting area at that time, subject to the above set out conditions and restrictions.
2. As each case is disposed, all persons associated with that case shall leave the courtroom and the court building as soon as practicable. If a defendant in a criminal case or a child and/or his or her parent, guardian or attorney in a juvenile case is required to speak to a DCS case worker, counselor, law enforcement officer, probation officer or any other person, then those meetings shall be conducted outside the building, weather permitting. If inclement weather prevents such meetings, then the parties shall schedule a meeting date at a mutually agreeable location.

### Truancy Cases in Juvenile Court

All truancy cases that were pending at the time of the March, 2020, Suspension Order shall be reset to a date no sooner than a designated court date in August, 2020.

### Dependency and Neglect Cases in Juvenile Court

All cases in which a child is alleged dependent and neglected, with the exception of preliminary hearings for emergency removals, shall be set at a time designated by the clerk based on the last name of the child who is listed first on the style of the case.

Children who are in DCS custody, or in foster care under DCS' supervision are not required to attend permanency plan hearings during this Suspension Period unless they appear by electronic video; unless the permanency plan is contested; or, unless the child or his/her parents desire to be heard with regard to the proposed plan. All in person appearances are subject to the above guidelines.

### Child Support/Contempt Cases

The District Attorney's office, which oversees the prosecution of child support and contempt for non-payment of support, shall, in conjunction with the clerk, develop a plan for the staggering of cases

on designated dates set by the court at times which coincide with the surnames of the parties, conditioned upon the social distancing guidelines promulgated above being carried out.

#### Civil and Other Cases

All other cases over which any Court exercises jurisdiction shall be heard under the same social distancing guidelines and procedures as promulgated above, or hearings shall be conducted throughout electronic media which shall be coordinated by the judge.

#### Jury Trials and Grand Juries

Jury trials are suspended through July 3, 2020. Neither may new grand juries be convened during that time, however, cases may be brought before currently constituted grand juries, if the requirements of justice demand, subject to the provision that no person who has a health concern regarding such service shall be compelled to participate in any such proceedings. Such proceedings, should any occur, shall be held in courtrooms with all jurors assigned seating following strict social distancing protocol, and all witnesses shall testify from another location by video conference. All sanitary and safety procedures relating to other in-court proceedings will be strictly adhered to.

#### Personal Protective Equipment/Sanitizers

All courts shall encourage and permit, but not specifically order the wearing of such personal protective equipment as gloves or masks. Hand sanitizers, if available, shall be placed at various locations within all courtrooms and waiting areas.

#### Modification of Plan by Individual Judges

The courtrooms in the circuit being as diverse as they are, in terms of both jurisdiction and physical location and arrangement, the judge or chancellor presiding over any given courtroom may set additional restrictions and requirements, or modify these, as he or she deems necessary for the protection of both the rights of defendants and the safety of the public and court personnel.

In the event of a situation in which the above guidelines cannot be followed, then in that event the suspension of in-court proceedings outlined in the Tennessee Supreme Court's directives of March 25 and April 24, 2020, with regard to the continued suspension of in-court proceedings shall remain in place until May 31, 2020, and in any event do remain in place regarding all matters not covered by this plan.

These rules are subject to further modification by order of the Tennessee Supreme Court.

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DATE

