

**Guidelines for Criminal Jury Trials
In The Third Judicial Circuit
Due to COVID-19 Pandemic**

Criminal Felony Division Recommendations



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Guidelines for Criminal Jury Trials in the Third Circuit due to Covid-19 Pandemic

Jury trials are one of the bedrock principles of our justice system and serving as a juror is one of the highest duties of citizenship. The accused has the constitutional right to a trial by a jury of one's peers. That said, the presence of the coronavirus/COVID-19 pandemic in our community requires us all to be vigilant in instituting what procedures we can to limit the spread of the virus and keep everyone safe.

With this in mind, our objective is to allow an accused to exercise their constitutional right to a jury trial while balancing the safety of the clerks, court reporters, bailiffs, security officers, witnesses, attorneys, judges, as well as the citizens called to serve as jurors in these trials.

On May 20, 2020, the Illinois Supreme Court entered order number M.R. 30370. In this order, effective June 1, 2020, the Illinois Supreme Court modified earlier M.R. 30370 orders which in part addressed jury trials and the continuance thereof. The latest version of Order M.R. 30370 states in pertinent part as follows:

“The Chief Judges of each circuit may continue trials until further order of this Court. The continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in section 103.5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)) and section 5-601 of the Illinois Juvenile Court Act (705 ILCS 405/5-601 (West 2018)). Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of the Court. **This provision also applies when a trial is delayed when the court determines proper distancing and facilities limitations prevent the trial from proceeding safely. The judge in the case must find that such limitations necessitated the delay and shall make a record thereof.**” (Emphasis added.)

Following the social distancing guidelines established by public health officials, which include limiting the number of essential personnel in the building, the following procedures and recommendations have been formulated for the resumption of jury trials.

A. Health and Safety of all Participants is a Priority therefore:

1. An inspection of the facilities at the Criminal Justice Center (hereinafter referred to as the CJC), taking into account the current social distancing guidelines, reveals several limitations which will limit the number of jury trials that can be held in a week to one 12 person criminal felony jury trial.
2. Due to facility limitations, both courtrooms 214 and 314 will need to be used to accommodate the potential jurors. The limited size of the jury boxes in the courtrooms and jury deliberation rooms, do not allow strict compliance with the social distancing

guidelines recommended by the CDC and state and local public health officials. To comply with guidelines, jurors will need to sit in the gallery portion of the courtrooms during the jury trial. Jury deliberations will occur in either courtroom 214 or 314, whichever is not being used for the trial.

3. All surfaces in the jury assembly areas, courtrooms, public hallways and restrooms are to be cleaned and sanitized before any jurors arrive in the morning, during the day and at the end of the day.
4. The number of summoned jurors should allow for 40 to 50 potential jurors, unless exceptional circumstances apply.
5. Social distancing guidelines established by the CDC and state and local public health departments, are to be followed throughout the CJC.
6. Every potential juror entering the CJC will have their temperature taken to determine if anyone is exhibiting a fever in excess of public health guidelines. Every potential juror will complete a questionnaire or will be asked screening questions regarding whether they are exhibiting any coronavirus symptoms and whether or not they have come into contact with any person who tested positive for the coronavirus. Anyone who exhibits symptoms or who has come into contact with someone who tested positive within the last 14 days will be denied entry into the CJC.
7. All persons entering the CJC will wear face masks/coverings. No person will be allowed entry without a face mask/covering.
8. Mask/face coverings will be made available for any potential juror who did not bring their own.
9. Hand sanitizer will be made available to all persons at the CJC.
10. The gallery benches in the courtrooms will be marked to ensure social distancing.
11. Seat pads will be provided for jurors sitting on the benches.
12. The number of people on the elevators will be limited.
13. The number of potential jurors in the courtroom will be limited to 18 at a time during the jury selection process.

B. Commencement of Jury Trials

1. All potential criminal felony jury trials will have a pretrial hearing on Monday, Tuesday or Wednesday of the week **prior** to the jury trial commencing. The trial judge will inquire of the parties how long the trial will last and any special issues with the case.
2. Trial judges will inform the Chief Criminal Judge by Wednesday at 3:00 p.m. of any case they deemed ready for trial. The Chief Criminal Judge will evaluate the cases ruled ready for trial and will prepare a list ranking the cases set for trial.
3. Factors that will be considered when compiling the rankings of cases deemed ready for trial include, but are not limited to, the following:
 - a. The nature of the charge
 - b. The custodial status of the Defendant
 - c. If a speedy trial demand has been made by the Defendant

- d. If the speedy trial clock is running or has been tolled
 - e. The number of days remaining on the speedy trial clock calendar
 - f. Special considerations based upon witness issues (limited availability, travel plans, etc.)
 - g. Any requests made by the parties
4. The Chief Criminal Judge shall issue a written order on Thursday at 9:00 a.m. ranking the cases and scheduling the cases for trial to start on Monday at 1:00 p.m.
 5. The case ranked first will proceed to jury trial. If the case scheduled first is unable to go, the case ranked second will proceed. This same process will be utilized until a trial proceeds or until no ranked cases remain.
 6. Any cases that have been ruled ready for trial, but are unable to proceed to jury trial due to another case proceeding to jury trial, will be continued to another trial date. The Court will continue all other cases set for trial that day pursuant to Supreme Court of Illinois Order M.R. 30370 signed on May 20, 2020. The trial judge should make a record citing Illinois Supreme Court Order M.R. 30370. In addition, the trial judge must make a record stating that the delay in the trial is being necessitated by the facility limitations of the CJC caused by the COVID-19 pandemic, preventing the trial from proceeding safely within the social distancing guidelines established by public health officials.

c. Jury Selection and Voir Dire

1. Prior to jury selection beginning, if the parties wish to inquire of the potential jurors regarding COVID-19 beyond the questions already posed by the Court, the trial judge may require the parties to submit jury questions that they wish the Court to ask during the jury selection process. The trial judge will have discretion whether to ask the questions the parties have submitted.
2. In accordance with social distancing guidelines, Madison County Court Administrators have limited the number of persons who can be inside the CJC courtrooms, including courtroom staff. The Chief Judge has given the trial judges the discretion to increase the number of persons in the courtroom at any one time.
3. The attorney tables will remain facing toward the bench during jury selection as their questioning will be limited to potential jurors seated in the jury box.
4. Prior to the potential jurors arriving, the Circuit Clerk will have reviewed the potential jury list and created an 18 person jury seating chart for the courtroom. The first 4 potential jurors will be seated in the jury box, with social distancing guidelines in place. The remaining 14 potential jurors will be seated in the gallery benches according to the seating chart created by the circuit clerk. The remaining potential jurors will remain in a designated jury assembly area at the CJC.
5. The 18 potential jurors will have viewed the juror orientation video online. Therefore, the clerk will need to swear the jurors in prior to questioning.
6. The potential jurors will wear face mask/coverings while seated in the courtroom. When a potential juror is responding to questions from either the trial judge or the

parties, the potential juror will remove their mask. This will allow the judge, court reporter and parties to clearly hear the juror's responses to questions.

7. Jurors will be questioned in panels of four. The panel of four being questioned will be seated in the jury box.
8. The judge and the attorneys will proceed to ask individual questions of the potential jurors located in the jury box. If an attorney strikes a potential juror they will be replaced with a juror from the gallery. The struck juror will be allowed to leave the CJC and will be sent a certificate for their completed jury service. Once a panel of four jurors is accepted by all parties, unless opening statements are going to begin that day, the panel will be excused for the day. This process will continue until a jury of 12 plus alternates is selected. If a jury is not selected from the initial 18 potential jurors, the clerk shall bring the remaining 18 jurors into the courtroom and the judge shall repeat his earlier remarks and conduct the group questioning of these potential jurors.
9. Attorneys will be permitted to examine a potential juror for a reasonable period of time depending on the length of the court's examination, the complexity of the case and the nature of the charges. The scope and duration of the examination is within the discretion of the court.

D. Conducting the Jury Trial and Jury Deliberations

1. The attorney tables will be turned sideways, facing each other, on opposite sides of the courtroom during trial. This will give the attorneys the ability to view the judge, the witness and the jurors.
2. The trial judge will conduct sidebars in the courtroom. With jurors seated in the gallery the well area of the courtroom is large enough to allow social distancing between the parties while located at the bench. The trial judge and attorneys should wear a mask during sidebars.
3. Jurors should wear face mask/coverings during trial and sit in their designated spots, with social distancing guidelines being followed.
4. When a witness enters the courtroom, the witness will be required to wear a face mask/covering while walking to and from the witness stand.
5. Witnesses will sit in the witness box and must use the microphone during testimony.
6. Witnesses will remove their face mask/covering during their testimony so that the trial judge, the jurors, the court reporter and the parties can all clearly see the witness's face and hear what the witness is saying.
7. The witness box will be wiped down and disinfected after every witness.
8. During recess or breaks, jurors will go to a designated jury assembly area. The bathrooms on the same floor as the courtroom will be marked for use by jurors only.
9. Due to the social distancing guidelines currently in place, the current jury deliberation rooms are not suitable for jury deliberations. At the conclusion of the evidence and argument portion of the jury trial, jury deliberations will take place in either courtroom 214 or 314 depending on which courtroom was not used for trial.

10. These courtrooms have access to bathrooms which are private and would be for juror use only.
11. Bailiffs/judicial assistants will ensure that jury deliberations are private and confidential and will limit access into the courtroom. Two bailiffs/judicial assistants will be necessary to prevent access to the courtroom and ensure the confidential nature of the deliberations.

E. Public Trial

1. Criminal trials must be open to the public. With the jury seated in the gallery portion of the courtroom, the space for the public is limited. Remote feed access when available.
2. The court will establish a closed circuit television system, possibly using Zoom or a similar medium, to allow the public access to watch the jury trial as it is occurring. Those wishing to view the trial will be directed to a designated location where a large screen television or screen is set up to allow the public access to the trial. The clerk of the court will be responsible for stopping and starting the video and audio during recess or breaks.
3. **Absolutely no recording of the trial proceedings will be allowed unless the trial judge enters a written order pursuant to a motion for media coverage.**

F. Duties of the Court Administration

1. Court administration with the assistance of the Jury Commission will create a new jury orientation instructional video. The video will also discuss the precautions being taken in the Courthouse and the CJC to ensure the public safety in response to the COVID-19 pandemic. The video will be made available to view online, eliminating the need to have juror orientation at the courthouse.
2. Ensure the gallery benches are marked in a way to ensure social distancing.
3. Ensure the jury assembly area is marked in a way to ensure social distancing.
4. Ensure the surfaces in each courtroom and all public areas of the CJC are at a minimum cleaned and sanitized before court begins in the morning, during the day and at the conclusion of the day.
5. During the jury selection process, ensure that the courtroom benches and jury box are cleaned with the transition of jurors.
6. Ensure that each person entering the CJC will have their temperature taken to determine whether anyone is exhibiting a fever in excess of health guidelines and screen each person regarding contact with any person who has tested positive for the coronavirus. Any person who exhibits symptoms of the coronavirus or who has come into contact with someone who was positive for the coronavirus within the last 14 days will be denied entry into the CJC.
7. Ensure all person entering the CJC are wearing face mask/coverings. Not one is allowed to enter the CJC without a face mask/covering.

8. Ensure that face mask/coverings are available for potential jurors who did not bring their own.
9. Ensure that hand sanitizers are ample and available to all person at the CJC.
10. Court Administration will work with the Circuit Clerk to install the necessary equipment to allow the public to view the criminal trials in designated areas.
11. Provide seat cushions for the jurors seated in the gallery. Cushions will be cleaned after each trial.

G. Duties of the Jury Commissioner and Judicial Assistants/Bailiffs

1. The jury commission will send or make available online juror questionnaires to potential jurors.
2. The jury questionnaire will include questions about the coronavirus to assist in determining at risk individuals within the potential jury pool.
3. The jury commission will update their policies regarding the pre-qualification exemptions, excusals and deferrals criteria.
4. During the COVID-19 pandemic and during recovery from the pandemic, the jury commission will excuse or defer the service of any juror who is currently or recently infected (as defined by the CDC or local public health department) with the coronavirus, or has family members who are currently or recently infected (as defined by the CDC or local public health department) with the coronavirus. These potential jurors will be excused from this current jury service and deferred until the summer of 2021. These potential jurors, who are excused or deferred for this reason, will not be required to present a physician's note.
5. During the COVID-19 pandemic and during recovery from the pandemic, the jury commission, if requested by the potential juror, will excuse or defer the service of any juror who is determined to be at high risk (as defined by the CDC or local public health department) of contracting the coronavirus. These potential jurors will be excused from this current jury service and deferred until the summer of 2021. These potential jurors, who are excused or deferred for this reason, will not be required to present a physician's note.
6. During the COVID-19 pandemic and during recovery from the pandemic, the jury commission, if requested by the potential juror, will excuse or defer the service of any juror until the summer of 2021, of any potential juror who is a health care professional who is working with COVID-19 patients.
7. During the COVID-19 pandemic and during recovery from the pandemic, the jury commission, if requested by the potential juror, will excuse or defer the service of any juror until the summer of 2021, of any potential juror who expresses concern of doing their jury service at this time due to concerns of contracting the coronavirus.
8. From the remaining group of potential jurors, the jury commission will issue enough summonses to ensure that there are a minimum of 40 to 50 potential jurors.

9. Jurors will follow the call in instructions provided by the jury commission and will be told to report to the CJC at 1:00 p.m. on the Monday of trial unless the trial judge provides other instructions.

Attached to these guidelines is a proposed Order to be entered on cases found ready for jury trial but unable to proceed due to the space limitations as delineated herein; and a proposed jury questionnaire which includes COVID-19 inquires.

**IN THE CIRCUIT COURT
FOR THE THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS**

People of the State of Illinois)	
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VS.)	No.
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Defendant.)	
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ORDER

Both parties in this case have answered ready for trial. However, due to the facility limitations brought on by the social distancing requirements necessitated by the coronavirus pandemic, only one courtroom in the Criminal Justice Center is available for jury trials. Due to the social distancing requirements necessitated by the coronavirus pandemic, Madison County is only able to conduct one twelve-person criminal jury trial per week.

More than one case has reported ready for a criminal jury trial in the coming week, and the presiding judge of the criminal division has given priority to another case.

Pursuant to the Supreme Court’s Order M.R. 30370, dated May 20, 2020, which amended orders dated March 20, 2020 and April 3, 2020, the Illinois Supreme Court finds that continuances occasioned by that Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial.

This Court finds that proper social distancing and facilities limitations at the Criminal Justice Center, prevent this trial from safely proceeding as scheduled and necessitates a delay. The time resulting from this continuance shall be excluded from speedy trial computations contained in 725 ILCS 5/103-5 are tolled until further order of the Illinois Supreme Court. Consequently, the trial in this case must be continued to _____ at _____ a.m.

DATE

PRESIDING JUDGE

3RD JUDICIAL CIRCUIT JURY QUESTIONNAIRE

1. Name _____
 2. Place of residence _____
 3. How long have you lived in this County? _____
 4. Your age _____
 5. Are you currently (check one) _____ single; _____ divorced; _____ married;
_____ Widowed
 6. How many years of school have you completed? _____
 7. What is your current employment status and where are you employed (if applicable)?

 8. If you have children, please list their age, sex, and occupation if employed:

 9. Have you ever served on a jury before? If yes, please list the year or years in which you served and whether the case was civil or criminal:

YEAR	CIVIL OR CRIMINAL
_____	_____
_____	_____
_____	_____
- If you served on a criminal jury trial, was a verdict reached?
- YES
- NO

10. Do you have any pending litigation involving you or a family member? If yes, please indicate the County and explain:

11. Do you have any CLOSE relatives or friends who are lawyers, judges, or employed in the field of law enforcement? If yes, list the name(s), relationships(s) and occupation(s):

12. Have you or any close relatives ever been the victim of a crime? If yes, please explain:

13. Have you ever been convicted of a crime? If yes, please list the charges and convictions:

14. Have you or any close relatives or friends ever been charged with or accused of a crime? If yes, please explain the circumstances and the results:

15. Do you have any disabilities, physical, mental, or other problems which would make it difficult for you to sit as a juror?

Please answer the following questions as they relate to your scheduled jury service:

1. Are you currently experiencing any symptoms of COVID-19? (fever, persistent dry cough, shortness of breath, muscle aches and pains, sore throat, loss of smell, loss of taste):
 YES
 NO

2. Is any member of your family currently experiencing any symptoms of COVID-19?
 YES
 NO

3. Are you a person who is considered to be at high risk for severe illness from COVID-19? (1) 65 years and older; (2) living in a nursing home or long-term care facility; (3) have underlying medical conditions, particularly if not well controlled, including: chronic lung disease or moderate to severe asthma; serious heart conditions; immunocompromised conditions; severe obesity; diabetes; chronic kidney disease undergoing dialysis; liver disease.
 YES
 NO

4. Are you living with persons who are considered to be at high risk for severe illness from COVID-19?
 YES
 NO

5. Are you a health care professional who is currently working with COVID-19 patients?
 YES
 NO

PLEASE BRING THIS FILLED OUT QUESTIONNAIRE WITH YOU WHEN YOU REPORT TO JURY DUTY.