

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
VERMILION COUNTY, ILLINOIS**

**ADMINISTRATIVE ORDER NO. 2021-1  
PLAN FOR ADDRESSING THE BACKLOG OF JURY TRIALS  
CAUSED BY THE COVID-19 PANDEMIC**

The Circuit Court for Vermilion County in the Fifth Judicial Circuit of Illinois adopts the following Administrative Order adopting a plan addressing the backlog of jury trials in Vermilion County caused by the number of local 2019 Novel Coronavirus [COVID-19] pandemic cases:

**WHEREAS**, on March 17, 2020, the Illinois Supreme Court entered an Order - *In re: Illinois Courts Response to COVID-19 Emergency, MR. 30370*, directing all courts to establish and periodically update temporary procedures to minimize potential exposure to and the impact of the COVID-19 pandemic on judicial operations, while continuing to provide access to justice, and further directed that all non-essential matters and proceedings be continued or, if feasible, conducted remotely; and on March 20, 2020 entered an Order authorizing the continuance of all civil and criminal jury trials for sixty (60) days, and suspending speedy trial terms during said time period; and on April 7, 2020 entered an Order authorizing the continuance of all civil and criminal jury trials until further order of the Court, and suspending speedy trial terms in all criminal cases during said time period; and on May 20, 2020 entered an Order authorizing each Circuit to return to hearing court matters, whether in person or remotely, according to a schedule to be adopted for each County by the Chief Circuit Judge; and on that day also issued guidelines for resuming court operations; and said Order implicitly allows circuit courts to rescind, amend, or suspend terms and provisions of their reopening plans as dictated by local public health conditions, data, and recommendations;

**WHEREAS**, on March 9, 2020, the Governor of the State of Illinois declared a State of Emergency in response to COVID-19; and on March 20, 2020, the Governor issued Executive Order No. 8, ordering and directing all citizens of the State to remain at home or other place of residence unless performing an essential function; the terms and provisions of said Order were to be effective until April 7, 2020, unless otherwise extended by further order; since that date, the Governor has, each month, amended and extended the terms and provisions of said Executive Order and the State of Illinois has been in a state of emergency since the Governor's original declaration, necessitating temporary court-imposed restrictions to minimize the impact of COVID-19 on the court system, while continuing to provide access to justice;

**WHEREAS**, on March 20, 2020, the Chief Circuit Judge entered an Administrative Order continuing all civil and criminal jury trials within the 5<sup>th</sup> Judicial Circuit for sixty (60) days, and suspending speedy trial terms during said period; and on April 7, 2020, entered an Administrative Order continuing all civil and criminal jury trials within the 5<sup>th</sup> Judicial Circuit until further order

of the court, and suspending speedy trial terms during said period; and on May 28, 2020, the Chief Circuit Judge entered an Administrative Order authorizing the resumption of civil and criminal jury trials within Vermilion County as of July 6, 2020;

**WHEREAS**, the Presiding Circuit Judge for Vermilion County has been granted temporary emergency administrative authority to enter orders affecting the general operation of the Rita B. Garman Vermilion County Courthouse [the Courthouse] pursuant to authority granted by the Chief Circuit Judge under Supreme Court Rule 21(b);

**WHEREAS**, on March 17, 2020, pursuant to said authorities, the Presiding Judge of Vermilion County entered Administrative Order No. 2020-1, directing that measures be taken in response to the pandemic, intending to balance health and safety concerns with the need to continue to provide essential court services to the citizens of the County; and on March 25, 2020 the Presiding Judge entered Administrative Order No. 2020-5 amending Administrative Order No. 2020-1 by adopting superseding provisions; and on April 1, 2020 the Presiding Judge entered Administrative Order No. 2020-6 amending Administrative Order Nos. 2020-1 and 2020-5 by adopting superseding provisions; and on April 30, 2020 the Presiding Judge entered Administrative Order No. 2020-9 amending Administrative Order Nos. 2020-1, 2020-5, and 2020-6 by adopting superseding provisions. All of these measures restricted access to the Rita B. Garman Vermilion County Courthouse, incorporated the use of videoconferencing and teleconferencing to minimize personal contact, followed social distancing practices, and temporarily suspended non-essential court functions through May 29, 2020, all subject to discretionary exceptions authorized by the judge presiding over a specific case;

**WHEREAS**, the Supreme Court Order entered May 20, 2020, authorized the Chief Judges of each circuit to continue trials until further order of the Supreme Court, and any continuances occasioned by said Order are deemed to serve the ends of justice and outweigh the interests in a speedy trial of the public and defendants; and, therefore, such continuances are excluded from speedy trial computations contained in 725 ILCS 5/103-5, and statutory time restrictions in said section are tolled until further order; and such authority also applies when a trial is delayed where the court determines proper distancing and facilities limitations prevent a trial from proceeding safely and the judge in the case finds that such limitations necessitated the delay;

**WHEREAS**, on May 26, 2020, the Presiding Judge of Vermilion County entered Administrative Order 2020-12 pertaining to a measured and structured resumption of all court operations, which supplemented and superseded Administrative Order Nos. 2020-1 through 2020-11;

**WHEREAS**, on November 23, 2020, the Presiding Judge of Vermilion County, responding to a surge in CODID-19 cases in the County, entered Administrative Order 2020-17, which provided in relevant part:

Effective immediately, and until February 1, 2021, jury trials in all divisions may not proceed as scheduled in the Courthouse. Cases set for jury trial on any judge's calendar prior to February 1, 2021, shall remain on the judge's calendar, but may not proceed to jury trial on said date. Pursuant to Supreme Court Order *MR. 30370*, in any criminal trial affected by this Administrative Order, the period of delay shall not be attributable to either the State or the defendant for purposes of 725 ILCS 5/103-5.

**WHEREAS**, on December 31, 2021, the Chief Justice of the Illinois Supreme Court directed each circuit court to stay apprised of the issue of defendants awaiting criminal trials remaining in custody due to the diminishment and/or suspension of trials due to the COVID-19 pandemic and develop measures addressing the backlog of cases for such defendants awaiting trial;

**WHEREAS**, the COVID-19 pandemic remains prominent throughout Vermillion County and all of Illinois. Vermillion County continues to experience increases in the number of positive diagnoses, the positivity rate, as well as related hospitalizations and deaths;

**WHEREAS**, the Circuit Judges of Vermillion County, having considered local public health data and the recommendations of local health agencies, deem that public health conditions within the County, despite the recent surge, allow for a resumption of jury trials in the Courthouse if conducted in manners consistent with minimizing in-person contact and otherwise protecting the health and welfare of all Courthouse employees and patrons;

**WHEREAS**, the Circuit Judges of Vermillion County, having considered local public health data and conditions within the County and the recommendations of local health agencies, find that that the Courthouse has had, and continues to have, limited capacity to accommodate groups of prospective *petit* jurors who are summoned for jury duty on the same date while simultaneously maintaining compliance with all mandated social distancing measures that are a necessary part of the current functionality of the Courthouse, and that the Courthouse has only one courtroom currently available in which all mandated social distancing measures necessary for conducting a safe jury trial may be accommodated; and

**WHEREAS**, the Circuit Judges of Vermillion County, acting through the Presiding Judge, adopt the following plan addressing the backlog of cases for defendants awaiting criminal trials:

**NOW, THEREFORE, IT IS ORDERED:**

1. **Effective Date.** This Administrative Order is effective *instantly* and its precautionary measures shall remain in effect until amended or modified by further order of the court.

2. The provisions of Administrative Order Nos. 2020-1 through 2020-12 and 2020-17 are hereby supplemented, and to the extent inconsistent herewith superseded. In all other respects, the terms and provisions of said Administrative Orders remain in full force and effect.
3. **Jury Trials.** Commencing February 1, 2021, subject to the provisions of this Administrative Order, jury trials in all divisions may proceed as scheduled in the Courthouse. Cases set for jury trial on any judge's calendar subsequent to February 1, 2021, shall remain on the judge's calendar. All such trials shall proceed in accordance to the schedule of priorities set forth in this Administrative Order.

The findings and determination of the Circuit Judges of Vermilion County that proper distancing and facilities limitations within the Courthouse at this time prevent multiple jury trials from simultaneously proceeding safely within the Courthouse are applicable to all cases pending in Vermilion County and by virtue of this Administrative Order are incorporated into the record of each pending case.

In the event a judge finds that continuance of a jury trial is necessitated by the then existing local public health circumstances and conditions and/or that proper social distancing and facilities limitations within the Courthouse prevent a fair trial proceeding safely, the judge shall provide a full record of the reasons supporting said decision. Pursuant to Supreme Court Order *MR. 30370*, in any criminal trial affected by such a decision or this Administrative Order, any period of delay shall not be attributable to either the State or the defendant for purposes of 725 ILCS 5/103-5.

4. **Jury Service:** Civil and criminal jury trials may resume February 1, 2021 when the court in each case deems it to be safe and finds that the trial may be conducted safely. In making these determinations, the court shall consider and balance local public health data, the recommendations of local health agencies, and the rights of persons appearing in court to due process and a fair and open adjudicatory process. The Circuit Clerk is directed to summon a *petit* jury panel for said term. A Notice to Prospective Jurors regarding the COVID-19 pandemic, in a form substantially as that attached to Administrative Order 2020-12 as Exhibit D, shall accompany each summons.
5. **Core Safety Aspects of Plan.** The five (5) core safety aspects of this plan to resume jury trials are:
  - a. First, this plan contemplates the assignment of one additional judge to the felony division.
  - b. Second, at all times this plan contemplates maintenance of social distancing by all jury trial participants, including prospective jurors, selected jurors, witnesses, attorneys, defendants, clerks, security personnel, and judges.

- c. Third, this plan contemplates the wearing of face coverings by all trial participants at all times, except under limited circumstances allowed by the court, and only if all trial participants may maintain at least six (6) feet of separation from the person authorized to remove a face mask.
- d. Fourth, this plan contemplates that prospective jurors will be deferred from jury service if they or someone they live with, or someone they provide direct care to, is particularly vulnerable to the COVID-19 virus, or if the juror has had an exposure to the virus that requires deferral of jury service for the protection of others.
- e. Fifth, this plan contemplates substantial and frequent cleaning protocols to mitigate the spread of the virus on surfaces. This cleaning will take place before, during, and after each day of trial. High touch surfaces will be disinfected during trial recesses at intervals of no more than two hours.

**6. Priority of Jury Trials:** For purposes of addressing the backlog of cases awaiting trial, the court prioritizes its jury trials in the following order:

- a. felony cases involving in-custody defendants;
- b. cases that have statutory priority (for example, civil commitment trials);
- c. other cases that must be conducted within a specified time period absent good cause (for example, Sexually Violent Predator trials);
- d. misdemeanor cases involving in-custody defendants;
- e. felony cases involving out-of-custody defendants;
- f. civil cases; and
- g. misdemeanor cases involving out-of-custody defendants.

The court and attorneys shall at pre-trial hearings identify matters that are ready for trial. The court, on a case by case basis, in scheduling cases for trial, shall consider the parties' rights to a trial in light of the then relevant circumstances, and, whether the court may provide proper social distancing and facilities within the Courthouse to proceed safely, taking into consideration a number of factors, including but not limited to the following general factors:

- a. the extent to which a jury trial of the case may be conducted with safety for the health of all participants;
- b. the readiness of the case for trial, as determined by counsel;
- c. the gathering of a *venire* panel in courtrooms and jury assembly and deliberation rooms;
- d. the logistics of empaneling a jury;
- e. the daily movement of jurors in and out of the Courthouse;

- f. the number of witnesses, lawyers, and court personnel required to hold a trial;
- g. transporting defendants and witnesses to and from correctional facilities;
- h. the allowance of citizens, including family members of the parties and victim(s), to observe the trial;
- i. the potential of a juror, material witness or court personnel being unavailable for extended periods of time due to isolation or quarantining;
- j. the potential of exposing a large number of persons, namely citizen jurors, to the COVID-19 virus; and
- k. the impact and effect a jury trial would have upon other court operations and the court's ability to staff and hold other proceedings contemporaneously with a jury trial.

The court shall further consider and balance the following factors when scheduling criminal and civil cases for trial:

**Criminal Trials:**

- a. the age of the case;
- b. whether the defendant remains in custody pending trial;
- c. whether defense counsel has had access to an in-custody defendant to adequately prepare for trial;
- d. the complexity, number of parties and counsel, and expected length of the trial;
- e. whether the State and defendant will stipulate to a jury of less than twelve (12) or other measures that would lessen the length of the trial or the number of individuals in the courtroom during trial. Cases where parties stipulate to a jury of six (6) may receive priority setting;
- f. the consent, or lack thereof, of the defendant and defense counsel to proceed to trial, particularly with respect to legitimate concerns over health and safety or the likelihood of unfairness arising from special precautions involved in the court proceeding;
- g. the consent, or lack thereof, of victims to proceed to trial at this time, particularly with respect to legitimate concerns over health and safety or the likelihood of unfairness arising from special precautions involved in the court proceeding; and
- h. the extent, if any, that the State's case and victims will be prejudiced by further delay.

**Civil Trials:**

- a. the age of the case;
- b. whether alternative dispute resolution measures are available and/or have been attempted by the parties;

- c. whether the parties will stipulate to a jury of less than twelve (12) or other measures that would lessen the length of the trial or the number of individuals in the courtroom during trial. Cases where parties stipulate to a jury of six (6) may receive priority setting;
- d. the complexity, number of parties and counsel, and expected length of the trial; and
- e. the consent, or lack thereof, of the parties and counsel to proceed to trial, particularly with respect to legitimate concerns over health and safety or the likelihood of unfairness arising from special precautions involved in the court proceeding.

**7. Trial Procedures:** To the extent allowed by this Administrative Order, the judge presiding over a case may exercise his/her discretion in conducting jury trials consistent with health and safety protocols, including consideration for multiple breaks during the trial to disperse people, appropriate cautionary instructions with respect to obvious changes in courtroom environment and procedure in an effort to avoid prejudicial inferences by jurors (e.g. why jurors are seated outside of the jury box, plexiglass shields placed in the courtroom), minimizing the number and duration of sidebar conferences, and encouraging that trials, consistent with due process considerations, be kept as short as possible.

**8. Compilation of Data:** The court shall maintain current information on defendants awaiting trial, particularly those in custody, and shall compile data identifying the number of defendants in custody, the total days in custody, as well as other relevant information. That information shall be represented in an electronic spreadsheet, in substantially the form of which as attached hereto as Exhibit A. The court shall use this data for purposes of monitoring the efficacy the plan adopted by this Administrative Order.

**9. Additional Precautionary Measures:** The court, jury commission, and Circuit Clerk shall monitor local public health conditions, data, and recommendations and continue to implement social distancing and other precautionary measures based upon the recommendations of local health agencies to best protect the health and safety of prospective jurors, attorneys, litigants, Courthouse personnel, and patrons.

**10. Miscellaneous.**

- a. The court may issue further orders as necessary to address circumstances and conditions arising from the COVID-19 pandemic, including re-assessing the provisions of this Administrative Order to determine if additional measures are required to protect court personnel and the public, and/or whether public health conditions warrant the easing/enhancing of precautionary measures.

- b. It is further ordered that this Administrative Order be filed in the Office of the Circuit Clerk of Vermilion County and be made available to the public.
- c. The Clerk of the Circuit Court shall post this Administrative Order on her website.
- d. This Administrative Order shall be posted upon the County's website.

**Dated:** this 15<sup>th</sup> day of January, 2021



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Thomas M. O'Shaughnessy, Presiding Judge



**Exhibit A Intentionally Omitted Because it Contains Identifying Information**