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Chief Deputy Clerk

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

IN RE:

PLAN FOR PHASED APPROACH TO
RESUME COURT OPERATIONS DURING
COVID-19 PANDEMIC

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ADMINISTRATIVE ORDER
NO. 209-2

ORDER

The United States District Court for the Middle District of Tennessee has adopted the attached Plan for Phased Approach to Resume Court Operations During COVID-19 Pandemic. All court staff, including chambers, Clerk's Office, U.S. Probation and Pretrial Services, and volunteer interns must read the plan and comply with the Preventing the Spread of Coronavirus Agreement (see Attachment B).

FOR THE COURT



WAVERLY D. CRENSHAW, JR.
Chief United States District Judge

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

**PLAN FOR PHASED APPROACH TO RESUME
COURT OPERATIONS DURING COVID-19 PANDEMIC**

June 1, 2020

The United States District Court for the Middle District of Tennessee (the “Court”) adopts and implements the following guidelines and plan for returning to operations during the COVID-19 pandemic. The Court adopts a phased approach to facilitate resumption of operations.¹

I. Overview: Gating Criteria

- a. In deciding whether and when to begin or continue to the next phase of returning to operations, the Court will consider whether the following circumstances exist (“Gating Criteria”):
 - **Facility Exposure:** No COVID-19 confirmed or suspected cases in the Estes Kefauver Federal Building and Courthouse (the “court facility” or “Courthouse”) within a 14-day period **OR** confirmed or suspected cases have occurred but “deep cleaning” of exposed areas and applicable employee self-quarantine actions have been taken;
 - **Community Data:** Sustained downward trending average of cumulative daily COVID-19 case counts over a 14-day period. The Middle District will be guided by the “Roadmap for Reopening Nashville,” which tracks key metrics including transmission rate and 14-day new case trend as the gating criteria to resuming and maintaining court operations. <https://www.asafenashville.org/>.
 - **Community Action:** Rescission of restrictive-movement and/or shelter-in-place orders issued by governmental authorities with jurisdiction over areas within the 32-county region comprising the Middle District of Tennessee.

¹ These guidelines are based on the recommendations in the Updated Guidance Regarding Judiciary Response to COVID-19, published by the Administrative Office of the United States Courts on April 24, 2020.

- b. If conditions are satisfactory in light of the above circumstances and other applicable considerations described below, the Court will progress to the next Phase. If conditions significantly worsen or there is a resurgence of local COVID-19 cases, the Court will consider implementing a lower phase or other measures as necessary.

II. Guidelines for All Phases

- a. The following are encouraged for all employees who work within chambers, all employees of the Clerk's Office, U.S. Probation and Pretrial Office and all pro se clerk areas:
- Social distancing and personal protective equipment ("PPE");
 - Notification, isolation, and contact tracing procedures within the court facility;
 - Sanitation and disinfection of common and high-traffic areas;
 - Reasonable accommodation for employees (i.e., children's schools, camps or daycare closed, increased risk of exposure when using public transportation, caring for ill or vulnerable relatives in household, etc.);
 - Place highly visible signage on the 7th and 8th floors of the Courthouse to remind court staff and the public of guidelines issued by the Centers for Disease Control and Prevention ("CDC") related to COVID-19;
 - Courtrooms and elevators must be cleaned frequently.
- b. Employees will work with supervisors to stay home if the employee feels ill; self-monitor for indicative symptoms; and plan to return to work at the Courthouse after consulting with a medical provider if the employee has tested positive for COVID-19 in the past or the employee has or knows he or she has been exposed to COVID-19.
- c. The Court will implement procedures for workforce contact tracing. See Attachment A, which is incorporated herein.
- d. The Court will monitor the status of public infrastructure (i.e., transportation, medical, local businesses, restaurants, etc.) to determine whether adjustments in operational approach need to be made.

- e. The Chief Judge will notify the Sixth Circuit Executive when the Court moves into each phase of reopening.
- f. The Court will monitor state and local guidance, as well as complementary guidance from the CDC, particularly with respect to face coverings.
- g. Each Court Unit and chambers should keep a daily sign-in sheet or other check-in system. This is intended not to keep tabs on employees but rather to assist in contact tracing in case of COVID-19 exposure.
- h. Employees with preexisting conditions and employees over 65, must continue to shelter in place and telework based on CDC guidelines.
- i. Members of households with vulnerable residents should be aware that by returning to work or other environments where social distancing is not practical, they can carry the virus back home.
- j. All judges, employees and volunteers will comply with the Preventing the Spread of Coronavirus Agreement, (see Attachment B, incorporated herein) acknowledging, among other things, the requirement for social distancing, use of PPE and staying home following onset symptoms of COVID-19 or exposure to a person who has tested positive for COVID-19.
- k. As indicated above, employees must self-monitor for symptoms of COVID-19 and not report to the Courthouse if they show symptoms of COVID-19. More specifically:
 - Any employee who tests positive for COVID-19 must immediately contact his or her supervisor. The employee will be required to stay away from the Courthouse a minimum of 14 days, and perhaps longer depending on the situation. If possible, the employee may telework. Prior to returning to the Courthouse, the employee shall provide written verification from a physician that the employee is released to return.
 - Any employee who reports to the Courthouse with COVID-19 symptoms or develops COVID-19 symptoms during the workday, will be asked to leave the Courthouse and seek medical advice. The employee will be required to stay away from the Courthouse a minimum of 14 days and perhaps longer depending on the situation. If possible, the employee may

telework. Prior to returning to the Courthouse, the employee may provide written verification from a physician that the employee is released to return.

- Employees who have been in contact with anyone known to have tested positive for COVID-19 must not report to the Courthouse. Employees who have been exposed to COVID-19 must immediately contact their supervisor. The employee will be required to stay away from the Courthouse a minimum of 14 days and perhaps longer depending on the situation. If possible, the employee may telework.

1. The temperatures of employees of the Clerk's Office and Probation and Pretrial office who report to work will be checked daily. The court will purchase and install entry point Infrared Fever Scan Systems (IFSS) or make available hand-held scanning devices. Employees who fail the temperature check should be sent home and encouraged to seek medical advice. The Court may utilize other testing, such as a Pulse oximeter device, to which employees and volunteers must comply.

III. Phase One: Once the Court is satisfied that the Gating Criteria have been satisfied, the Court will begin Phase One, consisting of the following:

- a. The Court will continue implementation of the Guidelines for All Phases.
- b. The Court will continue to hold hearings, conferences and bench trials in the exercise of the discretion of individual judges, who may impose supplemental safety measures for their Courtroom and chambers. Such court proceedings may be conducted by telephone or video conference where practicable and consistent with law.
- c. Criminal matters shall continue as provided by Administrative Order 209 (Court Operations Under the Exigent Circumstance Created by COVID-19, March 23, 2020), as may be amended from time to time.
- d. All Court employees should continue to telework, especially vulnerable employees²

² "Vulnerable individuals" are defined as: (1) people 65 years or older; or (2) people of all ages with underlying medical conditions, particularly if not well controlled, including those who suffer from chronic lung disease, moderate to severe asthma, serious heart conditions, immune disorders, obesity, diabetes, or chronic liver or kidney disease.

- e. Supervisors will discuss reasonable accommodation options for those who rely solely on public transportation or have other concerns.
- f. Before coming to the court facility, each individual should continue to conduct a health self-assessment, to include taking his or her temperature. If an individual has a temperature greater than 100.4 degrees Fahrenheit or is exhibiting other symptoms of COVID-19 infection per CDC guidance,³ the individual should self-report to supervisors, stay home, and call his or her physician.
- g. While in the court facility, all individuals should continue to maximize physical distance from others. Six-foot distancing should be observed in all offices, meetings, and court proceedings.
- h. **Judges and Court Executive Units:** The Court will:
 - i. Continue to minimize on-site court proceedings by using video-and teleconferencing whenever available and lawful. Those who must conduct face-to-face meetings should limit gatherings to no more than 10 people, adhere to strict six-foot distancing and hygiene protocols (to include wearing of face coverings or masks).
 - ii. Reexamine and update court orders and notices as appropriate. The Court will consider critical grand and petit jury proceedings, including limited resumption of civil jury trials.
 - iii. Continue to coordinate with the General Services Administration (“GSA”) and the Facility Security Committee concerning screening, “deep cleaning” and increased cleaning options for all or part of the court facility, and limiting authorized areas within the facility for the gathering of 10 or more people.
 - iv. The U.S. Probation and Pretrial office may implement urine screen collection on a limited basis as the Chief of Probation and Pretrial may establish. Additionally, the Chief of Probation and Pretrial may implement modified in-person supervision contact, applying appropriate safety standards.

³ <https://www.cdc.gov/coronavirus/2019-ncov/index.html>

- i. **EXITING PHASE ONE** Before proceeding to Phase Two, the Court will review the Gating Criteria to ensure:
 - i. Readiness to progress to the next Phase;
 - ii. Consideration of the possible need to implement any warranted additional social distancing measures based upon resurgence of infections in the local area.
- IV. Phase Two:** Once the Court is satisfied that the Gating Criteria have been satisfied a second time, the Court will begin Phase Two, consisting of the following:
- a. The Court will continue implementation of the Guidelines for all Phases.
 - b. In addition to the above, the Court will:
 - i. Make operational preparations for a significant increase in proceedings, such as criminal jury trials, grand jury sessions, and other in-person criminal hearings, such as change of plea hearings and sentencings, all subject to the discretion of the presiding judge who may implement supplemental safety requirements. Further guidance on the issue of juries is being developed and will be provided separately.
 - ii. Continue to monitor and rely on local public health and CDC guidance to inform its policies and procedures.
 - iii. Increase on-site court proceedings and off-site visits to supervisees and clients, although videoconferencing and teleconferencing should still be used if available and lawful. Persons working in the court facility should continue to try to limit gatherings to the minimum size needed, and adhere to strict social distancing and hygiene protocols to include the use of face-coverings if six foot distancing cannot be maintained.
 - c. **BEFORE EXITING PHASE TWO** and proceeding to Phase Three, the Court will review the Gating Criteria to ensure:
 - i. Readiness to progress to the next Phase;
 - ii. Consideration of the need to instead maintain the current Phase; or
 - iii. Consideration of the need to instead return to a lower phase based upon resurgence of infections in the District

- V. Phase Three:** Once the Court is satisfied that the Gating Criteria have been satisfied a third time, the Court will begin Phase Three, consisting of the following:
- a. The Court will continue implementation of the Guidelines for all Phases.
 - b. In addition, the Court will:
 - i. Continue to make operational preparations for a significant increase in other proceedings, such as criminal jury trials sessions, grand jury, and other in-person criminal hearings, such as change of plea hearings and sentencings, all subject to the discretion of the presiding judge who may implement supplemental safety requirements. Further guidance on the issue of juries is being developed and will be provided separately.
 - ii. Continue to monitor and rely on local public health and CDC guidance to inform its policies and procedures.
 - iii. Increase on-site court proceedings and off-site visits to supervisees and clients, but video- and tele-conferencing should still be used, if available. Persons working in the court facility should continue to limit gatherings to the minimum size needed, adhere to strict social distancing and hygiene protocols to include the use of face-coverings if 6-ft distancing cannot be maintained.
 - iv. Vulnerable individuals will return to work, but should practice 6-foot physical distancing, minimizing exposure to social settings where distancing may not be practical. Employees should continue to observe precautionary measures when social distancing is not possible, such as wearing face coverings.
 - v. Everyone working in the court facility should consider minimizing time spent in crowded environments inside or outside the Courthouse.
 - c. **Judges and Court Executive Units.** The Court will:
 - i. Resume unrestricted staffing of worksites.
 - ii. Resume on-site public facing activities and site visits to supervisees and clients can be fully resumed.
 - iii. Continue to rely on local public health and CDC guidance to inform your local medical based decisions.

- iv. Continue to work with supervisors to consider reasonable accommodations for personnel who are vulnerable individuals or have other personal requirements.
- v. Coordinate with GSA and the Facility Security Committee concerning screening, “deep cleaning” and increased cleaning options for portions or the entire court facility, and limiting areas within the facility for the gathering of 10 or more people.
- d. **BEFORE EXITING PHASE THREE** and proceeding to Phase Four (Full Recovery) the Court will review the Gating Criteria to ensure:
 - i. Readiness to progress to the next Phase;
 - ii. Need to maintain the current Phase;
 - iii. Need to implement a lower phase based upon resurgence of infections in the local area

VI. Phase Four: If the Court determines that no evidence exists of a COVID-19 resurgence within the District and the Gating Criteria have been satisfied a fourth time, the Court will begin Phase Four, consisting of the following policies and guidelines:

- a. **Employees**
 - i. Vulnerable individuals shall resume all daily work/life activities with no need for additional precautionary measures.
 - ii. Normal activities and gatherings may resume.
- b. **Court Executive Units and Judges.** The Court will:
 - i. Resume unrestricted staffing of worksites.
 - ii. Resume full and unrestricted operations and activities.

ATTACHMENT A

Subject: Contact Tracing COVID-19
U.S. District Court Middle District of Tennessee

Once notified of an employee who has been exposed and subsequently tests positive for COVID-19, it is imperative to establish those persons who may have been exposed to the virus and recommend appropriate action to the Court Unit Executives and the Chief Judge. Contact tracing is an investigative protocol to establish those employees who have been exposed and recommend self-quarantine for asymptomatic persons and isolation for those who test positive for the virus. In the absence of specific guidance from local health professionals, the U.S. Courts Contact Tracing Template is based on the Centers for Disease Control and Prevention (CDC) tool and it will be used to reduce potential spread of the virus within the Court family and others in the community.

The following protocol will be initiated by the Contact Tracing Coordinator for Chamber Staff and those employees who work for the Court Clerk's Office and the U.S. Probation and Pretrial Services Office.

- Contact the employee and follow the U.S. Courts Contact Tracing Template, which requires an interview with the employee regarding locations visited and contacts she/he has had five days prior to the employee developing symptoms.
- Establish if the employee has been in contact with state and local health departments and interviewed by those local health authorities. If not, they will be referred.
- Notify GSA immediately of an employee who has been exposed or tests positive for the virus to ensure thorough cleaning of the workspace.
- Complete a contact tracing form for each employee who presents symptoms or tests positive for the virus.
- Recommend appropriate referrals for non-employees that may have been exposed outside the Court family, such as family and friends of the employee.
- Utilize the Decision Tool to determine the type of contacts the employee had and recommend self-quarantine for asymptomatic employees and isolation for symptomatic employees.
- Contact each of the quarantined or isolated employees daily to follow up with their condition.
- Maintain confidentiality in accordance with Health Insurance Portability and Accountability Act (HIPAA) and in consideration of the U.S. Department of Health and Human Services February 2020 Bulletin, which indicates that only a covered public health entity may disclose protected health information to family, relatives, or friends.
- Maintain confidentiality in accordance with HIPAA, when employees are contacted to inform of potential exposure. The following will be used, "You were in contact with a coworker who has tested positive for COVID-19."

ATTACHMENT A

- Allow asymptomatic employees to return to work 14 days after exposure and symptomatic employees to return after cleared by a medical professional.

ATTACHMENT B

PREVENTING SPREAD OF CORONAVIRUS AGREEMENT

I recognize that COVID-19 presents significant health and safety issues for myself and others. As an employee or volunteer for the Court, I agree to the following to help prevent the spread of COVID-19.

1. I will wear a mask, maintain proper social distancing, frequently use hand-sanitizer and gloves to avoid infecting others.
2. I will cooperate when requested to take my temperature and oxygen level so that the Court can determine if I present a risk to others.
3. I will self-monitor for COVID-19 symptoms each day before I arrive at the Courthouse. If I determine that I have or may have COVID-19 symptoms, I will notify my supervisor and I understand that I may need to self-quarantine for 14 days.
4. If I have COVID-19 symptoms or infection I agree NOT to return to the Courthouse until I have a written medical clearance to return to work that I will present to my supervisor.
5. I have read the plan of the United States District Court for the Middle District of Tennessee Court Operations During COVID-19 Pandemic and I agree to comply with all its provisions.
6. I understand that the United States District Court for the Middle District of Tennessee will rely on the above as a condition of my employment and/or volunteer service to the Court.

Signature

Printed Name

Date