

FILED

May 25, 2021

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM20-8001

**ORDER GOVERNING THE CONTINUING OPERATIONS OF THE
MINNESOTA JUDICIAL BRANCH**

O R D E R

The operations of the Minnesota Judicial Branch during the peacetime emergency declared by the Governor of the State of Minnesota on March 13, 2020, are currently governed by the order filed on March 22, 2021. That order, which remains in effect through June 13, 2021, authorized a gradual and limited expansion of in-person operations and proceedings. *Order Governing the Continuing Operations of the Minnesota Judicial Branch*, No. ADM20-8001, at 1–2 (Minn. filed Mar. 22, 2021). Face coverings have been required for persons entering court facilities and attending proceedings conducted in person at court facilities, *Order Requiring Face Coverings at Court Facilities*, No. ADM20-8001 (Minn. filed July 7, 2020). Exposure control measures that are consistent with public health guidance have been implemented at the facilities and locations at which judicial branch proceedings are held.

The Governor has modified or lifted restrictions on certain gatherings and activities, and as of May 14, 2021, face coverings are encouraged but no longer required for some persons and in some settings. *See* Emergency Exec. Order No. 21-21 (May 6, 2021); Emergency Exec. Order No. 21-23 (May 14, 2021). Consistent with these steps and with public health guidance, the Judicial Branch will continue a gradual expansion of in-person

operations and proceedings, as set out below. Unless otherwise indicated, the directions in this order are effective June 14, 2021, and will govern through September 6, 2021.

IT IS HEREBY ORDERED THAT:

A. Case Proceedings: district courts.

1. Judges and court staff shall continue to process cases, in all case types, regardless of whether the judge or employee works at the court facility or remotely. Unless a proceeding is authorized to be held in person in a courtroom as set out in paragraphs 2 through 7 of this order, the proceeding shall be held by remote technology that permits the parties and attorneys to appear without being in the courtroom or by review of the parties' submissions without oral argument. Interpreters shall appear remotely if the technology is available to do so, even if the parties and attorneys appear in person, unless the presiding judge determines that the circumstances of the case require in-person interpreting services and the interpreter's appearance will be consistent with the district's COVID-19 Preparedness Plan.

2. In-person criminal jury trials shall continue to be scheduled and held in any county unless the chief judge of the district determines that the trial cannot proceed due to local conditions. District courts that schedule and hold an in-person criminal jury trial must adhere to the guidelines and exposure measures in the Judicial Branch COVID-19 Preparedness Plan and the Jury Management Resource Team (JMRT) Recommendations for Jury Trials During COVID-19.

3. Grand juries shall be impaneled and in-person proceedings held.

4. In-person proceedings shall be scheduled and held in sentencing hearings in criminal cases in which there is a presumptive commitment to the Department of Corrections unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions.

5. In-person proceedings at which evidence will be presented on issues in dispute, court trials in major criminal case types, juvenile protection (including CHIPS and permanency), and juvenile delinquency case types, and settlement conferences in criminal cases, shall be scheduled and held unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions. Effective August 2, 2021, in-person proceedings shall be held in mandatory misdemeanor criminal court trials and contested hearings in that case type, unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions.

6. In-person civil jury trials may be held if the chief judge and the district administrator determine that holding that trial will not impact the scheduling of criminal jury trials in the district. Civil jury trials may proceed remotely if the presiding judge and the parties agree.

7. Effective as of the date of this order, proceedings in treatment court may be held in person if the chief judge of the district determines that an exception exists under the Treatment Court Hybrid Hearing Protocols Exception Process. Effective as of June 14, 2021, proceedings in treatment court may be held in person under the hybrid protocols established for such hearings if the chief judge of the district determines that doing so will

not interfere with the scheduling of in-person criminal jury trials and local conditions do not preclude an in-person proceeding.

8. Proceedings in the district court in criminal and civil cases, other than those proceedings subject to paragraphs 2, 3, 4, 5, 6, and 7 of this order, shall be conducted remotely unless the chief judge of the district in which the proceeding is to be held grants an exception for an in-person proceeding to be held.

9. Rules of procedure that prohibit holding court proceedings remotely or that constrain the use of remote technology to conduct court proceedings, specifically Minn. R. Crim. P. 1.05, Minn. Gen. R. Prac. 131, Minn. Gen. R. Prac. 309.02, Minn. Gen. R. Prac. 359.03, Minn. R. Juv. Prot. P. 11.03, Minn. R. Adopt. P. 12.03, Minn. Spec. R. Commit. P. 14, are suspended to the extent that those rules contradict the terms of this order.

10. All in-person proceedings must adhere to the guidelines and exposure measures in the Judicial Branch COVID-19 Preparedness Plan, including with respect to limits on the number of persons attending the hearing, face coverings, and, if applicable, the Jury Management Resource Team (JMRT) Recommendations for Jury Trials During COVID-19.

B. Case Proceedings: appellate courts.

11. Proceedings in appeals pending before the Minnesota Court of Appeals and the Minnesota Supreme Court shall continue as scheduled by those courts.

12. Civil commitment proceedings that are before the Commitment Appeal Panel established under Minn. Stat. § 253B.19, subd. 1 (2020), shall continue as scheduled by the panel. The panel is authorized to conduct any proceedings or hearings by remote

technology to the extent possible. If an examiner is appointed to prepare a report for a proceeding before the panel, the Clerk of the Appellate Courts will hold a pre-hearing scheduling conference within 10 days after the examiner's final report is filed. No hearing on the petition will be scheduled before the examiner's report is filed.

13. The Office of Lawyers Professional Responsibility and the Board of Law Examiners shall continue to conduct the business of those offices consistent with the sound discretion of the Directors of those offices and the rules that govern the work of and proceedings before those offices. The Directors of those offices are authorized to use remote technology or other distancing measures to the extent feasible and as needed to continue the operations of the office and for proceedings before the boards or panels of those offices that are held under the rules governing those proceedings. Referees appointed by this court to conduct public hearings under the Rules on Lawyers Professional Responsibility can hold a hearing in person if the hearing is conducted consistent with the Judicial Branch COVID-19 Preparedness Plan.

C. Court Facilities, Public Access, and Court Administration.

14. The courts remain open for business, with access to court facilities governed by the Minnesota Judicial Branch COVID-19 Preparedness Plan. For county-owned facilities, access is also subject to conditions county officials impose.

15. At least one public service counter in each county and the public service counter for the appellate courts must be accessible to court customers between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding court holidays). At the discretion of the chief judge and the district administrator for the district courts, and for the appellate

courts, the discretion of the clerk of appellate courts, and after consultation with the State Court Administrator, access to counter services may be provided remotely, by appointment, or in person. Self-help services and facilities shall continue to provide services by appointment, remotely, or by telephone.

16. The district and appellate courts shall continue to accept filings in all case types. Unless required by court rule to file through an electronic case filing system, parties shall use U.S. mail, or in the district court, fax, to submit filings; may use a drop box designated by court administration for in-person filings, if available; and if use is authorized by court administration, may submit filings by e-mail. The State Court Administrator is authorized to implement and publish procedures for the payment of fees that are required for documents filed other than through the electronic case filing system or by U.S. mail.

17. Access to the courtroom for in-person proceedings is limited to the parties in the case who are participating in the proceeding, attorneys who represent those parties, any necessary court staff, and other individuals designated by the presiding judge as necessary to the proceeding. All proceedings conducted using remote technology, by ITV, by telephone, or by other remote means are to be conducted in the same manner as an in-person proceeding and are governed by the applicable rules of procedure. All proceedings remain subject to the Judicial Branch's rules that limit or prohibit recordings of proceedings. Other than as provided by paragraph 18 of this order, no person attending a proceeding may record the proceeding or hearing. The only recording permitted is the official recording created by the court.

18. Representatives of the media are permitted to attend in-person proceedings held in courtrooms and to record those proceedings as permitted by court rules. Unless waived by the presiding judge or a representative of the Court Information Office, requests by media representatives to attend any proceeding, including proceedings held remotely and other than in Hennepin County District Court, must be coordinated through the Judicial Branch Court Information Office at least 24 hours before the scheduled time of the proceeding. Media requesting attendance at proceedings in Hennepin County must coordinate with the Hennepin County District Court Information Officer. No recording or broadcasting of any proceeding, whether held in person or remotely, is authorized other than as provided by court rules. It is the intention of this order that judges and court administration may limit the number of persons in attendance at proceedings, including the number of media representatives, in a manner that is consistent with the Judicial Branch COVID-19 Preparedness Plan.

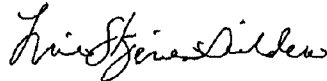
19. The State Court Administrator is authorized to implement temporary modifications to Judicial Branch policies and procedures that support the processing of cases pending in the district courts, including temporary adjustments to work assignments based on need and availability of Judicial Branch personnel. Judicial Branch employees shall work at the facility or remotely, as directed by the employee's supervisor. The Minnesota Judicial Branch COVID-19 Preparedness Plan governs judicial branch employees working at a court facility, including the Minnesota Judicial Center.

20. Access to the State Law Library shall be as established by the State Law Librarian in consultation with the State Court Administrator.

21. This order and the Minnesota Judicial Branch COVID-19 Preparedness Plan supersede the order of July 7, 2020, which required face coverings in court facilities. To the extent that the provisions of this order are inconsistent with any previous order governing the operations of the Judicial Branch, the provisions of this order control.

Dated: May 25, 2021

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Lorie S. Gildea".

Lorie S. Gildea
Chief Justice