

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
08/26/2021
Clerk of the
Appellate Courts

IN RE: COVID-19 PANDEMIC

No. ADM2020-00428

**ORDER ENCOURAGING FACIAL COVERINGS AND ALTERNATIVE
METHODS OF CONDUCTING BUSINESS**

On March 13, 2020, in response to the COVID-19 pandemic, the Chief Justice of the Tennessee Supreme Court declared a state of emergency for the Judicial Branch of Tennessee government and activated a Continuity of Operations Plan for the courts of Tennessee. See Tenn. Const. Art. VI, § 1; Tenn. Code Ann. §§ 16-3-501 to 16-3-504 (2009); Moore-Pennoyer v. State, 515 S.W.3d 271, 276-77 (Tenn. 2017); Tenn. Sup. Ct. R. 49. This state of emergency constitutes a “disaster” for purposes of Tenn. Sup. Ct. R. 49 and Tenn. Code Ann. § 28-1-116. The Court suspended in-person court proceedings and extended deadlines. On July 9, 2020, the Court ordered the mandatory use of facial coverings.

The Court lifted the suspension of in-person court proceedings in termination of parental rights cases effective March 1, 2021, and in all other in-person court proceedings effective March 15, 2021. The suspension of all jury trials was lifted on March 31, 2021. The Court continued to grant discretion to all judicial districts to conduct in-person court proceedings in accordance with the Court’s prior orders and the approved comprehensive written plans for each judicial district.

On May 14, 2021, in light of the decline in COVID-19 cases, hospitalizations, and deaths, the Court reduced the courtroom social distance requirements, lifted the courtroom capacity requirements, and lifted the requirement of facial coverings in courthouses and courtrooms. The Court, however, strongly encouraged the continued use of facial coverings in accordance with CDC guidelines and the use of methods other than in-person court proceedings to conduct business.

With hospitalizations rising as COVID-19 variants continue to increase positive case rates and burden the health care system, see Executive Order 83, the Court adopts the following provisions:

1) The Court reemphasizes that judicial districts and individual judges retain the authority to require facial coverings. The Court strongly encourages each judicial district to consider implementing facial covering requirements as recommended by current CDC guidelines. Even if the judicial district or any individual judges choose not to adopt a general requirement for facial coverings, judges retain the authority to require the use of facial coverings in specific cases, particularly cases involving persons in the courtroom who are at an elevated risk from COVID-19. Any person desiring to wear a facial covering shall be allowed to do so.

2) Judges shall not require or allow any individual who has tested positive for COVID-19 to appear or be present in court. Individuals who have come into close contact with someone who has COVID-19, persons with COVID-19 symptoms, or those who have tested positive for COVID-19 must follow the CDC's guidance to quarantine and isolate and not come into court. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-aresick/quarantine.html>.

3) The Court further reiterates that courts that have been conducting business by means other than in-person court proceedings should continue to do so. Courts that are not utilizing technology available to them to conduct business by means other than in-person court proceedings should implement the use of telephone, teleconferencing, email, video conferencing or other means that do not involve in-person contact. All of these methods should be the preferred option over in-person court proceedings to competently, promptly, and diligently perform judicial and administrative duties.

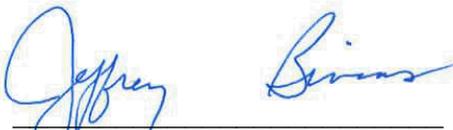
This order applies statewide to all courts and court clerks' offices except administrative courts within the Executive Branch and federal courts and federal court clerks' offices located in Tennessee.

The provisions of all other orders not affected by this order remain in effect.

Unless otherwise noted herein, the provisions of this order shall remain in place until further order of this Court.

It is so ORDERED.

FOR THE COURT:



Jeffrey S. Bivins, Chief Justice

Cornelia A. Clark

Cornelia A. Clark, Justice

(Concurring in part/ Dissenting in Part)

Sharon G. Lee, Justice

Holly Kirby

Holly Kirby, Justice

Roger A. Page

Roger A. Page, Justice