

STATE OF MICHIGAN OAKLAND COUNTY PROBATE COURT	ESTABLISH PARAMETERS FOR CONDUCTING IN- PERSON JURY PROCEEDINGS DURING THE COVID-19 PANDEMIC	ADMINISTRATIVE ORDER 2021-01
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This Administrative Order is issued in accordance with Michigan Supreme Court Administrative Order 2020-19, effective June 26, 2020. The purpose of this order is to establish parameters for conducting in-person jury proceedings during a pandemic.

The Probate Court shall comply with the following provisions.

- A. The Probate Court will consult regularly with the Oakland County Health Division to determine whether conducting each jury proceeding will create an excessive public health risk, by addressing the following metrics:
1. The 7-day average of daily percent positive test results for the county, must be 10 percent or less.
 2. The 7-day average of number of cases per day, per million people in the county must be 70 cases per million or less. If a county has a daily 7-day average of fewer than 20 cases, the criteria of 70 cases per million or less may not apply, depending on county population.
 3. In addition to considering the number of cases per million and the percent positive test results, the Probate Court's decision about whether to proceed with a jury trial must consider the following:
 - The percentage of cases in Oakland County that are associated with localized outbreaks, such as nursing homes;
 - The number of deaths among Oakland County residents;
 - The proportion of emergency department visits for coronavirus-like symptoms for the Michigan Economic Recovery Council region;
 - The COVID hospitalization rates for the Michigan Economic Recovery Council region; and
 - Whether there have been known COVID-19 cases associated within the court facility during the past 14 days, and if the building has evidence of ongoing transmission.
- B. A jury trial may not commence if a determination is made that such a trial would create an excessive public health risk. Excessive risk is risk of disease transmission that cannot be reasonably mitigated through implementation of the safety precautions provided here or otherwise recommended by the local public health department.
- C. The Probate Court will maximize the use of remote participation as much as possible for all other court proceedings within the courthouse on the days of jury proceedings.

D. On days when jury proceedings are being conducted, to the extent possible, collect the names and contact information of anyone coming into the building. Assure the individual that the collected information will only be used for contact tracing, if necessary.

E. Adhere to the following checklist regarding risk mitigation measures.

Section 1. Stakeholders

The Probate Court will consult with the following stakeholders for planning and preparation prior to commencing each scheduled trial:

- Oakland County Health Division
- Attorneys
- Oakland County Sheriff's Office
- Facilities Department
- Information Technology Department
- Courtroom Personnel
- Other offices that will be impacted by jury traffic

Section 2. Physical Location

The Probate Court has reviewed and determined the following physical specifications for on-site or off-site jury trial locations:

- For all jury trial activities, including selection, trial, and deliberations, the Probate Court requires six-foot social distancing and face coverings consistent with the Return to Full Capacity Guidelines.
- Security needs have been met.
- If an off-site location is used, the Probate Court will post notice of the location for the public but will not need to complete a separate LAO for places of holding court.
- The trial will be recorded according to SCAO standards.
- The Probate Court will adhere to ADA compliance.
- The layout of the room allows for jurors to see witnesses, jurors to hear the proceedings, parties/attorneys to interact easily with jurors, and the judge to see all participants.

Section 3. Summoning Jurors

- Panel selection will remain consistent with MCR 2.510, 2.511 and 6.412.
- Communication addressing safety concerns, selection, and trial location will be provided to all prospective jurors.
- Courts will consider and grant any requests for excusals or deferrals because a juror or person residing with them may be considered high-risk for COVID-19.

Section 4. Jury Selection

- Jurors will be screened for COVID-19 symptoms in accordance with protocols established in the Probate Court's return to full capacity phased plan. A juror that cannot pass the screening will not be allowed to enter the facility.
- Any jury selection held at the courthouse will be done in a room that can accommodate the number of potential jurors summoned for jury duty, either in bulk or by staggered reporting, with proper social distancing.
- Any jury selection held remotely via Zoom will be consented to by all the parties if required.¹ Additionally, all parties and potential jurors must be provided instructions for how to access the remote jury selection.

Section 5. Jury Trial

The Probate Court has established these processes for the following trial aspects:

- a) Bench Conferences – These events will be held in the courtroom in which the trial is being held. If necessary, jurors will be moved to the nearest available courtroom which will allow the attorneys to communicate with the court outside the jurors' presence. To the extent possible, masks will be worn, and social distancing will be observed.
- b) Processing and handling exhibits – electronic images of documentary and video evidence will be broadcast, to the extent possible, to minimize the handling and exchange of documents. Parties and attorneys will be encouraged to minimize the exchange of exhibits using digital and remote technology. If exhibits must be handled and shared by trial participants, the court will offer the use of gloves and hand sanitizer or sanitizing wipes. Social distancing protocols will be enforced to the extent possible.
- c) Motions in Limine – Motions will be heard in the courtroom in which the trial is being held. Each trial courtroom will have a dedicated nearest available courtroom that will serve as the jury deliberation room. Jurors will be moved to the nearest available courtroom so that motions may be heard by the court in the trial courtroom and outside the presence of the jurors. The recording equipment will be turned off in the nearest available courtroom wherein jury deliberations will take place.
- d) Jurors who do not pass health screening or who become ill – Seated jurors who fail to pass the health screening will not be permitted entry into the courthouse. The court will be informed and will notify the parties on the record.

Seated jurors who become ill during the trial will be directed to leave the courthouse. Court staff will escort the juror out of the courthouse to avoid unnecessary contact with others.

In both instances, the court will consult with the Oakland County Health Division and seek further guidance as applicable. The court, at its discretion as circumstances warrant, may

¹ See Remote Jury Trial Discussion Guide for considerations.

proceed with the trial so long as an alternate juror(s) was seated, adjourn the trial, or declare a mistrial.

- e) Juror breaks and lunch – Each trial courtroom will have a dedicated, nearest available courtroom for jury deliberations and juror breaks. Bottled water will be provided to the jurors for their convenience. Jurors will be directed to remain on campus during lunch breaks to avoid unnecessary contact with others. The Courthouse Cafeteria will be open and available for juror use. Social distancing will be observed in the cafeteria and masks will be required except when jurors are seated and eating.

Section 6. Jury Deliberations

Jury deliberations will be held in the nearest available courtroom to the one in which the trial proceedings were held. Recording equipment in the courtroom will be turned off during deliberations.

Section 7. Public Access

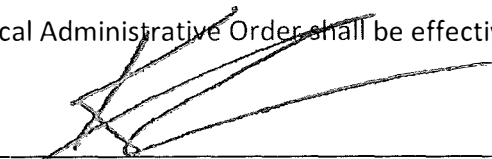
The public will be permitted to view jury trials at a location(s) within the courthouse as designated by the court. The maximum capacity of locations in which public viewing of jury trials is permitted will be strictly observed, as will social distancing and the requirement that all observers wear face coverings.

The public will be permitted to view jury trials by Zoom or other video conferencing alternatives as authorized by the court.

The court may authorize public viewing of jury trials by other means as authorized by the State Court Administrative Office and in compliance with all applicable rules as specified in MCR8.115 and MSC Administrative Order 1989-1.

The Probate Court will keep a record of all jury proceedings, including the case number and date, to submit to SCAO as requested.

This Local Administrative Order shall be effective on October 20, 2020.



Kathleen A. Ryan
Chief Probate Judge

Date

53/02/2021

NOTE: This Local Administrative Order was approved by the Probate bench on October 20, 2020. This Order was issued, in accord with requirements set forth by the State Court Administrative Office, so that jury proceedings may commence in the Oakland County Probate Court during the COVID-19 pandemic.