

***IN THE SUPREME COURT, STATE OF WYOMING***

*April Term, A.D. 2021*

*In the Matter of the* )  
*Wyoming Supreme Court’s Temporary Plan* )  
*Regarding COVID-19 Pandemic* )

**NINTH ORDER AMENDING MARCH 18, 2020 TEMPORARY PLAN TO ADDRESS HEALTH RISKS POSED BY THE COVID-19 PANDEMIC**

**This matter** came before the Court upon consultation with the District Court and Circuit Court conferences. On March 18, 2020, in light of the nationwide pandemic, the Supreme Court entered its initial “Order Adopting Temporary Plan to Address Health Risks Posed by the Covid-19 Pandemic.” That order implemented measures to protect the health and safety of court employees, elected officials, and the general public. Since then, in response to changing conditions and improving technology, this Court has entered eight orders amending the March 18, 2020 Order, which can be found at <https://www.courts.state.wy.us/coronavirus-covid-19-updates/>. Recent declines in Wyoming Covid-19 cases and hospitalizations suggest that in some districts, jury trials and in-person proceedings may be possible. To eliminate the need for reference to prior orders, this order represents the entire current Temporary Plan. The Court hereby **ORDERS**:

1. No jury trials should be conducted, unless:
  - a. A jury trial operating plan which generally conforms with the District Court Covid-19 Reopening Committee’s Report and Guidance for Trial Courts dated July 22, 2020, has been adopted by the relevant judges, submitted to the county health officer without objection, and submitted to the Wyoming Supreme Court; and
  - b. The presiding judge in his or her discretion has determined that the conditions of the courthouse, the projected length of the trial, and the current health of that community permit the safe conduct of the jury trial.
  - c. Clerks of court and court personnel shall maintain the confidentiality of juror health information provided to the courts and limit access to that information to the presiding judge or other persons authorized to make decisions necessary to maintain the health of jurors, court personnel, and the public.
  
2. In-person proceedings in all Circuit and District Courts and the Supreme Court in Wyoming may proceed pursuant to a COVID-19 Operating Plan adopted by the judges of the relevant courthouse and submitted to the Wyoming Supreme Court in accordance with the Court Covid-19 Reopening Guidelines for Court Employees and Public Proceedings. [http://www.courts.state.wy.us/wp-content/uploads/2020/05/Guide\\_lines.Consolidated-W-Resource-Page-Final-05.15.2020.pdf](http://www.courts.state.wy.us/wp-content/uploads/2020/05/Guide_lines.Consolidated-W-Resource-Page-Final-05.15.2020.pdf)

3. Judges are encouraged to use telephonic or video technology for all other statutorily and/or constitutionally required hearings, including arraignments and Title 25 hearings.
  - a. Felony sentencings W.R.Cr.P. 43.1(b)(4), and evidentiary felony revocation hearings W.R.Cr.P. 43.1(b)(5) may be conducted via video conferencing, with the defendant's consent in writing or on the record.
  - b. Misdemeanor bench trials may be conducted via video conferencing pursuant to the terms of W.R.Cr.P. 43.1(a), (c) and (d), with the defendant's consent in writing or on the record.
  - c. Where W.R.Cr.P. 43.1 or this order permit a criminal proceeding to be conducted by video conferencing, the proceeding may be conducted by audio only, where the available technology is such that only audio is available. Such audio proceedings may be conducted at the discretion of the presiding judge and consistent with due process.
4. Good cause exists due to the current health emergency to continue any proceeding.
5. Civil trials, hearings, and motions may be conducted in accordance with a COVID-19 Operating Plan adopted by the judges of the relevant courthouse and submitted to the Wyoming Supreme Court in accordance with the Court Covid-19 Reopening Guidelines for Court Employees and Public Proceedings. <http://www.courts.state.wy.us/wp-content/uploads/2020/05/Guidelines.Consolidated-W-Resource-Page-Final-05.15.2020.pdf>
6. In those instances in which an in-person proceeding is held, courtroom attendance should occur pursuant to a COVID-19 Operating Plan adopted by the judges of the relevant courthouse and submitted to the Wyoming Supreme Court in accordance with the Court Covid-19 Reopening Guidelines for Court Employees and Public Proceedings. <http://www.courts.state.wy.us/wp-content/uploads/2020/05/Guidelines.Consolidated-W-Resource-Page-Final-05.15.2020.pdf>
7. Any in-person proceeding involving a participant who is ill or in a high-risk category as defined in paragraph 12 of this order should be rescheduled. In-custody defendants who are symptomatic of coronavirus should not be transported to court facilities.
8. When evaluating whether the due administration of justice requires any statutory or constitutional proceeding to occur within a certain time frame, courts should consider whether conducting the proceedings will require the parties, their attorneys, essential court personnel, or members of the public to act in a manner inconsistent with current recommendations from local, State, and Federal public health officials.
9. Unless public safety compels otherwise, judges should issue summonses instead of bench warrants.

10. Clerks of court are urged to consider using drop boxes for conventionally filed documents if possible.
11. Signage should be posted at all public entry points advising individuals not to enter courtrooms or clerks' offices if they have:
  - a. Been asked to self-quarantine by any doctor, hospital, or health agency;
  - b. Been diagnosed with or have had contact with anyone who has been diagnosed with COVID-19; or
  - c. A fever, cough or shortness of breath.
12. Individuals attempting to enter restricted areas in violation of this order should be denied entrance by courthouse security officers or other authorized individuals.
13. Court employees should discourage all persons from congregating outside courtroom doors and should encourage social distancing inside the courtroom or in other court areas.
14. Individuals with legitimate court business who are ill, caring for someone who is ill or in a high-risk category as defined in paragraph 12 of this order are advised to stay home and to request a continuance by calling the appropriate clerk of court. Court clerks are urged to appoint sufficient staff to process these requests and notify the presiding judge and involved attorneys.
15. Litigants and attorneys in both criminal and civil cases are encouraged to file documents with clerks of court by electronic mail if possible, in accordance with Rule 5(e) of the Wyoming Rules of Civil Procedure and Rule 301 of the Uniform Rules for the District Courts.
16. The collection of fees (including filing fees) may be delayed, but filing fees should not be waived.
17. Judges are strongly encouraged to communicate with their local County Commissioners to ensure that courthouses remain open to court staff as necessary for statutorily or constitutionally required court business.
18. Circuit and district judges are strongly encouraged to coordinate with their conferences to ensure that statutorily and/or constitutionally required court business can continue in each county if a judge falls ill and is otherwise unable to perform his or her duties.
19. The Wyoming Supreme Court hereby suspends any court rule that is contrary to or in conflict with this order for the time period during which the order is in effect.

This order does not prohibit any court proceeding which may be conducted by telephone, video, teleconferencing, or other means that do not involve in-person contact. It is not intended to affect courts' consideration of matters that can be resolved without in-person proceedings.

Orders of protection and temporary injunctions that would otherwise expire between March 18, 2020, and December 15, 2020, will not be automatically extended beyond January 29, 2021.

The Court will review this Order no later than September 15, 2021, to determine whether it should be extended or vacated as circumstances require. Nothing in this order is intended to preclude judges from implementing additional restrictions as needed. ***This order shall be in effect until modified by further order of this Court.***

**DATED** this 16<sup>th</sup> day of June, 2021.

**BY THE COURT:**

/s/

**MICHAEL K. DAVIS**  
**Chief Justice**