



Supreme Court State of Tennessee

CHIEF JUSTICE
JEFFREY S. BIVINS

JUSTICES
CORNELIA A. CLARK
SHARON G. LEE
HOLLY KIRBY
ROGER A. PAGE

401 SEVENTH AVENUE NORTH
NASHVILLE, TENNESSEE
37219

MEMORANDUM

TO: Judge David Duggan, presiding judge pro tempore 5th judicial district

DATE: May 26, 2020

RE: **5th Judicial District – Proposed Amendment for Reopening**

On May 4, 2020 the Supreme Court approved the 5th Judicial District Proposed Plan for Reopening. On May 20, you submitted an amended plan to be effective June 1. The amended plan is approved with the following modifications:

- (1) The general sessions court needs to abide by the limit of 10 persons in the courtroom at any one time, plus the judge, court personnel, and court security. They can go to numbers in the plan as of June 15 if we do relax the number requirement at that time.
- (2) Please make sure there are plans in place for cleaning the courtrooms during the day.

PROPOSED PLAN TO BEGIN CONDUCTING IN-PERSON COURT PROCEEDINGS FOR
THE FIFTH JUDICIAL DISTRICT
BLOUNT COUNTY, TENNESSEE

Proposed Plan Beginning June 1

The Fifth Judicial District plans to begin opening our courts to additional in-person hearings on June 1, 2020 within the following guidelines:

1. We will begin conducting bench trials in June.
2. We will begin hearing certain types of motions and other matters by in-person hearings in June. Motions and other matters not specifically addressed will continue to be conducted by telephonic, audiovisual, or other electronic means. These motions and other matters may vary from court-to-court based on the types of dockets in each court, but it is presently anticipated that the following courts will allow in-person hearings on the following types of motions and other matters:
 - a. Circuit Court, Division I: Pro se agreed divorces shall be heard by appointment only and staggered throughout the day. Any contested matter that requires an in-person hearing will be scheduled at a specific time, and times will be staggered. All types of criminal motions and hearings will be allowed. Recovery Court will bring into the courtroom limited numbers of participants for court appearances at staggered times, and an attempt will be made to do that at times that do not conflict with other dockets. Recovery Court staff will assist with the moving of participants in and out after they are screened. They will also be grouped, as much as possible, by halfway house or placement because those individuals are already in contact with one another. The plan will be to start very slowly with small numbers.
 - b. Circuit Court, Division II: In-person hearings will be conducted for motions for default and writs of inquiry (because defendants may appear on the date of hearing), motions for summary judgment, motions to dismiss, and motions in limine, and also for all types of criminal motions and hearings. Other such motions and hearings may be conducted in-person on a case-by-case basis, and according to the Court's discretion.
 - c. Sessions Court, Divisions I, III, and IV: All court of record cases (divorces, other domestic relations cases, orders of protection and probate) will be heard following the guidelines set out in the latest Order of the Tennessee Supreme Court filed

April 24, 2020, and as further defined and revised by the general provisions of the plan herein.

Involuntary mental health commitment hearings shall continue as is with audio/video link up with Peninsula Hospital.

With respect to the regular General Sessions dockets, civil and especially criminal dockets pose greater problems due to the volume of cases. Those civil and criminal dockets will resume June 1, 2020, as set out in the attached schedule marked as Exhibit 1 attached hereto and incorporated herein, and according to the following guidelines:

- i. The Justice Center is the Sheriff's building, and General Sessions Court will adhere to the guidelines set out by the Sheriff for entry into and exit from the building. See paragraphs 4f and g herein.
- ii. General Sessions Division I can follow all CDC guidelines and seat 18 people in the courtroom, excluding all necessary court personnel.
- iii. General Sessions Division III can follow all CDC guidelines and seat 20 people in the courtroom, excluding all necessary court personnel.
- iv. General Sessions Division IV can follow all CDC guidelines and seat 20 people in the courtroom, excluding all necessary court personnel.
- v. Court cases will be conducted on a "first come, first served" basis, and according to the building entry restrictions set forth in paragraphs 4f and g herein.

d. Sessions Court, Division II/Juvenile Court: The Blount County Juvenile Court will continue to utilize and will even expand its use of telephonic, electronic, and audiovisual systems in order to conduct hearings. For any case in which there is an agreement or a waiver of hearing and stipulation of facts, the proceeding will be conducted by telephonic or audiovisual means.

To the extent practicable and in the Court's discretion, the Court will resume in-person proceedings for contested preliminary, adjudicatory, dispositional, and termination of parental rights hearings. The parties may also agree to conduct these hearings, even if contested, entirely by telephonic or audiovisual means. Due to the very small size of the Juvenile courtrooms, and in order to maintain proper social distancing, the courtrooms cannot accommodate in-person hearings that require more than eight persons. For those cases in which there are more than eight persons, the Court will require the parties and their counsel to utilize a combination of in-person courtroom appearance and satellite hearing rooms. The satellite hearing rooms provide real-time audio-visual connections with the courtrooms and are located in the courthouse on the same floor as the courtrooms.

Delinquent and unruly detention hearings will be conducted via audiovisual means, unless a party moves to have the hearing conducted in-person. Informal adjustments shall be completed via audiovisual and electronic means. Pretrial diversions, judicial diversions, and plea agreements in delinquent, unruly, and juvenile traffic offender cases will be completed via audiovisual and electronic means, as long as all parties are in agreement. Delinquent, unruly, and juvenile traffic offender adjudicatory and dispositional hearings shall be conducted in-person.

Child support hearings may be conducted by telephonic, electronic, and audiovisual means. In-person child support hearings currently scheduled for June shall be continued to a later date.

The Court will utilize time-specific docketing and will notify the parties and their counsel of the time that their hearings are set. Parties and their counsel shall follow all CDC, federal, and state guidelines regarding personal hygiene and illness. Parties and their counsel will be encouraged to wear face masks, if they are available, during any in-person proceedings. Parties and their counsel should not attempt to enter the courthouse until it is time for their hearing. Witnesses shall be required to wait in their cars or outside the courthouse until such time as they are called to testify. No one will be allowed to wait in the lobby. Seating in the courtrooms has been arranged to allow proper social distancing.

- e. Alcoa Municipal Court: Municipal Court will resume for regular hearings on citations on June 2. The courtroom will be set-up with a limited number of chairs spaced apart for social distancing. It is possible that there will be a limit of ten persons at a time in the courtroom. Others will have to wait in their cars or in the parking lot and will be summoned to the courtroom when the case is called. Check-in will be at the front office window, with taped measures on the floor where people will stand while waiting in line. The clerk will keep the list of persons admitted to the courtroom, and as a person leaves court the clerk will call out in the parking lot the next name on the list to enter the courtroom. People will be encouraged to wear masks but will not be required to. The City of Alcoa is willing to hold court each Tuesday and Thursday until the docket is caught up, if necessary.
- f. Maryville Municipal Court: The City of Maryville Municipal Court is located in the Maryville Municipal Building adjacent to the front entrance. Municipal Court will resume in-person proceedings on June 9, 2020 subject to the following conditions: (1) the Court shall adhere to the City of Maryville Facilities Public Access plan (as updated) on the City's website; (2) the courtroom will be disinfected on a regular basis and prior to all Court dates; (3) entrance to the courtroom will be monitored by court personnel, and anyone exhibiting symptoms consistent with those known to be associated with the COVID-19 virus may be prevented from entering the courtroom or may be asked to leave the courtroom;

(4) social distancing will be required inside the Municipal Building while waiting for entrance to the courtroom; (5) no more than ten persons exclusive of the judge, court personnel and court security will be allowed in the courtroom at one time; (6) information will be collected from any person excluded from the courtroom due to the ten-person limit so that the person may be called when space is available; (7) while in the courtroom all persons will be requested to wear masks, if available; (8) seating within the courtroom will be appropriately placed so that social distancing of six feet is maintained; and (9) persons exiting the courtroom will be required to maintain social distancing.

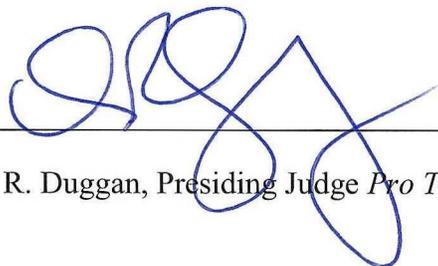
- g. Townsend Municipal Court: Municipal Court will resume June 9 at 6 p.m.
3. All other motions and hearings will continue to be conducted by Zoom, telephone conference or other electronic means, except for those which already constitute exceptions for in-person hearings, and even there we will strive to conduct as many of those motions and hearings as possible by electronic means. For all General Sessions and Circuit criminal dockets, the Courts plan to conduct all criminal motions and hearings in-person, while guilty pleas and stipulations of violations will continue to be taken by Zoom or other audiovisual electronic means.
 4. With respect to bench trials and other in-person motions and other hearings:
 - a. For Circuit Court, hearing times will be staggered so that attorneys, parties and witnesses and other persons entitled to be present will not be arriving in court at the same time.
 - b. For General Sessions Court, regular dockets will be conducted on a “first come, first served” basis.
 - c. All courtrooms will be measured and the number of persons allowed into a given courtroom will be based upon allowing only the maximum number into the courtroom which will still comply with all CDC guidelines. Persons inside the courtroom will be encouraged, to the greatest extent possible, to maintain a distance of six feet between them.
 - d. We will continue the practice of allowing into the courtroom only attorneys, parties, witnesses subpoenaed or named by an attorney, security officers, and other necessary persons, including victims and a representative of the media. For cases where a media coverage request has been filed, the media will be allowed two representatives—a reporter and a photographer.
 - e. All persons entering the courthouse or Justice Center will be encouraged to wear face masks, if they are available.
 - f. Temperatures will continue to be taken for any person seeking to enter either the Justice Center or the Courthouse. Then, for anyone whose temperature is acceptable for entry, there will be a docket check to make sure the person has a case in court and is entitled to entry, along with other persons entitled to entry in

keeping with paragraph 4d. With respect to any case involving a person who has a temperature, that case will be automatically continued.

- g. The Blount County Sheriff's Department will be implementing the following additional measures for entry into and exit from the Justice Center or Courthouse, and for courtroom safety:
 - i. The Sheriff is attempting to obtain funds for a second metal detector for the Justice Center so that two lines may be utilized for entry into the building.
 - ii. Social distancing signage will be used at both the Justice Center and the Courthouse, and social distancing will be enforced by Sheriff personnel. A clear bag policy will be implemented for anyone seeking to bring any purses or other bags into either building. Only small clutch purses will be allowed. Lock boxes will be removed and persons entering either building will not be allowed to bring cell phones into the building. Attorneys and court personnel are exempt from the clear bag and cell phone restrictions.
 - iii. For those waiting outside the building, likewise social distancing signage will be used and enforced. Persons may also choose to remain in their cars until summoned to enter the building. Persons not within the categories of persons allowed into the courtrooms as outlined in paragraph 4d will not be allowed to enter the building. If they wish to remain on the premises, they will be required to remain in their cars.
 - iv. For those physically able, entry into the upper floors where the courtrooms are located will use the stairway for entry into the upper floor hallways and courtrooms. The elevators will be used for exit from the courtrooms and upper hallways, and in order to maintain appropriate distances between building entrants. Those persons entitled to entry into a courtroom who are not physically able to use the stairs will be allowed to enter and exit by use of the elevators.
 - v. By June 1 the Courts plan to have the electronic capacity for use of Zoom to be extended to all courtrooms. Also, Plexiglas will be installed in front of all judges' benches, court reporter stations, and clerk stations to provide additional separation and protection. Attorneys will be discouraged from handing documents to the judge, a court reporter or clerk, but rather will hand documents to courtroom security personnel who will then deliver any such documents to the necessary recipient.
- h. No groups of inmates will be brought into the courtroom for criminal dockets. Only an incarcerated defendant with a hearing will be allowed into the courtroom, and those defendants will be brought up one at a time on a staggered hearing basis.

- i. All lawyers will continue to be encouraged to communicate about their cases with their clients telephonically or electronically prior to any scheduled court date and, to the greatest extent possible, including with incarcerated clients in the Blount County Jail. Through June 30, there should not be negotiations in a court setting. To the greatest extent possible, those negotiations should take place prior to any hearing.
5. Grand jury will begin proceedings on the first Monday in June.
6. We will continue the practice of requiring that attorneys will not be allowed to come to a judge's office unannounced with pleadings or other documents/papers. Attorneys will be expected first to contact the judge's office either by telephone or email and schedule a time to appear.

This the 20 day of May, 2020.



David R. Duggan, Presiding Judge *Pro Tempore*

GENERAL SESSIONS COURT SCHEDULE

Division I – Judge Mike Gallegos

Monday	Tuesday	Wednesday	Thursday	Friday
Criminal	Probate	Criminal Drug Task Force	Divorce/Commitments	Criminal
Civil	Probate	Special Settings	Divorce	Special Settings

Division III – Judge William R. Brewer, Jr.

Monday	Tuesday	Wednesday	Thursday	Friday
Civil	Divorce	Civil/Commitments	Alternate- City of Alcoa and Special Settings	Domestic Relations
Criminal	Divorce	Special Settings	Alternate- THP and Alcoa Special Settings	Domestic Relations

Division IV – Judge Robert L. Headrick

Monday	Tuesday	Wednesday	Thursday	Friday
Divorce	City of Maryville	Special Settings	OP/Criminal	Civil/Commitments
Divorce	City of Maryville	Criminal/ Worthless Check/ Theft/Shoplifting	OP/Criminal	Special Settings