

# OPERATING PLAN, PROCEDURES AND PRACTICES FOR THE RESUMPTION OF IN PERSON PROCEEDINGS IN MARINETTE COUNTY CIRCUIT COURT.

Effective Date: May 27, 2020

The Circuit Court for Marinette County

Marinette County Courthouse

1926 Hall Avenue

Marinette, WI 54143

Honorable David G. Miron

## I

### **The Purpose**

To develop reasonable practices to ensure the rights of all parties and the public who come before the Court, while recognizing the extraordinary public health concerns regarding a contagious virus commonly referred to as COVID-19. The Court must accommodate practices designed to attempt to avoid exposure and infection of litigants, attorneys, witnesses and Court staff through interpersonal contact in a Court setting. These procedures and practices are developed with the intent to be proactive, recognizing we must provide all constitutional and statutory protections to the litigants and interested parties as well as the public's right to access. In so doing, we understand it is not possible to ensure absolute safety, but we can be expected to take reasonable and necessary steps to protect the health of all participants within the physical limitations of our building and resource allocation available to the Court and County. These procedures are also intended to instill public confidence in the Marinette County Court system and that we are providing for the public's safety. Furthermore, if necessary, these policies will be strictly enforced by the Circuit Court to the full extent of its authority to reduce risk and promote the safety of all those who access the Court system.

## II

### **Planning Committee**

On May 13, 2020, and again on May 19, 2020 the Marinette County Circuit Court Judges met with other individuals within Marinette County Government to begin planning to reopen the Courts and the Courthouse for in person proceedings. Specifically, Judge David G.

Miron and Judge James A. Morrison met with the IT Director, the District Attorney and both acting Assistant District Attorneys, the Marinette County Court Commissioner, the Marinette County Administrator, the Marinette County Facility Director, the Judicial Assistant, the Marinette City Police Chief, the Marinette County Security Officer, representatives of the Marinette County Sheriff's Department, the Marinette County Clerk of Court, the Victim Witness Coordinator, a member of the State Public Defender's office, the Marinette County Corporation Counsel and the Marinette County Nurse.

At the present time, Marinette County Circuit Court will not be conducting jury trials until such time as it is comfortable that the procedures it is implementing with respect to in person procedures are effective.

### III

#### Face Coverings

The Marinette County Circuit Courts will require that all persons who are present in Courtrooms, jury rooms, other Court related confined spaces and the hallways on the second floor of the Courthouse and Annex, shall wear face coverings, unless a judge specifically determines on the record that is necessary for a witness not to wear a face covering during the witnesses testimony in order for the Judge to weigh the witnesses credibility. Notices regarding this requirement will be posted at the entrance of each Courtroom and Court related confined space. This requirement will be enforced by the Judge of each Circuit Court.

### IV

#### Courtroom Cleaning and Disinfection

The Marinette County maintenance department will clean and disinfect each Courtroom and all other Court related confined spaces after every business day in which Court was in session. In between Court sessions, disinfectant wipes will be made available to participants to use to clean Courtroom tables, chairs, benches, microphones and equipment used in a Court session.

Notices regarding the availability of hand sanitizer and disinfecting wipes/spray will be posted at the entrance of each Courtroom and Court related confined space.

### V

#### Social Distancing in the Courtroom

The Court will make all reasonable efforts to comply with State, Federal and local recommendations and Orders regarding social distancing in group functions. However, Courtroom activities do not lend themselves to strict adherence to such principles when

considering the need for attorney-client confidential discussions, adequate view and sight lines for conducting witness examination, rights of due process, victim rights and the public's right to access. The Marinette County courtrooms have limited space and there is no guarantee that participants in the courtroom will, at all times, be at least six (6) feet away from each other. Furthermore, there is no guarantee litigants, witnesses, parties and public will at all times avoid coming within six (6) feet of another person within the confines of the Court facilities.

## VI

### Public Access

If restrictions and recommendations to avoid gatherings in excess of ten (10) people are in effect, it is a foregone conclusion that many Court proceedings will require more than ten (10) people in the courtroom at one time. The public still has a right to view open public Court proceedings that are not otherwise closed or confidential according to law. All courtrooms have space limitations and the public does not have the right to enter the courtroom if the number of people in the courtroom exceeds safety limits, fire codes or other legal restrictions. Similar safety concerns regarding the number of people who can safely enter a courtroom during a contagious disease public health emergency also apply and it may be necessary to limit the number of people who can enter the courtroom to view proceedings. However, the Court will take steps necessary to allow the public to view courtroom proceedings via live video stream to another large room or by Zoom video through an internet connection or by YouTube. Any public access by livestream shall be controlled by the Court and reasonable public access to hear and see will be allowed during all on-the-record proceedings. The public will have no right to participate verbally, as all audio access will be muted so as to avoid unintended interruptions.

## VII

### Resumption of In-Person Proceedings

#### A. General

The Wisconsin Supreme Court issued orders May 22, 2020 effecting the ability of the circuit courts to begin to schedule in person proceedings and jury trials. In an effort to safely and cautiously reengage personal appearances in court proceedings, the Marinette County Circuit Court will promote and enforce these policies to the full extent of its authority.

The Circuit Court for Marinette County has, in the last several weeks, aggressively adopted video conference and audio/phone proceedings via Zoom to almost entirely eliminate in person appearances. The use and incorporation of this technology has

allowed the court to continue functioning at a high level of efficiency while providing access and equal justice under the law. It will be the policy of this Court to continue to use videoconference, phone and other means to allow people to gain access to the courts if personal appearances are not otherwise necessary, requested or needed. Recognition is always given that certain important matters flowing across multiple case types will certainly require personal appearances. The Court will, whenever possible, ask the parties and attorneys what their preference is regarding in person appearances.

Provisions I-VI above will be incorporated and followed once in person proceedings are allowed, in addition, the Marinette County Circuit Court will:

1. Schedule Court proceedings that allow in person appearances; however, the Court will continue to allow and encourage appearances by Zoom phone and video conference, as requested and as necessary to avoid having large groups in the courtroom at one time. All statutory and constitutional requirements for in person proceedings will be honored, unless duly waived by the parties.
2. Review staffing needs. Staffing requirements will be determined by the Clerk of Court and Judge, as necessary. Remote job functions will be considered, as necessary to help reduce the number of court staff in the courtroom at one time.
3. Utilize a modified block scheduling format to reduce the number of individuals in the courtroom at a particular time.
4. Continue to monitor the health of court staff and judge.
5. Require all who enter the courtroom to wear a face covering, either their own or one provided by the Court and to practice social distancing and appropriate hand hygiene. Any one member of the public who refuses to comply with these procedures may be excluded from the courtroom, but will be given information regarding how to access public court proceeding via Zoom or other means.
6. Judges and court staff shall be required to wear face coverings, practice social distancing and appropriate hand sanitization at all times when litigants, attorneys, victims, law enforcement or any other person or member of the public is present in the courtroom.

The Court recognizes that attorney client confidentiality and trial strategy may be hindered in the Court if strict compliance to social distancing is required at all times. The Court will make exceptions to allow attorney and clients to deviate from social distance protocols to consult with each other in the courtroom when necessary.

**B. Vulnerable Populations**

1. Individuals who are over 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered vulnerable population.
2. The Court and the Clerk of Court will include information on orders setting hearings, docket notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the Court to identify themselves as a vulnerable individual and receive accommodations.
3. Vulnerable populations who are scheduled for Court will be accommodates by providing access to via Zoom phone and videoconferencing or other remote access option. Reasonable adjournments may be necessary.

**C. Hygiene**

1. Hand sanitizer dispensers have been placed at the entrances of the building, outside of each courtroom, and most offices. The Court will post signs outside of courtrooms notifying the public and all persons entering the courtrooms of availability of hand sanitizers.
2. Disinfectant wipes or spay have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the judge's benches and in the hallways.

In developing this plan, I, the Honorable David G. Miron, Circuit Court Judge Branch I, Marinette County, Wisconsin have consulted with the committee members aforementioned. This final version of our plan is strictly for in person appearances and does not address the resumption of jury trials at this time. This plan will be modified by the planning committee should the circumstances of the Covid-19 public health emergency require modifications to address changing conditions and safety issues and to ultimately address the resumption of jury trials.

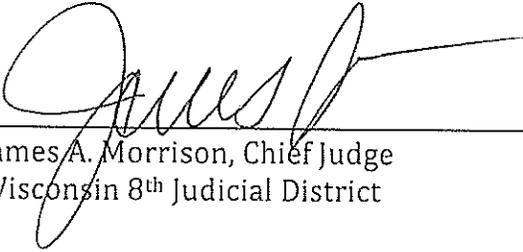
Submitted:

Date: May 27, 2020

  
David G. Miron, Circuit Court Judge

Approved:

Date: May 27, 2020

  
James A. Morrison, Chief Judge  
Wisconsin 8<sup>th</sup> Judicial District

**Marinette County COVID-19 Stakeholder Subcommittee Members**

John Lefebvre, County Administrator  
David G. Miron, Circuit Judge  
James A. Morrison, Circuit Judge  
Jane M. Sequin, Court Commissioner/Register in Probate  
Gale Mattison, Corporation Counsel  
Marty Keyport, Facility Director  
DeShea Morrow, District Attorney  
Allen Brey, Assistant District Attorney  
Bob Mraz, Assistant District Attorney  
Sheila Dudka, Clerk of Court  
Chris Tonn, Court Security Officer  
Jackie Buetter, Judicial Assistant  
Molly Bonjean, Public Health Nurse  
Brad Schraven, State Public Defender  
Kevin Solway, IT Director  
Jerry Sauve, Sheriff  
James Hansen, Chief Deputy Sheriff  
John Mabry, Chief of Police  
Mary Falkenberg, Victim Witness Coordinator  
Tom Bourque, Corrections Officer  
Chad Poverski, DOC Supervisor  
Bob Majewski, Jail Administrator

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ORDER APPROVING OPERATIONAL PLAN FOR THE SAFE RESUMPTION OF  
IN-PERSON PROCEEDINGS AND JURY TRIALS IN MARINETTE COUNTY

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WHEREAS: The Wisconsin Supreme Court in light of the COVID 19 Statewide and National states of emergency has entered certain orders related to the operations of the Circuit Court regarding in person appearances and jury trials.

WHEREAS: On March 22, 2020, the Wisconsin Supreme Court ordered that although the courts of the State of Wisconsin remain open, all civil and criminal jury trials scheduled to begin before May 22, 2020 are to continued and rescheduled by the assigned judge to a date after May 22, 2020;

WHEREAS: On March 22, 2020, and as amended on April 15, 2020, the Wisconsin Supreme Court suspended, until further order of the court, most in-person hearings in the circuit courts, subject to exceptions for certain matters, including those approved by the chief judges of each district, if remote technology is not practicable or adequate to protect constitutional rights of the citizens of Wisconsin;

WHEREAS: On March 31, 2020, the Wisconsin Supreme Court issued Interim Rule 20-02 which suspended statutory deadlines for conducting non-criminal jury trials until further order of the court:

WHEREAS: On May 22, 2020, the Wisconsin Supreme Court ordered that March 22, 2020 order regarding the suspension of jury trials, that Interim Rule 20-02 regarding suspension of deadlines for non-criminal jury trials, and the April 15, 2020 amended order regarding remote hearings, are extended for each circuit court until that circuit shall have prepared an operational plan for the safe resumption of in-person proceedings and jury trials and the plan shall have been approved by the chief judge of the applicable administrative district;

WHEREAS: On May 22, 2020, the Wisconsin Supreme Court outlined the specific criteria required in each circuit court operational plan as to how that circuit court will conduct in-person proceedings and jury trials so as to reduce to the greatest

extent possible the risk of transmission of the virus causes COVID-19 and that promotes the health and safety of all those present in the courtrooms, jury rooms, and other court related confined spaces of that circuit court;

WHEREAS: On May 27, 2020, the Honorable David G. Miron, Circuit Judge of Marinette County, submitted an operational plan which contains a statement regarding communication with local justice partners regarding the safe resumption of in-person proceedings in that circuit court; a requirement that all persons who are present in the courtrooms, and other court-related confined spaces shall wear face coverings, except as authorized on the record by said judge; outlines practices for appropriate sanitation/ hygiene of frequently touched surfaces and the hands of participants; specifies that notices regarding face coverings and availability of hand sanitizer and disinfecting wipes/ sprays in court-related areas will be appropriately posted and noticed; and incorporates many recommendations made in the Final Report of the Chief Justice's Task Force;

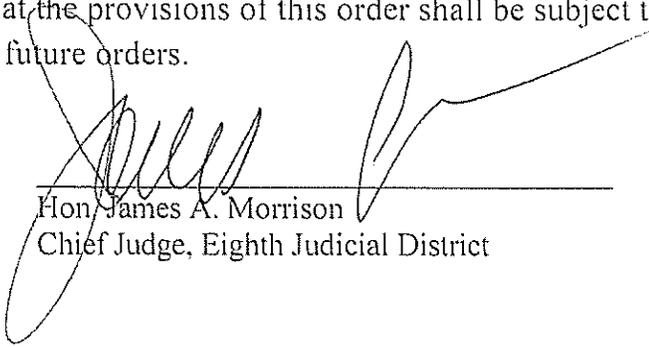
THEREFORE IT IS ORDERED:

The operational plan of the Circuit Court of Marinette County regarding procedures and practices for conducting in-person proceedings other than jury trials during the 2020 public health emergency and pandemic-COVID 19 is hereby approved and is effective May 27, 2020. All previous orders identified in the May 22, 2020 order of the Wisconsin Supreme Court cease to apply to the Circuit Court of Marinette County for non jury proceedings and that circuit court must continue to follow its operational plan as approved by the chief judge until further notice of the Wisconsin Supreme Court.

IT IS FURTHER ORDERED that all Orders of the Supreme Court regarding the suspension of jury trials in all matters are not affected by this Order and those Orders and limitations remain in full force and effect.

IT IS FURTHER ORDERED that the provisions of this order shall be subject to further modification or termination by future orders.

5/27/20

  
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Hon. James A. Morrison  
Chief Judge, Eighth Judicial District