

IN THE SUPERIOR COURT

IN AND FOR THE COUNTY OF PIMA

IN THE MATTER OF:
RESTRICTING PHYSICAL ACCESS TO
PIMA COUNTY SUPERIOR COURT
FACILITIES DUE TO A PUBLIC HEALTH
EMERGENCY

ADMINISTRATIVE ORDER
NO. 2021- 39 (Replaces AO 2021-32)

Due to concern for the spread of COVID-19 in the general population, Arizona Governor Doug Ducey declared a statewide public health emergency. Arizona Supreme Court Chief Justice Robert Brutinel issued Administrative Order No. 2021-109 to address measures to be taken by the Judicial Branch to conduct business in a manner that ensures justice in Arizona is administered safely. Supreme Court Administrative Order No. 2021-109 directs the presiding superior court judge of each county to determine how in-person proceedings are to be conducted in each of the county's courtrooms under conditions that reduces the risks associated with COVID-19 while resuming certain operations in an orderly way that prioritizes the safety of the public, judicial officers, and employees of the judiciary. The Order calls on the presiding superior court judges to determine for the courts in their respective counties how in-person court proceedings and courthouse activities are to be phased-in and conducted, consistent with Supreme Court Administrative Order No. 2021-109. The Order further sets forth a process courts in Arizona are to use to return to full operation over time in phases. The Court is currently in Phase III.

This Court issued Administrative Orders 2020-12, 2020-45, 2021-21 and 2021-32 to address the Court's response to the COVID-19 pandemic. This Administrative Order replaces 2021-32. The extent to which it impacts 2021-32 (which replaced 2020- 21) is set forth below. This Order addresses only Pima County Superior Court functions. As a result of the continued presence of COVID-19 and pursuant to Supreme Court Administrative Order No. 2021-109 and Supreme Court Administrative Order No. 2017-79. Its effective date will be August 12, 2021, as ordered hereinafter.

IT IS ORDERED Arizona Supreme Court Administrative Order 2021-109 is hereby incorporated by this reference and adopted in its entirety.

IT IS ORDERED all jury trials to be heard by the Court shall presumptively be conducted in-person. Upon a showing of good cause, the assigned trial division may allow a party, witness, victim or lawyer to appear or participate in the trial by teleconference or video conference.

IT IS ORDERED until further order of this Court, all other matters to be heard by the Court, as set forth hereinafter, shall presumptively be conducted by teleconferencing or by video conferencing unless designated otherwise within this order. Any request for an in-person hearing must be made not less than two (2) court days in advance of the time of hearing, and not at the time of hearing. Any in-person event shall be conducted in full compliance with the terms and conditions of this Administrative Order, Arizona Supreme Court Administrative Order 2021-109 and guidelines established by the Center for Disease Control, the Arizona Department of Health Services, and the Pima County Health Department. If the Court determines a party has failed to reasonably comply with this Order, the Court will determine what sanctions, if any, including contempt of court, are appropriate.

IT IS FURTHER ORDERED that all people in attendance at any in-person event must maintain a minimum of three (3) feet social distance from all other persons in the courtroom and must wear a mask or face covering over their nose and mouth. Each judge has discretion to control and limit the number of people in a courtroom and may excuse any person from the courtroom as deemed appropriate or necessary to meet the ends of this Administrative Order.

IT IS FURTHER ORDERED that any person intending to be present at a court proceeding must notify the assigned judicial division by telephone or email prior to appearing at the courthouse of any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities and to make alternative arrangements to appear by teleconference or video conference, have their appearance waived, or have the proceeding reset. Any such person shall not attend the court event in person.

IT IS FURTHER ORDERED that all persons entering the courthouse, including attorneys, parties, victims, witnesses, jurors, Court Appointed Special Advocates (CASA), court personnel, and others, must notify the court in advance of any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities, and to make alternative arrangements to participate. Failure to do so may result in issuance of sanctions, including but not limited to contempt of court.

IT IS FURTHER ORDERED that all persons entering a courthouse (including the buildings on the campus of Pima County Superior Court Juvenile Division), including but not limited to attorneys, parties, victims, witnesses, jurors, CASA, court personnel, judicial officers and other necessary persons shall wear their own or court-provided mask or face covering over their nose and mouth. The wearing of a mask or face covering is mandatory for all persons regardless of vaccination status while in a court facility. Court personnel may remove their mask or face covering while they are at their workspace and able to maintain appropriate social distancing from any other person. This Order does not serve to require the Court to provide masks or face coverings.

IT IS FURTHER ORDERED that during in-courtroom proceedings, the judicial officer presiding may authorize removal of masks or face coverings for purposes of witness testimony, defendant identification, making an appropriate record, or other reasons as deemed necessary by the judicial officer, provided that appropriate social distancing or other protective measures are followed.

IT IS ORDERED any in-person appearance may be converted to a teleconference or video conference by order of the Court, unless an in-person appearance is required by United States or Arizona Constitutions, or by statute or rule.

IT IS ORDERED the following bench-specific hearings may be conducted during the term of this Administrative Order:

I. CIVIL:

Civil hearings and settlement conferences will presumptively be conducted by teleconference or video conference unless the Court orders otherwise. The Court expects that all in-person hearings scheduled while this Administrative Order is in effect will be necessary and productive. Counsel shall determine in advance of any court appearance whether the matter meets those criteria and notify the Court accordingly.

II. CRIMINAL:

The following hearings may be conducted, and will presumptively be conducted by teleconference or video conference unless the Court orders otherwise:

- Initial Appearances
- Changes of Plea
- Motions to Modify Conditions of Release
- Case Management Conferences
- Status Conferences
- Any other matter as the Court may deem appropriate or necessary.

The following hearings may be presumptively conducted in person, by teleconference or video conference:

- Sentencings and Dispositions
- Preliminary Hearings
- Arraignments

The Court expects that all hearings scheduled while this Administrative Order is in effect will be necessary and productive. Counsel shall determine in advance of any court appearance whether the matter meets those criteria and notify the Court accordingly.

III. FAMILY:

Hearing and trials will presumptively be conducted by teleconference or video conference unless the Court orders otherwise. If a party wishes to have a hearing converted to an in-person hearing, a motion must be filed at least two (2) court days in advance of the time of hearing, and not at the time of hearing. Unless there is a current order prohibiting contact between the parties or a history of domestic violence between self-represented parties, the motion must set forth the other party's position on an in-person hearing.

The Court expects that all hearings scheduled while this Administrative Order is in effect will be necessary and productive. Parties and counsel must confer in good faith in an attempt to resolve any issue set for hearing unless consultation is excused as set forth in Rule 9(c)(2), ARFLP. For any party or counsel that fails to comply with this good faith consultation requirement, the Court may enter sanctions consistent with Rule 76.2.

IV. JUVENILE:

The following hearings will be conducted in-person if the child has been detained, unless otherwise ordered by the Court:

- Detention hearings
- Trial reviews
- Adjudications
- Dispositions
- Evidentiary hearings

The following hearings may be conducted in person if requested by a party, or as ordered by the Court:

- Contested dependencies .
- Contested severances
- Temporary custody hearings
- Rule 59 Motions
- Other hearings required by law to be heard at juvenile subject to a statutory or juvenile rules timelines, or as the Court may deem appropriate or necessary

All other matters will be conducted by teleconference or video conference, unless the Court orders otherwise.

In addition to necessary courtroom staff and support personnel, those attending hearings in person may include parties and their attorneys, parents in delinquency matters, victims and victim witness advocates CASA, and witnesses. All others, including placement representatives, supporting family, and service providers must appear by phone or video conferencing as permitted by the judge. Witnesses may appear by telephone through agreement of the parties or as ordered by the Court pursuant to Ariz. R. P. Juv. Ct. 42.

V.PROBATE:

The following hearings may be conducted, and will presumptively be conducted by teleconference or video conference unless the Court orders otherwise:

- Title 36 Mental Health Hearings
- Appointment of Guardian and/or Conservator, both emergency/temporary requests and permanent requests
- Requests to remove a guardian and/or conservator
- Petitions to open a probate with or without a will and the appointment of a personal representative or special administrator
- Requests to remove a personal representative or special administrator
- Requests for the release of restrictions on assets in estate
- Petitions to remove a trustee
- Petitions regarding disposition of a decedent's body
- Petitions to determine the validity of or enforce a health care directive
- Any other matter as the Court may deem appropriate or necessary

The court expects that all hearings scheduled while this Administrative Order is in effect will be necessary and productive. Counsel shall determine in advance of any court appearance whether the matter meets those criteria and notify the Court accordingly. Trial divisions will continue to coordinate calendars through the bench presiding judge.

///

///

OTHER ORDERS:

IT IS ORDERED that each bench presiding judge may issue bench-specific internal protocols to manage personnel and process caseloads during the pendency of this Administrative Order. Each bench presiding judge is to make any such internal protocols available upon request, subject to any limitations or conditions provided by rule, statute, or constitutional considerations.

IT IS FURTHER ORDERED each bench presiding judge may limit the number of hearings judges on that particular bench may conduct. Judges conducting hearings may place time limits on matters and exercise any other control over proceedings deemed appropriate or necessary to meet the terms of this Administrative Order and to further the interests of justice.

IT IS FURTHER ORDERED that all emergency public health cases will proceed as directed by the Court.

IT IS FURTHER ORDERED that requests by media to appear at a proceeding must be made to the Court's Public Information Officer via email at communityrelations@sc.pima.gov to coordinate such an appearance.

IT IS FURTHER ORDERED the Presiding Judge may grant contractors and attendant personnel access to Court buildings.

IT IS FURTHER ORDERED that to the extent this order is inconsistent with Superior Court Administrative Order 2021-35 (applicable to limited jurisdiction courts), this Order controls.

IT IS FURTHER ORDERED this Order is effective on **August 12, 2021**. Until that date, the procedures in AO 2021-32 remain in effect.

Dated this 12th day of August 2021.

JEFFREY T. BERGIN
PRESIDING JUDGE

cc: Ron Overholt, Court Administrator
Superior Court Judges
Juvenile Court Judges
Community Relations
Gary Harrison, Clerk of Court
Michelle Madrid, Director, Case Management Services
Karen Kahle, Managing Court Reporter
Ramiro Alviar, Director, Interpreter's Office
Laura Conover, Pima County Attorney

Dean Brault, Pima County Public Defense Services
Joel Feinman, Pima County Public Defender
James Fullin, Pima County Legal Defender
Verne Hill, Office of Court Appointed Counsel
Kevin Burke, Pima County Legal Advocate's Office
Judicial Security
Conciliation Court
Krisanne LoGalbo
Aaron Nash, Administrative Office of the Courts