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**Revised Circuit Court Operating Plan**

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WHEREAS: On May 21, 2021, the Wisconsin Supreme Court terminated the following orders: (1) In re the Matter of Jury Trials During the COVID-19 Pandemic—Amended (S. Ct. Order issued March 22, 2020; Amended April 15, 2020); (2) In re the Matter of Filing of Court Documents in Circuit and Appellate Courts (Temporary Mailbox Rule) (S. Ct. Order issued April 13, 2020); (3) Interim Rule 20-02; and In re the Matter of the Extension of Orders and the Interim Rule Concerning Continuation of Jury Trials, Suspension of Statutory Deadlines for Non-Criminal Jury Trials, and Remote Hearings During the COVID-19 Pandemic (Amended Order) (S. Ct. Order issued October 1, 2020);

WHEREAS: The Wisconsin Supreme Court “no longer requires that personal masking, social distancing, and sanitizing court facilities be part of any plan for circuit court and municipal court proceedings approved by the chief judge of the applicable judicial district. Instead, circuit courts and municipal courts, with the approval of the applicable chief judge, shall make county-wide decisions about what is in the best interest of circuit court and municipal court operations, respectively. This includes deciding whether or not to continue to require masking, social distancing, and sanitizing court facilities on a county by county basis.”;

WHEREAS: On May 24, 2021, pursuant to the order of the Wisconsin Supreme Court dated May 21, 2021, the Presiding Judge of Burnett County has requested approval to revise the Burnett operational plan dated July 1, 2020 ;

THEREFORE: Burnett County’s Re-opening and Operating Plan for in-person hearings and jury trials is revised effective June 1, 2021.

Date: \_\_\_\_\_

5-25-2021  
\_\_\_\_\_  
Honorable Maureen Boyle  
Chief Judge, 10<sup>th</sup> Judicial District

**BURNETT COUNTY'S AMENDED COVID-19 OPERATIONAL PLAN FOR  
IN-PERSON HEARINGS AND JURY TRIALS DURING A PUBLIC  
HEALTH EMERGENCY**

Effective Date: June 1, 2021

Hon. Melissia R. Mogen

I.

**The Purpose**

Pursuant to the Wisconsin Supreme Court Orders of May 21, 2021, the Court must develop an operational plan for in-person proceedings and jury trials to be approved by the chief judge of the district. The purpose of this plan is to provide for the best interests of the circuit court operations on a county by county basis as it relates to reasonable practices to ensure the rights of all parties and the public who come before the court, while recognizing public health concerns.

These procedures are intended to instill public confidence in the Burnett County Court System and to confirm to the public that the Court is providing for the public's safety.

II.

**Burnett County Stakeholders**

In developing the operational plan, the Circuit Court consulted with and discussed the matter with the stakeholders of Burnett County. The court included various criminal justice stakeholders, local bar representation, the District Attorney, the Burnett County Sheriff, medical professionals, courthouse facilities managers, County Administrator, the District Court Administrator, the Health Department, Emergency Government and others to address in-person court proceedings and jury service safety issues and other safety issues involving jury trials and other large court related gatherings.

### III.

#### **Public Education Regarding In-persons Hearings & Jury Service**

It will be necessary to provide public information through press releases, county web pages, social media and other public sources informing people that in-person hearings and jury trials will be held during the any public health emergency and what steps and procedures are being implemented to address safety concerns. The court may partner with the Office of State Courts, the State Bar of Wisconsin, Burnett County Media Coordinator and other media outlets to inform the public and remind the same of the importance of jury service, even during this emergency.

### IV.

#### **In-Person Proceedings**

##### **A. General**

The Wisconsin Supreme Court issued orders on May 21, 2021, authorizing each county, with the approval of the applicable chief judge, to make county-wide decisions about the best interests of the circuit and municipal court operations that would include whether or not to continue to require masking, social distancing, and sanitizing court facilities on a county by county basis.

The Circuit Court has adopted video conference and audio/phone proceedings via Zoom to accommodate some in-person appearances. The courtroom has recently had an upgraded audio/visual system and equipment installed that will accommodate an increase in audio/visual hearing presence. The use and incorporation of this technology has worked remarkably well and has allowed the court to continue functioning at a high level of efficiency, while providing access and equal justice under the law.

Provisions relating to in-person proceeding will include:

1. Schedule court proceedings that allow in-person appearances; however, the court will continue to allow some appearances by Zoom phone and video conference. All statutory and constitutional requirements for in-person proceedings will be required, unless duly waived by the parties upon approval of the Court.

2. Review staffing needs. Staffing requirements will be determined by the Clerk of Court and Judge, as necessary.

3. The Court will continue to 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, judge, and public, if necessary.

**B. Vulnerable Populations**

1. Individuals who are over age 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 to be vulnerable populations.

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 accommodated by providing access via Zoom phone and video conferencing or other remote access option. Reasonable adjournments may be necessary.

**C. Hygiene**

1. Hand sanitizer dispensers have been placed by the entrance to the building, inside/outside of the courtroom or court-used areas, and most offices. The court has posted signs outside courtrooms notifying the public and all persons entering the courtrooms of the availability of hand sanitizers.

2. Disinfectant wipes or spray have been placed in the courtroom, at or near counsel tables, witness stand, judge's bench, and the clerk's desk.

**D. Face Coverings**

Face coverings may be required by the Court during any public health emergency in court-related areas or the courtroom. Face Coverings may be available for those individuals who would like to wear a face covering, but otherwise do not have one.

**E. Cleaning**

1. Maintenance Department cleaning staff will clean the common areas of the court, as well as the courtroom and boardroom.

2. Court building staff have been trained on proper cleaning techniques and provided appropriate personal protective equipment.

V.

**Juror Deferral Policy**

It is not unusual for jurors to request to be excused from jury service before a trial. This court has always made efforts to accommodate reasonable juror requests for deferrals or excusals due to planned vacations, medical treatment, out-of-state employment, seasonal employment, or other reasonable-related requests. It will be the policy to grant reasonable deferments or excusals if a summoned juror provides information that reasonably relates to the juror's underlying medical condition with susceptibility to a public health emergency health condition.

Furthermore, summoned jurors who indicate they are currently experiencing serious health symptoms will be excused before jury service begins. Jurors who have sheltered-in-place or need to be quarantined and believe they cannot or will not comply with a summons due to extraordinary fear, will be given a deferral to a future month or next year to serve as a juror, but will be advised of the precautions in place and the civic duty with jury service.

## VI.

### Jury Assembly

The Burnett County Circuit Courtroom is approximately 1,300 sq. ft. with a normal public seating capacity in the gallery of approximately 31 people. Jury assembly often encompasses 40-50 or more jurors summoned at one time for a particular trial. The jury deliberation room is approximately 215 sq. ft. with a normal capacity for 12 jurors.

If necessary due to a public health emergency, the Court will utilize alternate spaces for jury trials, to include the County Boardroom, one of the school district's gymnasiums or auditoriums, or the old Tesora Event Center/Adventure Church building. One of these facilities may be chosen during a public health emergency, assuming the facilities are available and will not create any other concerns for the entity.

## VII.

### Juror Summons and Information Prior to Jury Service

It is anticipated that summoned jurors may have more and varied questions and concerns about serving on a jury during a public health emergency. Additional information will be provided with the jury summons, such as availability of use of personal protective equipment, location of jury assembly, and what procedures are being taken to reduce exposure of any public health emergency while serving on a jury.

VIII.

**Juror Information Regarding Public Health Precautions**

Personal protective equipment, commonly referred to as "PPE", is equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses. With regard to the any public health emergency, Burnett County will consult with the Burnett County Health Department and/or the Burnett Emergency Management Team to determine the type, acquisition and usage of the appropriate PPE for jurors, litigants, attorneys, witnesses and court staff and court security. Such equipment may include, but not limited to, face masks, face coverings, face guards, gloves, and hand sanitization systems.

All summoned jurors will be given written information regarding any precautions being taken to reduce the risk of exposure to a public health emergency and what PPE may be provided at the jury assembly area and courtroom, if necessary. The judge will send a letter to all summoned jurors in conjunction with the summons, explaining any precautions and planning that has occurred and remind citizens of their civic duty even during these difficult times with a public health emergency.

IX.

**Courtroom Cleaning and Disinfection**

The Burnett County Maintenance Department will clean and disinfect the courtroom and all spaces used for jury trials and court proceedings, as necessary. Court staff will surface clean with disinfectant wipes, courtroom tables, chairs, benches, microphones and equipment used with disinfectant wipes, as necessary. Burnett County Court has purchased two Medical Grade Filtration H13 True HEPA Air Purifiers that filtrate the air to 99.97% and placed them in the courtroom.

X.

**Juror Health Screening**

When necessary, the Burnett County Circuit Court and the Clerk of Court's office will work in conjunction with the Burnett County Health Department or the Emergency Management team to seek individuals to be available to do health screens for all summoned jurors, litigants, witnesses, attorneys, court staff and any security participating in the jury trial. Persons screened as a potential risk of having a public health emergency illness, based on symptoms or known exposure, will not be allowed into the courtroom, jury assembly area, or any other court-related facility. The court will expect attorneys, as officers of the court, to use sound judgement and be forthcoming if they know of any person entering the courtroom who appears symptomatic.

XI.

**Non-traditional Voir Dire**

The court will inquire of the parties to any jury trial if a court trial or a six person jury could be utilized to help assure adequate social spacing and allow for other health precautions to be implemented more easily in the case of a public health emergency. However, a court trial or a six person jury will only be allowed, unless otherwise authorized by statute, if all of the parties consent on the record.

XII.

**Court Security**

The court will consult with the Burnett County Sheriff's office to determine if additional security or assistance is needed during offsite jury assembly. Special security concerns may arise for any litigant or witness who is presently incarcerated and in need of transportation to the court or other off-site jury area.



XIII.

**Social Distancing in the Courtroom**

The court will make all reasonable efforts to comply with any state, federal, and local recommendations and orders regarding social distancing and group functions during a public health emergency. However, courtroom activities often 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, jury's view of proceedings in the courtroom, rights of due process, victim rights, and the public's right to access.

XIV.

**Public Access**

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 and by Zoom video and YouTube Live through an internet connection. Any public access by live stream 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.

XV.

**Prioritization of Jury Trials**

The court will continue to attempt to prioritize jury trials during any public health emergency to avoid overuse of a jury pool and available facilities. The court will take into consideration the nature of the cases, the extent to which the cases involve liberty interests, cases with time limitations, victim's rights and input, and the length of time a case has been pending.

XVI.

**Jury Deliberations/Breaks**

During any public health emergency, alternate spaces will be considered, including allowing the jury to remain in the courtroom during breaks and during deliberations or using the county board room or other conference room in the building, if necessary. When determined necessary, Burnett County will provide juror meals and snacks to minimize travel in and out of the courthouse, eliminating additional juror interaction with others outside of the courthouse during the course of the trial.

**Review and Approval by the Presiding Judge and the Chief Judge  
for the 10<sup>th</sup> Judicial District of the State of Wisconsin**

In developing this amended operational plan, I, the Hon. Melissia R. Mogen, Circuit Court Judge for Burnett County, have consulted with Burnett County's Stakeholders. This plan complies with the Wisconsin Supreme Court orders issued May 21, 2021. A list of Burnett County Stakeholders consulted is set forth below. I will ensure that all visiting judges who conduct proceedings in Burnett County will be given a copy of this Operational Plan, so they may conduct proceedings consistent with the plan. This plan may be modified by the Court should the circumstances of any public health emergency require modifications to address changing conditions and safety issues.

Submitted:

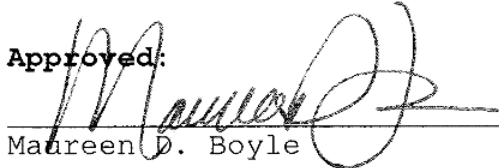


Melissia R. Mogen  
Burnett County Circuit Court Judge

May 25, 2021

Date

Approved:



Maureen D. Boyle  
Chief Judge Wisconsin 10th Judicial District

5/25/2021

Date

**Burnett County COVID-19 Stakeholder Members**

Nathan Ehalt, County Administrator  
Melissia R. Mogen, Circuit Judge  
Ryan Reid, State Public Defender  
David Grindell, Corporation Counsel  
Jackie Baasch, Clerk of Court  
James Leckel, Information Technology Director  
James Rennie, District Attorney  
Anna Treague, Public Health Nurse  
Gary Faught, Maintenance Supervisor  
Tracy Finch, Sheriff  
Aaron Bentley, Emergency Management Coordinator  
Allison Fern, Health Department Director