

Supreme Court of Kentucky

2021-27

AMENDED ORDER

IN RE: KENTUCKY COURT OF JUSTICE RESPONSE TO COVID-19 EMERGENCY: HEALTH AND SAFETY REQUIREMENTS

In light of the changing guidance from the Centers for Disease Control due to the current outbreak of the COVID-19 Delta variant, the Supreme Court, under Section 116 of the Kentucky Constitution and Supreme Court Rule 1.010, hereby orders that Administrative Order 2021-16 is replaced in its entirety and the following measures shall be implemented until further Order of this Court:

A. COURT FACILITIES

1. All court facilities are open to individuals with business before the courts.
2. Use of masks or other facial coverings is strongly encouraged for all individuals, in compliance with current CDC guidelines.

Judges retain the discretion to require individuals in the courtroom to use facial coverings generally or in specific cases, particularly cases involving persons who are at an increased risk of severe illness from COVID-19.¹

The Chief Circuit Judge, in consultation with the Chief District Judge and the Circuit Court Clerk, retains the authority to require facial coverings within a judicial facility.

Any person desiring to wear a facial covering shall be allowed to do so.

¹ According to the CDC, getting fully vaccinated prevents severe illness, hospitalization, and death. The CDC has identified certain individuals who, because of their age (65 and older) or an underlying medical condition, are at increased risk for severe illness from COVID-19. Underlying medical conditions associated with an increased risk for severe illness from COVID-19 include: cancer, chronic kidney disease, chronic lung diseases, dementia or other neurological conditions, diabetes (Type 1 and Type 2), Down syndrome, heart conditions, HIV infection, immunocompromised state (weakened immune system), liver disease, overweight and obesity (body mass index [BMI] of 25 kg/m² or higher), pregnancy, sickle cell disease or thalassemia, smoking (current or former), solid organ or blood stem cell transplant, stroke or cerebrovascular disease, and substance use disorders.

3. Judges retain the discretion and are encouraged to limit the number of people or to enforce social distancing in a courtroom as health and safety conditions or circumstances necessitate.
4. Signage shall be placed outside of each court facility to notify individuals that they shall not enter the building if they:
 - a. Have any symptoms of COVID-19, including cough; shortness of breath or difficulty breathing; fever; chills; fatigue; muscle pain; headache; congestion or runny nose; nausea or vomiting; diarrhea; sore throat; or new loss of taste or smell; or
 - b. Are subject to quarantine or isolation based on the CDC's most recent COVID-19 guidance.
5. A member of the public who is not granted access to a court facility, courtroom, or court office under this Section is not relieved of his or her obligation to make payment or report to or appear before the court. He or she will be provided a phone number or email address and must make arrangements to reschedule, appear remotely, or otherwise complete his or her business to avoid possible adverse action being taken by the court.

B. COURTS

1. **Courts are encouraged to continue hearing civil and criminal matters using available telephonic and video technology to conduct proceedings remotely.** Any remote proceedings shall be scheduled through the judge's office.
2. Any individual currently scheduled to appear remotely for a court proceeding shall be allowed to appear remotely.
3. If a judge determines in his or her discretion to conduct in-person court proceedings, the following individuals **must** be allowed to participate remotely or be provided with a reasonable accommodation if appearing in person:
 - a. Individuals who have symptoms of COVID-19 as identified by the Centers for Disease Control and Prevention ("CDC") (cough, shortness of breath or difficulty breathing, fever, chills, muscle pain, sore throat, congestion or runny nose, headache, nausea or vomiting, diarrhea, or new loss of taste or smell);
 - b. Individuals who are subject to quarantine or isolation based on the CDC's most recent COVID-19 guidance.

- c. Individuals who the CDC has identified as being at an increased risk of severe illness from COVID-19.
4. Access to view any remote courtroom proceeding that is not otherwise confidential must be provided to members of the public and media. Access may be provided by live audio or video or by digital recording.
5. Any court order, summons, or subpoena requiring the remote attendance of a party or his or her counsel shall have the same effect as if requiring attendance in person, and failure to appear remotely as ordered by a court may be grounds for sanctions.

C. OFFICE OF CIRCUIT COURT CLERK

1. E-filing is the preferred method to receive filings. Filings will also be accepted by mail, by using a drop-box outside the court facilities, or in person at the local office of the Circuit Court Clerk.
2. Payments for court costs, fines, fees, citations, etc. can be paid online through ePay at Kycourts.gov by selecting the “Pay Fine/Fee” icon or in-person at the local office of Circuit Court Clerk.
3. Individuals posting bond should contact the local office of Circuit Court Clerk for further instruction.

D. STAFFING

To meet operational needs, appointing authorities may require an employee to report in-office or to continue or begin teleworking as necessary to ensure the continuity of court operations. This includes work schedules that implement a mix of in-office and telework workplace assignments.

E. GENERAL HEALTH AND SAFETY PROTOCOLS FOR KCOJ EMPLOYEES AND OFFICIALS

1. Use of masks or other facial coverings is strongly encouraged for all individuals, in compliance with current CDC guidelines.
2. KCOJ officials and employees are strongly encouraged to wear facial coverings while interacting with co-workers or in common areas of the building (e.g. hallways, elevators, conference rooms, bathrooms, entries, and exits), unless they are alone in their personal office or if doing so would pose a serious threat to their health or safety. Facial coverings must be consistent with the Dress Code Policy contained in Section 3.02 of the KCOJ Personnel Policies.

3. KCOJ officials and employees shall not enter a KCOJ court facility or office if they:
 - a. Have any symptoms of COVID-19, including cough; shortness of breath or difficulty breathing; fever; chills; fatigue; muscle pain; headache; congestion or runny nose; nausea or vomiting; diarrhea; sore throat; or new loss of taste or smell; or
 - b. Are subject to quarantine or isolation based on the CDC's most recent guidance.
4. If an employee exhibits coughing, shortness of breath, difficulty breathing, or other COVID-19 symptom(s) while in the workplace, an appointing authority, after consultation with the AOC's Director of Human Resources or designee, will direct the employee to leave the office if doing so is consistent with the recommendations of the CDC and provide the employee guidance regarding use of appropriate leave and follow-up.
5. Nothing in this Order precludes an appointing authority from requiring the employees under his or her supervision to wear facial coverings within a specific KCOJ building, office, courtroom, or department.

F. APPLICATION TO KCOJ COMMITTEES

Meetings of committees, commissions, task forces, boards, and other administrative bodies of the Supreme Court, KCOJ, or AOC may be conducted in person. Use of masks or other facial coverings is strongly encouraged for all individuals, in compliance with current CDC guidelines. Accommodations must be made for individuals who request to attend remotely.

Concerns regarding local application or implementation of this Order may be submitted to COVIDcourtconcerns@kycourts.net.

This Order shall be effective upon entry and until further Order of this Court.

Entered this 9th day of August 2021.


CHIEF JUSTICE

All sitting; all concur.