

VIRGINIA:

IN THE CIRCUIT COURT OF THE 31ST JUDICIAL CIRCUIT

**MODIFICATION & EXTENSION OF THIS COURT'S DECEMBER
2020 TEMPORARY EMERGENCY ORDER FOR TRIALS,
HEARINGS, AND OTHER CIRCUIT COURT PROCEEDINGS**

UPON CONSIDERATION OF the COVID-19 pandemic; updated public health information showing a decrease in the incidence of COVID-19 infections within the 31st Judicial Circuit since the entry of the December 2020 Temporary Emergency Order; the Virginia Supreme Court's extension of the declared state of judicial emergency to at least March 7, 2021; and the Court's increased ability to utilize technology to conduct remote hearings,

THE COURT HAS DETERMINED that it is now possible to resume some in-person proceedings and further increase remote proceedings for the purpose of limiting, to the extent possible, the spread of COVID-19 within the Courthouse.

THE COURT HAS FURTHER DETERMINED that to effectuate the foregoing, **three Circuit Court judges will conduct in-person hearings and the remaining Circuit Court judges will conduct remote hearings on a rotating schedule.** Remote hearings will be hosted through Chambers, and parties will receive instructions from Chambers in advance for the hearing. The parties will be expected to arrange for the remote attendance of their witnesses. All remote hearings will be conducted through WebEx or teleconference.

Subject to the specific guidelines set forth below, in-person proceedings will include criminal bench trials, suppression motions, sentencing and revocation hearings, civil bench trials, protective order appeals, civil commitment appeals, substantial risk orders, emergency

quarantine orders, civil cases involving pro se parties, other civil matters that in the Court's judgment should be heard in-person, and any civil case involving the use of an interpreter.

IT IS THEREFORE ORDERED AS FOLLOWS:

1. Effective Date and Period of this Order

This Temporary Emergency Order ("TEO") will be effective **March 1, 2021**, and will remain in effect until further order of the Court.

2. All prior orders of the Circuit Court regarding Court proceedings during the COVID-19 Emergency remain in effect except where they conflict with the provisions of this TEO. This TEO controls in the event of a conflict.

3. Liberal Continuance Policy.

The Court's previously announced liberal continuance policy remains in. Agreed continuance Orders may be filed with the Clerk by electronic mail at circuitcourt@pwcgov.org. The Clerk will forward such Orders to Chambers for entry.

5. Jury Trials.

a. Criminal jury trials will resume March 1, 2021. Pre-trial conferences, per this Court's Jury Trial Resumption Plan, will resume. However, pre-trial conferences will now take place on the Wednesday two weeks prior to the start of trial *with the exception of trials set for the week of March 1—those pre-trial conferences will take place on February 24, 2021.*

b. Civil jury trials are suspended until at least May 31, 2021. Any civil jury trial scheduled for March 2021 will be continued to the Court's April Term Day docket to be re-set. Any civil jury trial scheduled for April 2021 will be continued to the Court's May Term Day docket to be re-set. Any civil jury trial scheduled for May 2021 will be continued to the Court's June Term Day docket.

6. Criminal cases – Non-jury matters:

a. **Criminal Docket.** During the Effective Period, at least one in-person judge shall be assigned to the criminal docket each Monday, Tuesday, and Wednesday. The Court will continue to hear bond motions, arraignments, and motions to reconsider sentences by video. Non-incarcerated defendants are excused from appearing at status and to-be-set hearings. Incarcerated defendants will appear for such hearings by video. Bond motions must be filed two days in advance of the hearing in accordance with existing practice. During the Effective Period, in order to accommodate a Friday motions docket, the Court will not hear bond motions on Fridays. Criminal bench trials will go forward in person as scheduled. Guilty pleas will continue to be heard at 10:00 a.m. on Thursdays. The Friday 9:00 a.m. motions docket will remain in-person with video appearances for incarcerated defendants.

b. **Sentencing and revocation hearings** will resume for both incarcerated and non-incarcerated defendants under a modified schedule. All sentencing and revocation matters will be heard at 1:00 p.m. on Thursdays or 1:00 p.m. on Fridays. Sentencing and revocation matters currently set for 1:00 p.m. on Thursdays will remain on that date and at that time. Sentencing and revocation matters that are set for 9:00 a.m. on Thursdays will be heard at 1:00 p.m. on the Friday immediately following the currently scheduled date (e.g., sentencing scheduled for 9:00 a.m. on Thursday, March 4 will be moved to 1:00 p.m. on Friday, March 5). Such changes to sentencing and revocation matters will be rescheduled and communicated to the parties by Chambers.

c. **Suppression motions and motions in limine in criminal cases.** Suppression motions and motions in limine presently docketed for hearing during the Effective Period will be heard in-person as scheduled, unless rescheduled by agreement of the parties. For motions not currently scheduled, the motion must be filed and then the case should be placed on a Friday motions docket at 9:00 a.m. to be set for hearing.

7. **Civil Cases**

a. **In-person Trials and Hearings.**

The court will apply **strict time limitations** of one hour for in-person hearings of **rules to show cause** and **two hours for pendente lite issues** of child custody, visitation, and support.

Multi-day civil trials will resume.

b. **Remote Hearings.**

Civil trials and hearings that can be completed in **one day or less** and in which all parties are represented by counsel will be heard remotely during the Effective Period. Should the parties to a civil case believe good cause exists for the matter to be heard in person, they must contact Chambers one week in advance of the hearing to obtain court permission to schedule the case for an in-person hearing. If the parties disagree as to the need for an in-person hearing, the party requesting an in-person hearing must schedule a motion for a Friday to be heard on the issue.

The Court's handling of remote hearings will be subject to the limitations of the Court's technology and the technology of the parties. The parties are expected to provide court reporters for a remote hearing as they would for an in-person hearing.

All exhibits to be presented must be provided to the Court in advance. Chambers will contact the parties for trials and hearings that will be heard remotely the week preceding the trial. The parties shall deliver **two exhibit binders** with exhibits pre-marked to the Clerk's Office **no later than 4:00 p.m. the Thursday prior to the trial. Failure of either party to provide hard copies of exhibits to the Clerk's Office the Thursday prior to the trial may result in continuance of the trial.**

e. **Pretrial Conferences will continue to be held by teleconference.** Among other issues, counsel should be prepared to discuss whether the case will be heard remotely or in person.

f. Ore Tenus Hearings for Divorce. The Court will continue to conduct Ore Tenus hearings in-person on the first and third Thursdays of each month at 9:00 a.m. A maximum of ten cases may be placed on a given ore tenus docket.

g. Friday Civil (10:30 a.m.) Motions; Docket will be continue to be limited. During the Effective Period of this TEO, all Friday civil motions, with limited exceptions, will be handled remotely at 10:30 a.m. Contested civil motions will be limited to twenty minutes (ten minutes per side). The civil motions docket will be limited with respect to all other matters to a maximum number of 30 cases for all judges combined during the Effective Period. The following matters **shall not count** toward the 30-case maximum:

- Garnishments
- Debtor Interrogatories
- Name Change Petitions
- Petitions to Amend a Birth or Death Certificate
- Adult Guardianship Petitions
- Infant Settlements
- *Pendente Lite* motions and Rules to Show Cause to be set for a date certain

The Clerk will be instructed to close the 10:30 a.m. docket upon reaching the 30-case maximum for a given day (for both in-person dockets and remote dockets).

h. Friday Civil (10:30 a.m.) Motions To Be Heard in Person.

The following Friday civil motions will be heard **in-person**:

- Garnishments
- Debtor interrogatories
- Adult guardianships
- Name change petitions
- Petitions to amend birth or death certificates
- Initial returns on rules to show cause
- Initial returns on motions for pendente lite relief
- Motions for default judgment
- Cases involving pro se parties
- Cases in which a defendant/respondent has not entered an appearance
- Cases in which an interpreter has been requested

- Any other motion that a judge determines should be heard in-person (parties may request an in-person hearing of a motion for good cause)

i. Friday Civil (10:30 a.m.) Motions To Be Heard Remotely.

All other Friday civil motions will be heard remotely. Chambers will email the WebEx meeting/teleconference information at least two days prior to the Motions Day to all parties. If the email address of a necessary party is not included on the praecipe/notice of motion, it is the moving party's responsibility to forward the WebEx meeting link to the opposing party. The WebEx invitation will also include information for how to join by teleconference if the WebEx system fails to function.

After every remote hearing on Friday Motions Day, the Court will instruct one party to prepare an order. The order shall be circulated for all parties' signatures.


j. Friday Civil Motions can be considered without oral argument. If agreed by all parties, the Court will consider and rule without oral argument on civil motions in accordance with the procedures and with the briefing limits set forth in the Court's Memorandum of April 23, 2020.

8. Other Court Proceedings:

a. Grand Juries will continue to meet as scheduled.

b. Criminal and Civil Term Days will be held in-person. As always, the Court urges parties to schedule trial dates by agreement through Chambers, using the previously established procedures.

ENTERED this 16 day of February 2021.


STEVEN S. SMITH
Chief Judge