

May 14 2020

Clerk, U.S. District Court
District of Montana
Missoula Division

IN THE UNITED STATES COURTS
FOR THE DISTRICT OF MONTANA

IN RE: PHASED RESUMPTION OF
COURT OPERATIONS DURING
COVID-19 PANDEMIC

ADMINISTRATIVE ORDER 20-21

The Governor of Montana having lifted his shelter-in-place order, and there having been a sustained decline of confirmed active COVID-19 infections in the District of Montana,

IT IS HEREBY ORDERED that the attached Plan for Phased Resumption of Operations (Attachment A) and Plan to Reconvene Jury Trials During COVID-19 Pandemic (Attachment B) shall govern the resumption of court operations in the District of Montana effective immediately. This Administrative Order and the attached plans supplement Administrative Order No. 20-18 and Bankruptcy General Orders 2020-04, 2020-05, and 2020-06, and supersede those orders in the event of any conflict.

IT IS FURTHER ORDERED that under the applicable requirements of the attached Plan for Phased Resumption of Operations, all five courthouse locations shall move to Phase 2 of such Plan effective Monday, May 18, 2020.

DATED this 14th day of May, 2020.



Brian Morris, Chief Judge
United States District Court



Benjamin P. Hursh, Chief Judge
United States Bankruptcy Court

ATTACHMENT A:

**PLAN FOR PHASED
RESUMPTION OF
OPERATIONS**

United States Courts District of Montana



Plan for Phased Resumption of Operations Adopted May 14, 2020

All employees should start contact tracing - logging where they go and who they have contact with

In order to ensure the safety and well-being of employees, litigants, and visitors, the United States Courts for the District of Montana adopts the following phased approach to the resumption of normal operations during the COVID-19 pandemic. The Court, in consultation with the Court Security Committee, will continually reassess the situation and adjust this plan accordingly.

Employee Guidelines Throughout Phases 1-4

- Employees are encouraged to self-assess their health daily for [COVID-19 related symptoms](#) and continue to follow the [COVID-19 protocol document](#) for steps to take in the event of suspected or known exposure to coronavirus.
- Contact tracing information may be requested if an employee is exposed to an individual with a confirmed COVID-19 case or exhibits symptoms consistent with COVID-19.
- Employees should minimize personal travel and adhere to CDC guidelines and local public health directives regarding travel destination and potential for self-isolation upon return.
- The court will provide employees with face masks as supply allows and recommends each division follow the applicable community guidelines for usage.
- The court will provide disinfectants, such as wipes and hand sanitizer, as supply allows.
- Employees should continue to practice good hygiene:
 - Wash your hands with soap and water or use hand sanitizer, especially after touching frequently used items or surfaces.
 - Avoid touching your face.
 - Sneeze or cough into a tissue, or the inside of your elbow.
 - Frequently disinfect used items and surfaces.
 - Maintain six-foot separation and other social distancing measures.

Management Responsibilities Throughout Phases 1-4

- Management will track community/local restrictions for each division.
- Management will track new confirmed cases for each division.

- Phases will be determined for each courthouse location based on local circumstances and publicized on the court's website.
- Supervisors should allow reasonable accommodations for employees who are at elevated risk or live with a person who is at elevated risk, or who face other COVID-19-related challenges in returning to a regular work schedule.
- The court has contracted for enhanced cleaning services at each courthouse.

Phase 1 - Courthouse is Closed to the Public

Overview & Expectations

- Continue to operate as we have under Administrative Order 20-18 and General Order 20-06.
- Majority of employees are working remotely.

Factors to be Considered Before Moving to Phase 2

- No known courthouse exposure to COVID-19 within the last 14 days;
- Minimal or no increase in community COVID-19 confirmed case counts for the preceding 14 days;
- Rescission of local restrictive movement or stay at home orders; and
- Availability and receipt of personal protective equipment such as hand sanitizer & face masks.



Before moving to Phase 2 ensure that all factors listed above have been reviewed and the division meets all criteria for the next phase.

Phase 2 - Courthouse is Open with Limited Public Access

Overview & Expectations

- Limited reopening of courthouses. The following individuals will be permitted to enter the courthouse: members of the public with court-related business; counsel of record appearing for a calendared matter and any associated litigants, investigators or employees thereof; family members of a criminal defendant appearing before the court; contract court interpreters; contract court reporters; witnesses; and members of the press.
- A limited number of employees will report to the courthouse on any given day. All other employees will continue to work remotely.
- Civil and criminal hearings will proceed remotely or in person, depending on judicial preference, provided the current social distancing requirements can be met.
- Bankruptcy hearings will proceed remotely or in person, depending on judicial preference, provided the current social distancing requirements can be met.

- Drop boxes will remain in place and the public will be encouraged to utilize them. If additional assistance is needed, individuals may visit the clerk's office. Drop boxes should be checked multiple times a day.
- The finance and receipting schedule will remain the same as in Phase 1. The Clerk's Office will not accept cash and receipts will be processed twice a week.

Factors to be Considered Before Moving to Phase 3

- A minimum of 14 days has been spent in Phase 2;
- No known courthouse exposure to COVID-19 within the last 14 days;
- Minimal or no increase in community COVID confirmed case counts for the last 14 days;
- Rescission of local restrictive movement or stay at home orders;
- Local restrictions allow for gatherings of up to 25 people with manageable social distancing;
- All counties in the respective division have minimal or no increase in COVID confirmed case counts for the preceding 14 days; and
- Availability and receipt of personal protective equipment such as hand sanitizer & face masks.



Before moving to Phase 3 ensure that all factors listed above have been reviewed and the division meets the criteria for the next phase.

Phase 3 - Courthouse is Open with Limited Services

Overview and Expectations

- Courthouses will be open to the public.
- Employees with functions not easily transferable or who hold positions without backup will be encouraged to continue to work remotely.
- Employees who are vulnerable or high risk will remain working remotely.
- All other employees will report to the appropriate courthouse.
- Civil and criminal hearings will proceed remotely or in person, depending on judicial preference, provided the current social distancing requirements can be met.
- Bankruptcy hearings will proceed remotely or in person, depending on judicial preference, provided the current social distancing requirements can be met.
- Criminal jury trials may proceed in Missoula, Billings and Great Falls.
- No criminal trials will be held in Butte due to the lack of space to ensure proper social distancing.
- No trials will be held in Helena due to the lack of personnel to manage jurors and their required placement throughout the courthouse to ensure proper social distancing.

- For details and criteria specific to jury trials and gatherings with greater than 25 people, see the District of Montana Plan to Reconvene Jury Trials.
- Drop boxes will remain in place and members of the public may choose to use them in lieu of visiting the clerk's office.
- The finance and receipting schedule returns to normal. The Clerk's Office will not accept cash payments.

Factors to be Considered Before Moving to Phase 4

- A minimum of 14 days has been spent in Phase 3;
- No known courthouse exposure to COVID-19 within the preceding 14 days;
- Rescission of local restrictive movement or stay at home orders;
- Local restrictions allow for gatherings of up to 25 people with manageable social distancing limitations;
- All counties in the respective division have minimal or no increase in COVID confirmed case counts for the preceding 14 days; and
- Availability and receipt of personal protective supplies such as hand sanitizer & face masks.



Before moving to Phase 4 ensure that all factors listed above have been reviewed and the division meets the criteria for the next phase.

Phase 4 - Courthouse is Open

Overview and Expectations

- Courthouses will be open to the public.
- Civil and criminal jury trials will proceed in all divisions without restrictions.
- Bankruptcy hearings will proceed without restrictions.
- All access and operations may be conducted without restrictions.
- The following non-case specific hearings and events will proceed only as authorized by judicial order, and must be conducted in strict accordance with public health guidance:
 - group tours and visits;
 - naturalization ceremonies; and
 - attorney admission ceremonies.
- The finance and receipting schedule returns to normal. The Clerk's Office resumes acceptance of cash payments.
- All employees other than those considered high-risk will report to the appropriate courthouse.

Factor to be Considered Before Moving to Phase 5

- Public health announcement that COVID has been suppressed within the United States.



Before moving to Phase 5 ensure that all factors listed above have been reviewed and the division meets the criteria for the next phase.

Phase 5 – Resume Normal Operations

- All courthouses are open with no restrictions.
- Civil and criminal jury trials will proceed in all divisions without restrictions.
- Bankruptcy hearings will proceed without restrictions.
- All access and operations may be conducted without restrictions.
- The finance and receipting schedule returns to normal. The Clerk's Office accepts cash payments.
- The following non-case specific hearings and events will proceed without restriction:
 - group tours and visits;
 - naturalization ceremonies; and
 - attorney admission ceremonies.
- All employees, including those considered high-risk are reporting to work in the appropriate courthouse.

ATTACHMENT B:

**PLAN TO
RECONVENE JURY
TRIALS DURING
COVID-19 PANDEMIC**

United States District Court District of Montana



Plan to Reconvene Jury Trials During COVID-19 Pandemic Adopted May 14, 2020

PRIOR TO REPORTING

- Beginning June 2020, the term of jury service will be reduced to 2 or 3 weeks (it may be necessary for a 3-week term of service for a month with 5 weeks).
- Jury staff will collaborate with chambers to determine if an additional questionnaire should be sent regarding standard voir dire questions. Beginning June 2020, a supplemental questionnaire regarding COVID-19 inquiries will be utilized.
 - Jurors will receive an AJIS message to log onto eJuror to complete the supplemental questionnaire. Those that don't complete the information on eJuror, will be mailed a paper form. See attached Supplemental Screening Questionnaire.
 - Jurors reporting COVID-19-related vulnerabilities or challenges will be excused from service upon request.
 - Ensure there is a declaration under penalty of perjury on any additional questionnaires.
- Potential jurors will also receive information regarding COVID-19 procedures with their summons (mailed 5-6 weeks prior to report date).
- An AJIS message will be set the Thursday prior to trial. Included in that message is an instruction to contact the jury staff if any of their COVID-19 inquiry responses have changed.
- Jury staff will formulate a plan for separating the jurors when they report to comply with gathering requirements.
 - Rooms will be set up with social distancing signage for the placement of jurors.
 - Restrooms will be designated for each group.
 - Overflow rooms will be equipped with a podium and microphone in each room. An additional podium and microphone will be placed in the middle aisle of the gallery of the trial courtroom.
- Jury staff will ensure all jurors can watch the orientation video from their designated location in the courthouse.
- Jury staff will ensure the court is in receipt of masks (if required) and hand sanitizer in a quantity sufficient for the number of jurors reporting.
- Jury staff will review the final list the day before trial and release any extra jurors from reporting (leaving a small buffer group for day-of-trial reporting issues).

- Encourage trials to start on Tuesdays so jury staff can do the final cuts on Monday rather than Sunday. If we have longer trials do it on Sunday rather than the possibility of having a jury come back an additional week.
- Clerk's staff will coordinate with chambers regarding judicial preference with respect to pre-admitting evidence, where possible.

REPORTING

- Jurors will report as instructed.
 - Social distancing signage will be placed at the entrance and designated locations in the courthouse.
- Spectators will not be permitted during voir dire.
- Jury staff will escort jurors into their designated location. If staff is available, they will also monitor elevator usage to comply with social distancing requirements. Otherwise signage will be posted.
 - A staff member will remain with that group for the duration of their stay.
- Jurors will be randomly selected to participate in voir dire. They will participate from the podium in their designated location.
- Jurors who are seated in the gallery of the trial courtroom will speak from the podium in the aisle. Jury staff will ensure social distance compliance near the podium and sanitize the microphones after each use.

JURORS RELEASED AT THE COMPLETION OF VOIR DIRE

- Jury staff will escort the non-selected jurors to exit the courthouse.

EMPANELED JURORS

- The court shall take a recess once jury selection is completed and have the courtroom cleaned. This additional cleaning should be coordinated with the cleaning staff.
- Jury staff will seat the empaneled jurors in compliance with social distancing requirements.
 - If jurors are seated in the gallery, ensure they can view the evidence on the monitors.
 - Jurors with sight impairments should be given preference for being seated in the jury box.
- Jurors should report each day to the jury assembly room (or other location large enough to comply with social distancing requirements).
- Breaks will also be taken in the jury assembly room (or other location large enough to comply with social distancing requirements), rather than the courtroom jury room.

DELIBERATION

- Deliberation will be held in the jury assembly room (or other location large enough to comply with social distancing requirements). The chairs will be moved out and tables will be placed so each juror has their own table.
 - Clerk's staff or CSOs will monitor all entrances and exits.
 - Clerk's staff will ensure the JERS system is available in the deliberation location.
- The jury will be brought back into the courtroom and seated in their designated seats to announce the verdict.
- Jury staff will escort the jurors to exit the courthouse.

FOLLOWING TRIAL

- Jury staff will personally contact each empaneled jury approximately 14 days after the conclusion of the trial to obtain a status on their health and jury experience.