

Clerk File Number: 28-2021-000148

**SUPERIOR BOOK:201 PG:2833 Filed: 08/30/2021 04:01 PM Patty Baker, Clerk of Superior Court - Cherokee County, GA**

## IN THE SUPERIOR COURT OF CHEROKEE COUNTY

BLUE RIDGE JUDICIAL CIRCUIT

STATE OF GEORGIA

### DECLARATION OF LOCAL JUDICIAL EMERGENCY

August 30, 2021

#### **ORDER EXTENDING LOCAL JUDICIAL EMERGENCY**

On July 1, 2021, this Court entered an Order Declaring Local Judicial Emergency, due to

the significant backlog of cases created by the statewide suspension of jury trials ordered by the

Chief Justice of the Supreme Court of Georgia. The local judicial emergency was extended by

Order filed July 30, 2021. Said Order was amended on August 5, 2021, to reinstate several

health and safety precautions due to a rise in COVID-19 cases in the community. On August 16,

2021, this Court entered an Order Extending Local Judicial Emergency, which superseded the

July 30 and August 5, 2021 Orders."

Since the Court's last order, the active number of COVID-19 cases in Cherokee County

has continued to rise, and has reached levels not seen since January of this year. 2

In order to protect the health and safety of all court personnel, attorneys, litigants, and the

general public, and to continue the orderly operation of the courts, and pursuant to O.C.G.A. 38

Order Declaring Local Judicial Emergency, filed July 1, 2021, at Superior Court Minute Book 201, Page 2757; Order Extending Local Judicial Emergency, filed July 30, 2021, at Superior Court Minute Book 201, Page 2788; Order Amending Order Extending Local Judicial Emergency, filed August 5, 2021, at Superior Court Minute Book 201, Page 2797; and Order Extending Local Judicial Emergency, filed August 16, 2021, at Superior Court Minute Book 201, Page 2820. 2 On August 3, 2021, the number of new COVID cases was 172 and 7-day moving average was 85.6; the percentage of PCR tests with positive results was 18.6, and the 7-day moving average was 15. On August 16, 2021, the number of new COVID cases was 219 and 7-day moving average was 197; the percentage of PCR tests with positive results was 17.4, and the 7-day moving average was 18.9. On August 28, 2021, the number of new COVID cases was 243 and 7-day moving average was 216; the percentage of PCR tests with positive results was 18.4, and the 7-day moving average was 21.2.

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3-60(2)(D) and O.C.G.A. § 38-3-61, the previously ordered judicial emergency is extended by this

Order, and shall affect all courts and clerk's offices in the Blue Ridge Judicial Circuit.

**This Order makes no substantive changes to the Order of August 16, 2021, except for**

**as noted in Paragraph 3(A) and (B).**

Accordingly, IT IS THE ORDER of the Court, as follows:

**1. Health and Safety Measures:** Where this order refers to “public health guidance,” it references the most specific current guidance provided by the federal Centers for Disease Control and Prevention (CDC), and the Georgia Department of Public Health (DPH).

While the courts have been abiding by various health and safety measure throughout the pandemic, this Order shall serve to clarify and reemphasize these provisions.

**A. IF YOU ARE SICK OR HAVE BEEN EXPOSED, STAY HOME.**

No person should come into the Justice Center or the Historic Courthouse if they have tested positive for COVID-19 or are experiencing common symptoms of COVID: fever or chills, cough, shortness of breath, fatigue, aches, loss of taste or smell, sore throat, runny nose, or diarrhea. Additionally, anyone exposed to someone with these symptoms, or to someone known to be positive for COVID-19, shall report this prior to the appropriate individual before entering any judicial facility (employees shall report this to their supervisor, litigants to their attorneys,

jurors to the jury clerk, attorneys to the judge's office, etc.). Sick or exposed employees should

be required to take time off or work remotely. Judges shall make appropriate accommodations

for parties or attorneys who need to appear remotely, instead of in-person, to allow their

appearance before the Court.

The Court Administrator shall cause the notice and requirements of this paragraph to be

posted at the entrances of the Justice Center and the Historic Courthouse.

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**B. Screening and Public Access:** Everyone entering the courthouse will be screened

for symptoms and COVID- 19 exposure. The Sheriff's Office shall ask all persons entering the

Justice Center the following questions: 1) Have you been diagnosed with, or had contact with

someone who has been diagnosed with, COVID-19 within the last 14 days?; and 2) Have you

developed a new cough, difficulty breathing, or fever over 100 degrees over the last 3 days?

Anyone answering yes to either of these questions will not be allowed to enter the Justice Center.

Also, as a part of the screening process, deputies will take the temperature of every person

entering the Justice Center. Any person with a fever of 100 degrees or higher will not be

permitted to enter the Justice Center.

Any person denied entry into the Justice Center shall be instructed by deputies to call the

Justice Center main telephone number (678-493-6100) from outside the courthouse. If said

person is seeking to file a pleading or other document, the Clerk of Court shall determine

**whether such filing can be accomplished through the electronic filing system. If the individual**

icc

does not have access to the e-filing system, then the Clerk shall accept paper filing. The person

filing the pleading shall remain outside the Justice Center while the pleading is being filed;

delivery of the paper filing shall be made by a deputy sheriff to the Clerk.

If the person denied entry into the Justice Center is there to attend a hearing as either a

litigant, witness, or public spectator, such person shall remain outside the Justice Center while

the appropriate judicial chambers is notified by the security staff. The assigned judge is

authorized to consider all relevant facts and circumstances and make a determination as to

whether to admit such person.

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The Clerk of Court shall remain open to the public for filing of pleadings  
by self-represented

litigants and in criminal cases. All self-represented litigants, including  
individuals seeking to file

a Petition for Temporary Protective Order under the Family Violence Act,  
should contact the

Clerk of Court at [clerk.cherokee.ga.com](http://clerk.cherokee.ga.com) or call 678-493-6511 to schedule an appointment for  
assistance. While attorneys and self-represented litigants are encouraged to  
use the temporary

criminal e-filing system, the Clerk shall accept and file paper pleadings in all criminal cases.

**C. Masks:** All persons entering the Justice Center are required to wear  
a mask in any public

area of the building, to include lobbies, hallways, elevators, rest rooms, the  
Jury Assembly room,

and the Law Library. This requirement includes  
individuals working in the building as well as

members of the public. Those working in their offices may remove their masks with the consent

of their  
supervisor.

The mask must remain in proper position over the nose and mouth. All courthouse deputies,

bailiffs, and other staff will remain vigilant and politely ask anybody in the Courthouse seen

without a mask to put one on. Anyone arriving without a mask will be provided one at screening.

Individuals in court may remove their face-covering only with the permission of the judge

presiding

**D. Social Distancing and Room Capacities; Jury Assembly Room:** All courts, offices,

and departments are encouraged, to the extent possible, to allow employees to work remotely, and

to conduct business and offer services by appointment, in order to mitigate the number of visitors

entering the facilities at any given time.

All persons in the building shall make every effort to remain six feet apart during face-to

face interactions. The limit for elevator capacity shall be 2 people not in the same household,

and this restriction posted at the elevator entries. All judges are encouraged to be aware of  
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Court - Cherokee County, GA**

appropriate room capacities and social distancing for any proceeding occurring in their  
courtroom  
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The Jury Assembly room has a maximum capacity of 24 people. In order to coordinate the  
use of this room among the classes of courts, and allow for appropriate cleaning and  
social  
distancing, any court or office requesting use of it shall contact Lynn Epps, Court Administrator,  
for prior  
approval.

No office or entity will be allowed use of the Jury Assembly room without permission of the  
Court Administrator. It shall not be used for meetings, trainings, conferences, receptions, or any  
other functions other than those solely related to conducting court (for  
example, arraignments,  
grand jury, jury assembly) for the duration of this Order, and any  
extension thereof.

**2. Essential  
Functions:**

The Frank C. Mills, III Cherokee County  
Justice Center **shall**



**remain open to the public** and the Courts shall be open to address essential functions, giving

priority to matters necessary to protect health, safety, and liberty of individuals. Essential functions

include the following: (a) where an immediate liberty or safety concern is present requiring the

attention of the court as soon as the court is available; (b) criminal court search warrants, arrest warrants, initial appearances, and bond reviews; (c) domestic abuse temporary protective orders

and restraining orders; (d) juvenile court delinquency detention hearings and emergency removal

matters; and (e) mental health commitment hearings.

### **3. Limitation and Suspension of In-Person Proceedings; Proceedings to be Conducted**

**Remotely:** The Justice Center remains open to the public for access of the essential functions of

the courts. As noted in prior orders, the Courts of the Blue Ridge Judicial Circuit have worked

hard to develop resources for conducting non-jury hearings remotely.

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**A. Suspension of In-Person Hearings:** This Order suspends and cancels any in-person hearings or proceedings in the Justice Center, except as otherwise allowed herein. The grand jury shall be permitted to conduct in-person proceedings in the Jury Assembly Room of the Justice Center, abiding by all public health guidance and procedures set forth in this Order. **During the pendency** of this Order, the Judges of the **Superior and State Courts may summon jurors for trials to be conducted as soon as possible after any modification or termination of this Order.**

**B. Conduct of Remote Hearings:** On March 27, 30, and 31 of 2020, the Supreme Court of Georgia issued orders temporarily clarifying and amending video conferencing rules of the Superior Courts, Juvenile Courts, Magistrate Courts, Municipal Courts, and Probate Courts. By Order of the Georgia Supreme Court on June 22, 2021, those temporary amendments have been extended and shall remain in effect through June 30, 2022. In addition, those rules were additionally clarified to allow any proceeding not otherwise allowed to be conducted by video conference so long as the judge and all the parties consent, and public access is ensured as required.

in said  
rules.

All classes of court shall conduct hearings remotely, by  
telephone or videoconference,

except as otherwise provided herein. Courts may compel the participation of litigants, lawyers,  
witnesses, and other essential personnel in remote judicial  
proceedings, where allowed by court

rules (including emergency amendments thereto). Such proceedings shall be consistent  
with public

health guidance, must not impose undue burdens on participants, and  
must not be prohibited by

the requirements of the United States or Georgia constitutions or applicable statutes or  
court rules.

In civil, criminal, juvenile, and administrative proceedings, litigants may  
expressly consent in the

record to remote proceedings not otherwise authorized and affirmatively  
waive otherwise

applicable legal  
requirements.

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If a party or a member of the public objects to the remote proceeding, the court shall sustain  
or overrule such objection prior to conducting the proceeding.

**The Court is aware that there are litigants and witnesses who do not have reliable internet service or access to devices that would allow remote participation. Should a litigant**

**or witness appear in person for a hearing which has been scheduled for videoconference,**

**that person shall be directed to the office of the assigned judge. The assigned judge may give**

**directions to such person in his or her discretion, in compliance with the other provisions of this Order.**

**Court Administration has two devices with which to allow individuals who appear in**

**person to participate in a hearing by videoconference within the Justice Center. It shall be**

**the responsibility of the assigned judge's office to coordinate with Court Administration**

**should such assistance be requested, understanding the limited capability available for such**

**assistance.**

**C. In-Person Hearings; Treatment Courts:** Essential matters as defined herein, and

**matters deemed emergencies by the assigned judge, may be held in-person, only if: (a) required**

**by law to be in person, or (b) if it is not practicable for technical or other reasons for persons**

**participate in the proceeding to participate remotely, AND (C) as long as any such hearing or matter**

**is conducted in accordance with public health guidance and this Court's related orders.**

Treatment courts and accountability courts may conduct in-person proceedings, if deemed

necessary by the presiding judges of said courts, to address the special circumstances and needs of

their participants. All such hearings shall be conducted in accordance with public health guidance

and this Court's related orders.

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**3. Alternate Locations:** Nothing herein shall prohibit any class of court from conducting hearings or other business at an external or alternate location, with the agreement of the Cherokee

County Board of Commissioners, in order to allow larger calendars while still abiding by social

distancing and other public health guidance.

**4. Livestream Broadcasts:** Livestream links are available on the Court Administration

website (<https://www.cherokeega.com/Court-Administrators-Office/>) for all proceedings not deemed

to be confidential by law or otherwise held in open court.

**5. Probate Court:** The Probate Court shall conduct all business, with the exception of essential matters and emergencies, by appointment only. These appointments shall be scheduled

and conducted in a way to ensure that applicants are required to maintain social distancing

guidelines (for example, to limit the number of people in waiting area, hallways, and elevators).

The Probate Court shall continue to provide essential services as set forth on the Probate Court website (<https://www.cherokeega.com/Probate-Court/>). The Probate Court shall coordinate with the

Sheriff's courthouse security personnel to ensure that walk-in applicants are advised of the way they may schedule an appointment for the services sought.

## 6. Tolling Provisions: The tolling provisions enacted by the various Orders of the Chief

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Justice are no longer in effect. This order imposes the following tolling provisions.

### **A. Superior and State Court: The time for filing a statutory speedy trial**

**demand under O.C.G.A. § 17-7-170 and §17-7-171 is hereby reinstated. However,**

the time allotted under those statutes for the case to be tried remains tolled for the

duration of this Order.

**B. Magistrate Court:** The statutory deadlines for setting civil cases for trial

imposed on the magistrate court by O.C.G.A. § 15-10-43(c) are suspended.

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This Order shall become effective on August 31, 2021. It shall terminate on September 30, 2021, at 11:59 p.m., unless otherwise rescinded, amended, or superseded.

This document shall be posted at all entryways to the Justice Center and the Historic Courthouse, on the website of the Clerk of Court and the Court Administrator, and at the elevator entrances on all floors of the Justice Center.

Pursuant to O.C.G.A. § 38-3-63, it is Ordered that the Sheriff of Cherokee County shall

post this Order on his public notification site and in the Frank C. Mills, III Justice Center; that this

Order shall immediately be served upon Chief Justice David Nahamias of the Supreme Court of

Georgia, such service to be accomplished via email to Tee Barnes, the Clerk of the

Supreme Court

of Georgia, at [barnest@gasupreme.us](mailto:barnest@gasupreme.us); that this Order shall immediately be served upon the judges

and clerks of all courts of the Blue Ridge Judicial Circuit and on the clerks of the Georgia Court

of Appeals and the Georgia Supreme Court, such service to be accomplished through reasonable

means to assure expeditious receipt; and this Order shall be published on the Court Administrator's

website for notice to the affected parties, counsel for the affected parties, and the public.

SO ORDERED, this 30th day of  
August, 2021.

**Ellen McElya**

Chief Judge Ellen McElyea  
Superior Court of Cherokee  
County Blue Ridge Judicial Circuit

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CC: Chief Justice David Nahmias, Supreme Court of Georgia Tee Barnes, Clerk of the Supreme Court of Georgia Clerk, Georgia Court of Appeals Sheriff Frank Reynolds Judges of Cherokee Superior Court Judges of Cherokee State Court Judges of



Cherokee Juvenile Court Judge James Drane, Magistrate Judge Keith Wood, Probate Court Patty Baker, Clerk of Courts Shannon Wallace, District Attorney Todd Hayes, Solicitor-General Lynn Epps, Court Administrator Cherokee County Bar Association Louis Turchiarelli, Indigent Defense Director Cherokee County Board of Commissioners