



STATE OF MAINE JUDICIAL BRANCH

COVID-19 Phased Management Plan

Version 3: Issued July 31, 2020

History

In March 2020, the emergence of the COVID-19 pandemic compelled the Maine Judicial Branch to significantly curtail court proceedings in the interest of public safety and the health and safety of Judicial Branch Employees. The initial orders issued by the Maine Supreme Judicial Court limited court proceedings to those matters in which persons faced dangers of injury or death and matters involving constitutional liberty interests.

In the weeks that followed, the Court issued Pandemic Management Orders (PMOs) that incrementally increased the number of case types to be scheduled and heard in accordance with safety concerns. The Court's most recent PMOs provide for scheduling and hearing of almost all case types, on two conditions: (1) the case must be one that can be addressed by video or telephone conference and (2) judicial resources will be directed to priority case types first.

In each instance, the Court's decisions have been founded upon scientific data and have represented the Court's best judgment in the difficult task of balancing the need to protect the health and safety of the public and the Court's employees with the need to provide a forum for the adjudication of legal matters.

Creation of COVID-19 Phased Management Plan

Consistent with the gradual reopening of State functions in the wake of the COVID-19 pandemic, the Court now establishes this COVID-19 phased management plan to set forth the anticipated incremental resumption of all Court activities. In establishing this plan—and in making any revisions to it that may be necessitated by the unavailability of resources, the progression of

the pandemic, or other relevant subsequent events—the Court is and will continue to be guided by the most recent scientific data available from the Maine Center for Disease Control and Prevention, as well as internal data and recommendations from the Chiefs of the Superior and District Courts; the Maine Executive and Legislative branches of government; County Commissioners; jail personnel; other State, county, and municipal offices; and other interested stakeholders. We are particularly guided by the State of Maine’s COVID-19 Prevention Checklists for [General Guidance](#) and for [Industry Guidance on Public and Community Buildings](#).

Guiding Principles

The following principles will continue to guide the Court’s decision-making as it establishes and revises its long-term plans in the wake of the COVID-19 pandemic:

- **Evidence-Based, Collaborative Decision-Making.** In making decisions about court capabilities during the COVID-19 pandemic, the Court will continue to obtain and rely on scientific information from the Maine Center for Disease Control and Prevention as well as the input of diverse stakeholders in determining how to ensure the health of the public while upholding the fundamental rights of litigants in the court system.
- **Protecting Courthouse Staff and Visitors.** It is essential to the public welfare that courthouse staff and visitors alike, including those who are the most vulnerable, are protected and safe so that the work of the courts may continue to be carried out without causing harm.
- **Attention to Local Conditions.** The specific anticipated dates for each phase set forth below may be attainable in some courthouses and not in others. By virtue of the conditions necessary for execution of each phase, some court functions in some locations may be subject to additional delays.
- **Availability of Necessary Resources.** Reopening of the courts may be accomplished only when all necessary resources—including sufficient staffing, security, and technological capabilities—are available to both adequately protect all court staff and visitors and support the resumption of court functions.

- **Satisfaction of Required Conditions.** At each phase of the anticipated reopening plan, the execution of the plan is dependent on the satisfaction of a list of preconditions related to each of the above principles. The inability of any court location to meet any one or more of the required preconditions may necessitate
 - Adjustments to the phase attributes in that location,
 - A halt to phase progression, and/or
 - A return to the safeguards of an earlier phase.

Anticipated Phases

Consistent with the guiding principles, a five-phase plan for the resumption of all functions of the Maine state courts is established. Any resurgence of COVID-19 may, however, necessitate

- Adjustments to the phase attributes,
- A halt to phase progression, and/or
- A return to the safeguards of an earlier phase.

These changes may be implemented on a statewide basis if necessary or may be implemented only in specific court locations if the incidence of the disease varies across the state.

PHASE 1 Anticipated for June 1 – June 12 (two weeks)

Required Conditions for Phase 1

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.
- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.

- Social distancing measures employed in each courthouse must be observed. No more than 10 people, including court personnel, shall be present in a courtroom at any one time. No more than 50 people per courthouse floor may be present in common areas at any one time. These numbers may be reduced depending on the need for social distancing at a specific courthouse or on a specific floor of a courthouse. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.
- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

Attributes of Phase 1 when Required Conditions are Satisfied

- Courts will be open to the public from 8:00 a.m. to 4:00 p.m.
- The following case types and proceedings will NOT be scheduled or heard:
 - FED (eviction, landlord/tenant) except requests for writs of possession as provided by the Governor's Executive Order Number 40, dated April 16, 2020
 - Disclosures
 - Foreclosures
 - Small claims
 - Violations Bureau
- No jury trials will be scheduled or held.
- No grand jury proceedings will be scheduled or held.
- The courts WILL continue to schedule and hear the following proceedings in the same manner that they have been conducted since the implementation of the Pandemic Management Orders:
 - Arraignments and first appearances of defendants held in custody
 - Motions for review of bail of defendants held in custody
 - Juvenile detention hearings
 - Protection from abuse requests and hearings

- Protection from harassment requests and hearings
 - Child protection petitions and proceedings
 - Hearings are limited to summary preliminary hearings, jeopardy hearings, and judicial reviews¹
 - Mental health requests and hearings
 - Emergency guardianships
- The courts MAY schedule and hear all other case types and proceedings so long as all hearings, conferences, and other court events take place only by video or audio conference. In scheduling hearings, conferences, and other court events, the courts will continue to allocate judicial resources in such a manner that the following cases receive priority for scheduling and hearings:
 - Arraignments and first appearances of defendants held in custody
 - Motions for review of bail of defendants held in custody
 - UCD plea agreements for defendants in custody
 - UCD probation revocation hearings for defendants in custody
 - UCD dispositional conferences for defendants in custody
 - Juvenile detention hearings
 - Uncontested gestational carrier hearings
 - Uncontested divorce and judicial separation hearings
 - Uncontested parental rights and responsibilities hearings
 - Uncontested parentage hearings
 - Telephonic case management, status conference, and Rule 26(g) discovery conferences in family matters
 - Protection from abuse requests and hearings
 - Protection from harassment requests and hearings
 - Child protection petitions and proceedings
 - Summary preliminary hearings, jeopardy hearings, judicial reviews, case management conferences, uncontested hearings on termination of parental rights, and uncontested hearings on orders of parental rights and responsibilities
 - Uncontested child support, child support modification, and child support enforcement actions
 - Mental health requests and hearings
 - Emergency guardianships

¹ Case management conferences and docket calls, if held, will be conducted telephonically.

- Uncontested adoptions
- Petitions for Review concerning Control of Notifiable Diseases (22 M.R.S. § 820)
- In any matter that is not being scheduled or heard during this phase of the pandemic management, a request can be made for the scheduling of the matter as set forth in PMO-SJC-1.
- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted either by video conferencing or addressed by the court without oral arguments.

PHASE 2 Anticipated for June 15 – July 2 (three weeks)

Required Conditions for Phase 2

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.
- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.
- Social distancing measures employed in each courthouse must be observed. No more than 10 people, including court personnel, shall be present in a courtroom at any one time. No more than 50 people per courthouse floor may be present in common areas at any one time. These numbers may be reduced depending on the need for social distancing at a specific courthouse or on a specific floor of a courthouse. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.
- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or memorandum of understanding with the custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.
- New conditions did not arise during the two weeks of Phase 1 that require additional restrictions.

Attributes of Phase 2 when Required Conditions are Satisfied

- The following case types and proceedings will NOT be scheduled or heard:
 - FED (eviction, landlord/tenant) except requests for writs of possession as provided by the Governor's Executive Order Number 40, dated April 16, 2020
 - Disclosures
 - Foreclosures
 - Small claims
 - Violations Bureau
- No jury trials or grand jury proceedings will be scheduled or held.
- Video and telephone conferences are the strongly preferred medium for all proceedings. However, the courts MAY schedule and hear the following proceedings as in-person hearings, subject to the availability of judicial resources and the need to address priority cases:
 - Arraignments and first appearances of defendants held in custody
 - Motions for review of bail of defendants held in custody
 - Juvenile detention hearings
 - Protection from abuse requests and hearings
 - Protection from harassment requests and hearings
 - Child protection petitions and proceedings
 - Mental health requests and hearings
 - Emergency guardianships
 - UCD plea agreements for defendants in custody
 - UCD probation revocation hearings for defendants in custody
 - UCD dispositional conferences for defendants in custody

- Criminal cases involving summonses awaiting first appearances
 - Uncontested gestational carrier hearings
 - Uncontested divorce and judicial separation hearings
 - Uncontested parental rights and responsibilities hearings
 - Uncontested parentage hearings
 - Telephonic case management, status conference, and Rule 26(g) discovery conferences in family matters
 - Uncontested child support, child support modification, and child support enforcement actions
 - Uncontested adoptions
 - Petitions for Review concerning Control of Notifiable Diseases (22 M.R.S. § 820)
- In any matter that is not being scheduled or heard during this phase of the pandemic management, a request can be made for the scheduling of the matter as set forth in PMO-SJC-1.
 - All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted either by video conferencing or addressed by the court without oral arguments.

PHASE 3
Anticipated for July 6 – July 31 (four weeks)

Required Conditions for Phase 3

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.
- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.
- No more than 50 people may be present in any room or common area at any one time; social distancing requirements may further reduce

maximum capacity limits in specific locations. Social distancing measures employed in each courthouse must be observed at all times. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.

- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.
- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or memorandum of understanding with the custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.
- New conditions did not arise during the three weeks of Phase 2 that require additional restrictions.

Attributes of Phase 3 when Required Conditions are Satisfied

- The following case types and proceedings will NOT be scheduled or heard:
 - FED (eviction, landlord/tenant) except requests for writs of possession as provided by the Governor's Executive Order Number 40, dated April 16, 2020
 - Disclosures
 - Foreclosures
 - Small claims
 - Violations Bureau
- Video and telephone conferences are the strongly preferred medium for all proceedings. However, the courts MAY schedule and conduct in-person hearings in all case types not listed above, subject to the availability of judicial resources and the need to address priority cases.
- No jury trials will be scheduled or held.

- Grand jury proceedings may be scheduled and held in person at courthouses. Capacity controls will be adjusted to accommodate the special requirements for grand jury proceedings.
- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted either by video conferencing or addressed by the court without oral arguments.

<p style="text-align: center;">PHASE 4 Anticipated for August 3 – October 18 (eleven weeks)</p>
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Required Conditions for Phase 4

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.
- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.
- No more than 50 people may be present in any room or common area at any one time; social distancing requirements may further reduce maximum capacity limits in specific locations. Social distancing measures employed in each courthouse must be observed at all times. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.
- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.
- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or memorandum of understanding with the

custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.

- New conditions did not arise during the four weeks of Phase 3 that require additional restrictions.

Attributes of Phase 4 when Required Conditions are Satisfied

- Due to the extensive efforts necessary to resume FED (eviction, landlord/tenant) cases during Phase 4, the following case types and proceedings will NOT be scheduled or heard:
 - Disclosures
 - Foreclosures
 - Small claims
 - Land Use Violations 80(K)

The court will continue to review its readiness to address these case types during Phase 4 and will issue updates as docket conditions evolve.

- In any matter that is not being scheduled or heard during this phase of the pandemic management, a request can be made for the scheduling of the matter as set forth in PMO-SJC-1.
- No jury trials will be scheduled or held.
- Grand jury proceedings may be scheduled and held in person at courthouses. Capacity controls will be adjusted to accommodate the special requirements for grand jury proceedings.
- Video and telephone conferences are the strongly preferred medium for all proceedings. However, the courts MAY schedule and conduct in-person hearings in all case types, subject to the availability of judicial resources and the need to address priority cases.
- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, will be conducted either by video conferencing or addressed by the Court without oral arguments.

<p style="text-align: center;">PHASE 5 Anticipated for October 19 onward</p>
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On July 31, the anticipated starting date for Phase 5 was changed to October 19, 2020 due to the anticipated inability of the Judicial Branch to effectively conduct jury trials in September while satisfying current CDC health and safety requirements. The Judicial Branch continues its efforts to formulate plans for the conduct of jury trials, but it is clear that existing resources and facilities will not be satisfactory during the month of September.

The Supreme Judicial Court has approved two or more pilot plan jury trials to take place during the month of September at the Kennebec Judicial Center and the Penobscot Judicial Center for the purposes of studying the unique needs and processes for jury trials during the COVID era. The Chief Justice of the Superior Court will supervise the planning and execution of the pilot projects.

Required Conditions for Phase 5 (and until further notice)

- Entry screening to enforce the Judicial Branch Visitor Restrictions set forth in the Judicial Branch Notice dated April 8, 2020, must be available at the courthouse at all times that the courthouse is open to the public. See Appendix A.
- Any person entering the courthouse must wear a cloth face covering that covers the nose and mouth at all times while in the courthouse pursuant to PMO-SJC-1. Hand sanitizer will be available at entrances and exits and must be used upon entering and exiting the building, and upon reentering the building after exiting.
- No more than 50 people may be present in any room or common area at any one time; social distancing requirements may further reduce maximum capacity limits in specific locations. Social distancing measures employed in each courthouse must be observed at all times. To the extent possible, court events will be scheduled at staggered times to prevent large numbers of people from entering and exiting a courthouse at any given time.
- Adequate staff and technology resources, and adequate personal protective equipment must be available at the courthouse.

- No person in custody will be permitted to enter the courthouse except in compliance with standard entry screening limitations and express prior arrangements or memorandum of understanding with the custodial facility that will adequately protect the public, courthouse staff, and the incarcerated person from infection.
- New conditions did not arise during the five weeks of Phase 4 that require additional restrictions.

Attributes of Phase 5 when Required Conditions are Satisfied

- Courts will be open to the public from 8:00 a.m. to 4:30 p.m.
- Jury trials may be scheduled and held. Capacity controls will be adjusted to accommodate the special requirements for jury trials.
- Grand jury proceedings may be scheduled and held in person at courthouses. Capacity controls will be adjusted to accommodate the special requirements for grand jury proceedings.
- Video and telephone conferences are the strongly preferred medium for all proceedings. However, the courts MAY schedule and conduct in-person hearings in all case types, subject to the availability of judicial resources and the need to address priority cases.
- All oral arguments scheduled before the Supreme Judicial Court, sitting as the Law Court, may be conducted in person or by video conferencing as determined by the Court in consultation with counsel.

APPENDIX A: State of Maine Judicial Branch Public Notice Regarding Visitor Restrictions (issued April 8, 2020; revised May 27, 2020)