

WHITESIDE COUNTY, ILLINOIS
ADMINISTRATIVE ORDER NUMBER 2020-8

PROCEDURE FOR RESUMPTION OF COURT PROCEEDINGS
(SUPERSEDING PRIOR ADMINISTRATIVE ORDERS REGARDING RESUMPTION
OF COURT AND REMOTE PROCEEDINGS)

Until further order, and at the discretion of each individual judge assigned, proceedings may be heard in-person beginning **JUNE 1, 2020**, in both Whiteside County Courthouses, with particular attention being given to the protection of the public and court facility staff. In doing so, we must also protect the rights and liberties of all by providing equal access to justice, resolving disputes, and upholding the rule of law. Consequently, in-person and remote appearances will be allowed, in accordance with Supreme Court and local court rules, while continuing to practice appropriate social distancing and limiting the number of persons appearing personally in court. Remote participation in court proceedings is ultimately subject to the broad discretion of the court. Some hearings may include participation by telephone, video, and in-person, all within the same hearing.

Those persons choosing to forego an in-person appearance, shall comply with:

Supreme Court Rule 45 (Participation in **Civil or Criminal** Proceedings by Telephone or Video Conferences—**Nontestimonial** court appearances):

The court may, upon request or its own order, allow a case participant to participate in a civil or criminal matter remotely, including by telephone or video conference. Use of telephone or video conferences in criminal and delinquency matters shall be undertaken consistent with constitutional guarantees applicable to such proceedings. The court may further direct which party shall pay the cost, if any, associated with the telephone or video conference and shall take whatever action is necessary to ensure that the cost of remote participation is not a barrier to accessing the courts; and

Supreme Court Rule 241(Use of Video Conference Technology in **Civil** Trials and Evidentiary Hearings—**Testimonial** court appearances):

The court may, upon request or on its own order, for good cause shown and upon appropriate safeguards, allow a case participant to testify or otherwise participate in a civil trial or other evidentiary hearing by video conferencing from a remote location. Where the court or case participant does not have video conference services available, the court may consider the presentation of the testimony by telephone conference in compelling circumstances with good cause shown and upon appropriate safeguards. The court may further direct which party shall pay the cost, if any, associated with the remote conference and shall take whatever action is necessary to ensure that the cost of remote participation is not a barrier to access to the courts.

“Case participant”, for both testimonial (SCR 241) and nontestimonial hearings (SCR 45), is defined as “any individual involved in a civil case including the judge presiding over the case, parties, lawyers, guardians ad litem, minors in the care of the Department of Children and Family Services (DCFS), witnesses, experts, interpreters, treatment providers, law enforcement officers, DCFS caseworkers, and court reporters”.

“Good cause” includes “when a witness is unable to attend trial for unexpected reasons, such as accident, illness, or limited court operations, but also in foreseeable circumstances such as residing out of state. Good cause may be established by agreement of all parties that testimony should be by video conference; however, the court is not bound by the agreement and may insist upon live testimony”.

Note that appearing remotely under SCR 45 does NOT require a showing of “good cause” or meeting a particular hardship threshold. Requests for the same under SCR 45 should be easy to make and liberally allowed.

Courts retain broad discretion to determine whether video testimony is appropriate and should consider all matters set forth in the Committee Comments to SCR 45 and SCR 241. Additionally, the safeguards for such testimony under SCR 241 expressed in the Comments should also be observed, as practical.

TYPES OF NON-TESTIMONIAL HEARINGS (SCR 45) THAT MAY HAVE AT LEAST ONE VIDEO CONFERENCE OR TELEPHONIC CONFERENCE PARTICIPANT:

- Case management conferences with “meaningful action” to be taken (agreed continuances should be by e-filed order ONLY).
- Pretrial conferences with the court in civil matters
- Criminal and traffic pretrial conferences
- Motion hearings—argument only
- Hearings decided on a case-by-case basis by the judge assigned

In the court’s discretion, parties who have fully briefed motion hearings may agree to stand on their briefs and have the court make a ruling from review of said briefs.

ALL TESTIMONIAL HEARINGS shall be reviewed on a case-by-case basis by the judge assigned to determine whether “good cause” exists to allow for remote testimony; however, THE FOLLOWING TYPES OF TESTIMONIAL HEARINGS MAY HAVE AT LEAST ONE VIDEO CONFERENCE OR TELEPHONIC CONFERENCE PARTICIPANT:

- Dissolution prove-up hearings
- Establishment of guardianship proceedings

HOW TO SCHEDULE a “Walk-In” (Civil) or Pretrial Conference (Criminal) HEARING:

All civil case management and “walk-in” matters and criminal VOP/VOCD pretrials, 1st appearances, and “quasi-criminal” MR 1st appearances (subpoena returns, forfeiture matters) will be scheduled at the rate of 10 cases per each half an hour. Small claims matters will be set at 15 cases per half an hour. Persons wishing to schedule one of these matters may either contact the circuit clerk to secure a date and time or may e-file a notice of hearing. If the time/date selected is not approved by the clerk, the notice will be rejected and a new date and time will be suggested by the clerk.

ALL matters necessitating a hearing, **MUST** be scheduled with the judge assigned by either appearing at a “walk-in” conference or pretrial conference in person, by telephone, or by videoconference.

In order to promote open court proceedings, each judge will hear matters in the courtroom assigned. Participants who wish to appear by telephone will be placed on speaker phone in the courtroom during such hearings. Participants who wish to appear by videoconferencing will be published on the audio video system in the courtroom where the proceeding is being conducted. At this time, participants by videoconferencing may be unable to view all persons in the courtroom, but will be able to view and/or hear all participants. We continue to work with our IT Department to enable all participants to be viewed.

Remote hearings **MAY** occur using telephonic communication or an electronic video conferencing platform (Zoom being the default platform), at the discretion of the assigned judge, **PROVIDED** that **ALL** notices for **hearings which qualify for telephonic/video conference participation, or hearings which have been specifically authorized by the court for remote participation**, shall provide for parties to appear either in-person, by telephone, or by videoconference. In the event that a person requests a court reporter for such a hearing scheduled by the court at a pretrial conference or “walk-in” appearance, that request **MUST** be noted on the hearing Notice. The court reporter will then serve as the “host” for the remote hearing. Phone numbers and email addresses for all persons intending to appear remotely **MUST** be contained on said notice. All other hearings in which remote appearances are authorized by the court, but a court reporter is not requested or determined necessary by the judge presiding, will be scheduled as directed by the judge presiding at the time the hearing is scheduled.

We expect that each judge will have a recurring videoconferencing meeting ID and password for “walk-in” and pretrial conference hearings, which will be active during the times scheduled for such hearings. Our IT Department is working diligently on setting up these recurring meetings through the Zoom platform. All information associated with these hearings will be posted on the Whiteside County website: www.whiteside.org. Go to “County Information” and select the “Courts” link for further information. All persons wishing to make a telephonic appearance will also need to visit said website for instructions.

Any recording of a remote proceeding by any person, other than by an official court reporter or by official court recording, is strictly prohibited.

When making a **TELEPHONIC APPEARANCE**, persons shall

- Not use vulgar or offensive language.
- Not allow any person not specifically authorized by the court to be present or listen in during said conference.
- Not communicate with anyone during the appearance, except attorney/client communications and as authorized by the court.
- Not record any portion of said court proceeding.
- Observe proper courtroom decorum.
- Not consult any written, printed, electronic or other information source during the appearance, unless authorized by the court.

When making a **VIDEO CONFERENCE APPEARANCE**, persons shall

- Not use vulgar or offensive language.
- Be appropriately attired for a court appearance and shall not display any clothing items or backgrounds containing inappropriate messages or images.
- Maintain a muted connection when not speaking to silence any interference or background noise, unless otherwise directed by the judge presiding.
- Observe proper courtroom decorum.
- Not record any portion of said court proceeding.
- Not allow any person not specifically authorized by the court to be present or listen in during said conference.
- Not communicate with anyone during the appearance, except attorney/client communications and as authorized by the court.
- Not consult any written, printed, electronic or other information source during the appearance, unless authorized by the court.

When making an **IN-PERSON COURT APPEARANCE**, all persons entering the courthouse are subject to all rules and protocols enacted by the Whiteside County Sheriff. Please note that every effort will be made by cleaning staff to sanitize public areas of the courthouse.

ALL Persons, including attorneys, entering and remaining within a courtroom, shall:

- Wear a mask or other appropriate face covering **at all times**, unless authorized to remove the same by the judge presiding, which shall only occur in very limited circumstances, including medical circumstances. Masks shall not bear any inappropriate messages or images.
- Social distance **at all times** by maintaining at least a 6-foot distance from everyone else in the courtroom.

- Not allow a child under age 18 years to accompany them, unless said child is a party in a proceeding or specifically approved in advance to be present by the judge presiding.
- Refrain from bringing anyone to court with them who is not a necessary party, attorney, or witness in a case.
- Abide by all directives from Court Security Officers.
- Refrain from approaching the bench, clerk's station, court reporter, and court security officers, unless directed to do so by the judge presiding.
- Not be present in the hallways/common areas behind the courtrooms. These areas are not conducive to social distancing and all court business may be conducted in the courtrooms, unless specifically directed otherwise by the judge presiding.
- Not arrive more than 10 minutes early and leave promptly after their matter ends.
- Not congregate inside or outside the courtroom.
- Bring their own pens and hand sanitizers, except spray sanitizers.
- Avoid touching handrails, door handles, light switches, and other "high touch" areas as often as possible.
- Bring sufficient copies of all documents. No one in the courtroom will provide copies and they are not to use the copiers on-site. Copies of orders entered in court will either be emailed or placed in the attorney "boxes" in the courthouse.

In order to maintain appropriate social distancing, ALL COUNTY EMPLOYEES who are not employed in the Circuit Clerk's Office (EXCEPT Judges, Court Reporters, Court Security Officers) and all NON-EMPLOYEES shall not be present in the Sterling Circuit Clerk's Office.

Scheduling Changes: As no "Swing Judge" will be provided on Wednesdays at least through August 31, 2020, and the three Whiteside Judges are required to staff both courthouses, the following schedule changes are necessary and shall be in place until further order. Unless specifically modified herein, each judge will resume the schedule in place prior to the COVID-19 pandemic modifications.

JUDGE HEUERMAN:

- First Wednesday in August: Special Sets and OP returns from 9:00 a.m. until 10:00 a.m. in Sterling (while Judge Senneff handles Conflict traffic/misdemeanor).
- June 24th, August 26th (Felony Pretrial Wednesdays) and August 12th: Prisoners, Pay/appear call, Special Sets from 1:00 p.m. until 4:30 p.m. in Morrison.
- Fridays in June, July and August: OP returns (1:30 p.m. until 2:00 p.m.); Special Sets, and traffic/ misdemeanor (2:00 p.m. until 4:30 p.m.) in Morrison.

JUDGE STEINES:

- First and Third Wednesdays in June, First and Fourth Wednesdays in July, First Wednesday in August: Prisoners and Pay/appear call in Morrison.
- Wednesdays from 9:00 a.m. until 10:00 a.m.: Criminal walk-in call ONLY (EXCEPT felony pretrial Wednesday and Jury weeks) in Morrison.
- Fridays from 9:00 a.m. until 10:30 a.m.: Civil walk-in call ONLY (EXCEPT Jury week) in Morrison.

JUDGE SENNEFF:

- First Wednesday in August: Conflict traffic and misdemeanor from 9:00 a.m. until 10:00 a.m. in Sterling.
- Second Wednesday in June, Second and Third Wednesdays in July, Third Wednesday in August: Prisoners and Pay/appear call in Morrison.
- First Wednesday in August from 11:00 a.m. until noon: Civil walk-in call ONLY in Morrison. Remaining Wednesdays (EXCEPT felony pretrial Wednesday and Jury weeks) from 9:00 a.m. until 10:30 a.m.: Civil walk-in call ONLY in Morrison.
- Fridays from 9:00 a.m. until 10:00 a.m.: Criminal walk-in call ONLY (EXCEPT Jury weeks) in Morrison.
- When Jury weeks resume, no Juvenile Court schedule on Tuesdays during those weeks in July, and August.
- Thursdays (EXCEPT Jury weeks): 9:00 a.m. until 10:00 a.m.: Civil walk-in call in Sterling; 10:00 a.m. until 10:30 a.m.: Public Aid walk-in call ONLY

Fifth Wednesday in July: SBS or TAS will cover prisoner call and any pay/appear.

UNCONTESTED DIVORCE AND FAMILY CASES: Administrative Order Number 2020-4 remains in effect.

ALL BOND MODIFICATIONS shall be scheduled through the Circuit Clerk's Office before the judge who is assigned to that specific case.

WEDDINGS shall resume in each courthouse on Fridays at 11:30 a.m., beginning on June 5, 2020. Wedding ceremonies are limited to 10 persons in attendance, including the couple to be married.

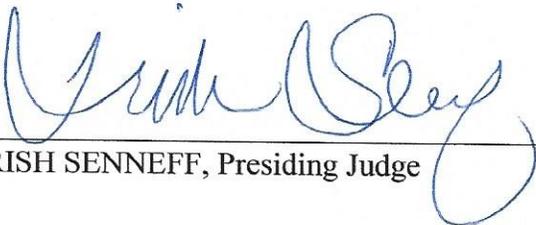
JURY TRIALS:

The lack of sufficient safeguards for social distancing, limitations in court facilities and staffing, and the time necessary to address these issues and still effectuate a jury trial, prevent jury trials from occurring during June, 2020. Suspending such trials during the month of June serves the ends of justice and outweighs the best interests of the public and defendants in a speedy trial. However, these concerns necessitating a continuance are expected to be sufficiently addressed such that in-person jury trials may resume in July, 2020.

Consistent with the Supreme Court Guidelines and 14th Circuit Administrative Order Number 20 CA-43, Jury trials will resume in July, 2020, with the following prioritization: Criminal/Traffic in-custody cases, including commitment matters; Criminal/Traffic out-of-custody cases; Civil cases.

This Order is subject to amendment, as necessary.

DATED: May 28, 2020



TRISH SENNEFF, Presiding Judge