

Montgomery County
Circuit Court
Reopening Plan –
PHASE 4
Advancement



Robert A. Greenberg, Administrative Judge
August 31, 2020

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CIRCUIT COURT FOR MONTGOMERY COUNTY PHASE IV

Pursuant to Chief Judge Mary Ellen Barbera's Amended Administrative Order on the Progressive Resumption of Full Function of Judiciary Operations Previously Restricted Due to the COVID-19 Emergency, dated June 3, 2020, the Circuit Court for Montgomery County will continue a five-phased reopening process.

Phase I of the plan has been in effect since March 17, 2020. Phase II began on June 8 with expanded operations gradually adding additional types of trials, hearings and services. Phase III opened the Clerk's offices to the public by appointment only. Some in-person proceedings were added. Starting on August 31, 2020, Phase IV will introduce additional in-person proceedings and continue services by appointment. Phase V will usher in the resumption of full activities on October 5, 2020.

Judge Barbera's order gives individual administrative judges throughout the state authority to adjust phases, or to retreat from a later to an earlier phase, consistent with the state of the COVID-19 situation in a particular jurisdiction.

While more courthouse employees will be returning to work on August 31, the court anticipates no changes in its policy regarding attorneys and members of the public. Restrictions on the persons who may enter the courthouse will remain in effect indefinitely. The use of the virtual platform Zoom for Government will be encouraged to resolve matters whenever possible, and both video and telephonic conferencing will continue. No persons will have unfettered access to public records or agencies located within the courthouse without an appointment. *See Guidelines on Services*, below, for more information.

Policies and Procedures of Interest to the Bar and Litigants

The following policies and procedures may be of interest to the bar and litigants:

- **Civil and Family Law Cases** – Civil jury trials postponed because of the court closure will not begin until December 1, 2020. Previously-scheduled civil jury trials set in October and November may be held as scheduled, although the parties may be asked to submit to a virtual or partially-virtual jury selection process. Those jurors ultimately selected will hear the trial in person.

Scheduling and status hearings and non-evidentiary motions in both civil and family cases will continue to be heard remotely, as will uncontested divorces.

- **Criminal Cases** – Judge Barbera's order prohibits the resumption of jury trials until October 5. All criminal jury trials will be reset to a date thereafter, unless such a case already had a post-October 5 trial date. Older cases where persons awaiting trial are incarcerated will be given priority when setting new dates whenever possible, and non-Track 1 criminal cases will be given priority over civil cases.
- **Pleas in Criminal Cases** – Through October 2, 2020, all 24 judges of the Circuit Court are plea-eligible, meaning that counsel can present a case to a judge of their choosing to work out and schedule a plea. The policy is not available for cases appealed or jury demanded from the District Court. *See Extension of Temporary Circuit Court Policy Regarding Availability of Plea Judges (7/29/20)*, posted on the court's website: www.montgomerycountymd.gov/cct, for further information.

- **Alternative Dispute Resolution** - Parties are encouraged to use court-facilitated options for resolution of cases. In family cases, mediation of contested divorce and custody cases will continue through trained mediators. Experienced members of the family bar have volunteered to supplement the court's programs by agreeing to serve as mediators on a pro bono basis.

The court will continue to offer settlement conferences with senior (retired) judges in Track III civil cases. Special Magistrate Sarah Malik maintains a list of senior judges and attorneys who serve to mediate cases, and can be reached at smalik@mcccourt.com.

- **Juvenile Cases** – Consistent with Judge Barbera's order, the court continues to encourage the use of joint proposed orders in CINA post-adjudication matters so as to eliminate the necessity of hearings. Because the juvenile bar is relatively small, the court will work with counsel to avoid calendar conflicts when setting new dates for CINA and delinquency cases that were postponed.
- **Filing of Case Documents** - The Court continues to accept pleadings and papers through the United States Postal Service, express delivery services and the physical drop box outside the courthouse at 50 Maryland Avenue, Rockville, Maryland.

All pleadings or papers placed in the physical drop box that are non-emergency matters should be clearly marked on the surrounding envelope as "non-emergency." Any pleadings or papers placed in the physical drop box that are emergency matters should be marked on the surrounding envelope as "emergency." Any pleading or paper not characterized will be treated as non-emergency.

Land Records will accept filings at 10:00 a.m., 12:00 noon and 2:00 p.m. at the Maryland Avenue courthouse entrance.

- **Electronic Filing** – Pleadings or papers filed electronically may not exceed 25 pages, including the motion, any supporting memoranda, exhibits and the proposed Order. This page limit does not expand any limit already set for that case in a Scheduling Order.

Most items can be filed electronically, but some items CANNOT be filed electronically. These items CANNOT be filed electronically:

- Any item that requires a filing fee;
- Any item that requests the waiver of a filing fee;
- A Petition for Protection from Domestic Violence;
- License Applications;
- Land Records;
- Requests for Copies and Certified Copies (including copies of marriage licenses and exhibits);
- Requests for Apostille Certifications;
- Any item that must be forwarded to the Sheriff's Office for service;
- Requests to see or copy files;
- Original Complaints and Petitions where the filer is asking to have fees waived.

Use the following email addresses for electronic filing:

Civil Cases: e-civilexpedite@mcccourt.com for items that are emergencies.
e-civil@mcccourt.com for all other items in Civil cases.

Criminal: e-criminalexpedite@mcccourt.com for items that are emergencies.

e-criminal@mcccourt.com for all other items in Criminal cases.

Family: e-familyexpedite@mcccourt.com for items that are emergencies.
e-family@mcccourt.com for all other items in Family Law cases.

Juvenile: e-juvenileexpedite@mcccourt.com for items that are emergencies.
e-juvenile@mcccourt.com for all other items in Juvenile cases.

E-filing email addresses are only for electronic filing of PDF attachments. We are not be able to answer other emails sent to these email addresses. If an item is rejected for electronic filing, it must be re-filed, either electronically or at the physical dropbox, or by special arrangement with the Clerk's Office. If the item is accepted for electronic filing, the filing date will be that listed in the automated email sent to the filer.

Courthouse Entry and Public Areas

The following provides information on entry into the courthouse as well as policies regarding movement around the courthouse in public and office areas.

- **Entry into the Courthouse** - Limited public access to the courthouse will be from the Maryland Avenue and Monroe Street entrances only. Health screening questions and a non-contact temporal thermometer check will be administered to all who enter the building from public entrances and the loading dock. This includes delivery and contractor personnel. Individuals denied access to the Circuit Court for Montgomery County because of health or safety concerns should:
 - If you are an attorney and scheduled to appear before a judge, contact the judge's chambers.
 - If you are represented by an attorney, contact your attorney.
 - If you are a witness, contact the office or individual who requested your appearance in court
 - If you are unrepresented and scheduled to appear before a judge, contact the judge's chambers or the Assignment Office at 240-777-9000

All persons shall wear a mask or face covering at all times in the Circuit Court, and during court proceedings, including but not limited to judges and magistrates and any person over the age of two years. Other devices, including clear personal barrier shields, are not a substitute for masks or face coverings.

Screening stations are fully functional. The Court will provide individuals with a plastic bag for small items to go through x-ray screening. If items are too large, plastic bags will be used to line the bottom of the screening bin and items will be placed on top of the bags for x-ray screening. The plastic bags will be disposed of after use. Floor markings designate the queuing distance for screening lines.

- **Courthouse Public Areas** - To the extent reasonably practicable, uniform social distancing of six feet shall be maintained throughout the courthouse, including in offices and courtrooms.

The North Tower north stairwell is designated for upward movement only. The North Tower south stairwell is designated for downward movement only. In the South Tower, the interior right stairwell (closest to the North Tower) is designated for upward movement only. The South Tower interior left stairwell is designated for downward movement only.

The maximum elevator capacity is set at four people, and use of stairwells is encouraged. Social distancing markers placed throughout the courthouse are to be used by everyone within the courthouse.

Guidelines on Services

The following provides information on the services that the court offers to the bar, litigants and the public.

- **Marriage Licenses** - Licenses may be obtained by completing a State of Maryland Marriage License Application For Use During COVID-19 Emergency Only form and filing it with the Montgomery County Circuit Court License Department, along with a check for the \$55.00 license fee made payable to Clerk of the Circuit Court. You may submit your completed and signed application, along with any Consent of Parent or Guardian forms if applicable, and payment for the license fee, in the court's physical dropbox, or by first-class mail. Please include a daytime phone number and email address for at least one of the parties so the Clerk can contact parties if there are any problems with the application, or if additional information is required.
- **Law Library** – The Law Library is available to assist researchers remotely. Notary services are available remotely by appointment through September 30th. Library staff will respond to queries from 8:00 am – 4:30 pm, Monday through Friday, at lawlibrary@mcccourt.com or 240-777-9120. Details regarding pandemic-related service changes, free legal information resources, and temporary remote access to some legal databases are available via the library website: www.montgomerycountymd.gov/cct/law-library.html.
- **Family Law Self Help Center** - Attorneys are available to provide legal advice via telephone Monday through Friday between 8:30 a.m. and 4:00 p.m. Additionally, the Center is offering limited, in-person appointments after consulting with an attorney via telephone. Please call 240-777-9079 for help.
- **Supervised Visitation** - For families ordered to participate in Supervised Visitation utilizing the Court's Supervised Visitation Program, the visits will be conducted remotely. The court's supervisors will provide "Virtual Visitation Supervision" between parent and child/children via Zoom, Skype or other platform. The supervisor of the case will coordinate scheduling of these visits, which will occur weekly for 45 minutes to an hour, although the length of the visit may have to be shortened given the age and ability of each child.
- **Co-Parenting Skills Enhancement Program** - The Court's program will now be offered on-line. Parties who are ordered to attend the program will be given information by the Court on how to sign up for the six-hour course.
- **Child Custody and Access Mediation Program** - The Program will be conducted remotely until further notice. Parties who are referred for mediation intake will be contacted by a Family Division Services staff member who will conduct an intake interview over the telephone to ensure that the case is eligible for mediation. If the case proceeds to mediation, Family Division Services will coordinate the remote mediation session. The mediation program remains free of charge to litigants.
- **Drug Court and Mental Health Court** - Proceedings will continue as scheduled using remote technology.
- **Access to Case Files** - Court Case files may be viewed by the public by appointment only after July 20th. Please see the circuit court website at <https://montgomerycountymd.gov/cct/index.html> and click on the link for "Tips and frequently

asked questions during the Montgomery County Circuit Court's closure." That link provides information on how to schedule an appointment.

- [Notary Services](#) - Available to the public and court staff by appointment. Email lawlibrary@mcccourt.com or call 240-777-9120 to make arrangements.
- [Lawyer Referral Service and Kids Spot](#) - These services remain closed to the public.

Remote Proceedings

Remote proceedings have proved to be useful and effective in facilitating the court's performance of core functions during the COVID-19 emergency. The continued use of this technology will be in place indefinitely. The Court will use **Zoom for Government** for audio teleconferences and video conferences; electronic mail and **OneDrive** to exchange documents and exhibits prior to and during proceedings; and **Adobe EchoSign** if signatures are required on documents during proceedings.

General Considerations

- As often as possible, the Court will collect phone numbers and email addresses for all parties and participants. This contact information shall be maintained in the court's case management system.
- Judicial Assistants, Magistrates' Assistants, Family Division Case Managers, and Family Division support staff shall schedule and notify participants of telephone conferences and video conferences. Law Clerks shall manage proceedings occurring in courtrooms.
- Judicial Assistants, Magistrates' Assistants, Family Division support staff and Law Clerks will ensure that the Assignment Office is aware of all scheduling activities so that such information can be captured in the court's case management assignment programs.
- All litigants will provide documents to the court at least two days before an adversarial proceeding or 24 hours before an uncontested proceeding. Documents are to be pre-marked and exchanged with opposing parties as necessary.
- The court will set up one videoconference station within the courthouse to use with self-represented litigants who do not have access to wi-fi, own a smartphone, computer, or other device able to support videoconferencing.
- A code has been created in the HP to designate proceedings to occur in a Virtual Courtroom. The Virtual Courtroom designation will be reflected on the website Court Schedule and on docket displays throughout the courthouse.
- Court notifications of hearing dates, pending events, and change of pending events will include language indicating that, due to the COVID-19 pandemic, many court proceedings will be held remotely and that it is possible that court appearances may be by telephone or video conference.

Scheduling Zoom Proceedings

- Judicial Assistants, Magistrates' Assistants, or other courthouse employees will schedule remote proceedings. For courtroom proceedings, Judicial Assistants and Law Clerks will be designated as meeting co-hosts. Attorneys are responsible for providing call-in information to their parties and witnesses. The Court is responsible for providing call-in information to self-represented litigants, who will then be responsible for providing that information to their witnesses.
- Judicial Assistants, Magistrates' Assistants or courthouse employees will ensure interpreters are scheduled and have call-in information for all proceedings and services. If interpreters are unavailable and the Language Line is appropriate, Judicial Assistants, Magistrates' Assistants or courthouse employees will manage the use of the Language Line.

- Meeting participants shall be identified by First and Last Name. Judges and Magistrates should be identified by Hon. First Name and Last Name. Interpreters should be identified by Interpreter First and Last Name.
- The Title of the meeting shall list the case number and party names. Confidential proceedings shall list the case number. Juvenile matters shall list the case number and each party's first name and last initial.
- Waiting room and language interpretation features will be enabled for all meetings.
- Call-in information is available to courthouse employees on the MCCCnet intranet site. Call-in information will be listed with case number, party names, date and time of call and will be viewable by all courthouse staff.
- If interpreters are needed, interpreter email addresses are added to the meeting and a language is identified for the appropriate language channel to be used for interpretation. Interpreters will be responsible for instructing limited-English-speaking participants on how to access the language channel for simultaneous interpretation.
- Interpreters will default to simultaneous interpretation. Judicial officials will facilitate the switch from simultaneous to consecutive interpretation when the need to capture the language and the interpretation must be recorded. Consecutive mode interpretation will be used for witness questioning when the question, answer, and interpretation need to be placed on the record. With simultaneous interpretation, only the interpreters' English response will be recorded on CourtSmart.
- If the language line is needed, an outgoing toll-free call to Language Line Solutions will be made from the courtroom or hearing room.

Conducting Proceedings – Technology

- North Tower courtrooms will have portable Polycom equipment. South Tower courtrooms and hearing rooms have integrated audio conference capabilities.
- Chambers staff will activate and test audio and video hardware and will be the primary user of the system with Technical Services assistance in the event of a system outage or critical situation.
- Documents will be sent to the Court as email attachments or through OneDrive before proceedings begin. When proceedings are underway, parties will use email or OneDrive to immediately share documents.
- Courtroom Clerks will continue their role in capturing CourtSmart dates/times, as necessary, for these proceedings.

Conducting Proceedings - Judicial Officer

It is recommended that Judicial Officers follow the outlined steps at the beginning of each proceeding:

1. Read opening script
2. Waiver of rights, if applicable
3. Announce participants

4. Ask for participants not announced
5. Administer the Oath – confirming identifies of parties, and
6. Mute all parties except interpreter to minimize background noise and interference.

The proceeding will then commence.

Bench conferences will take place in the Zoom main meeting with other participants moved to the waiting area or a break-out room. Attorney/client communication will be held in a Zoom break-out room. Break-out room discussions will not be heard by participants in the main room. Law Clerks will facilitate sending links to parties moving to the break-out room. Parties in the break-out room will leave the room to rejoin the main room.

Document Submission

Parties will send documents directly to the e-mail accounts of Judicial Assistants or Magistrates' Assistants. Documents may be submitted in PDF, Word, Excel, or PowerPoint format. Documents may also be sent via mail or delivered in the physical dropbox. Chambers must be contacted for submission of large exhibits, binders, or physical exhibits unable to be mailed, placed in the dropbox, or emailed.

Submission via Email

- Each document must be titled and saved with the case number, party name, and document description as follows before it is sent to the court:
12345FL Smith Paystub
- Documents no longer than 25 pages may be attached to an email message and emailed directly to the Judicial Assistant or Magistrate Assistant's court email account.
- Large documents will need to be sent via mail or placed in the physical dropbox and marked as exhibits with the judge or magistrate's name and case number.
- Each Judicial Assistant or Magistrate Assistant will print out each exhibit and provide all printed exhibits to the Courtroom Clerk prior to the proceedings so the documents can be properly marked.

Submission via OneDrive

- Judicial Assistants and Magistrates' Assistants will access OneDrive and create a folder for each case.
- Once a folder is created, the Judicial Assistants and Magistrates' Assistants will access the folder and send a link to all parties. Parties will use the link to upload documents to OneDrive.
- During proceedings, documents may still be submitted using the provided OneDrive link.

Once documents have been logged and utilized in the proceedings they must be provided to the Clerk's Office for docketing in the Court's case management system.

PHASES OF REOPENING

PROCEEDINGS – PHASE IV AUGUST 31 TO OCTOBER 4

Non-jury, in-person civil trials may resume during this period, and it is anticipated that there will be greater courthouse traffic. While it would be the preference to hear some of these matters in-person, wherever possible the court will consider remote hearings. The following matters will be heard:

Civil

- Emergency Evaluation Petitions (EEPs)
- Quarantine and isolation petitions
- Body attachments
- Extreme Risk Protective Order (ERPO) appeals
- Appeals from peace orders
- Temporary Restraining Orders (TRO)
- Motions regarding ERPOs and peace orders
- Contempt hearings related to peace orders
- Scheduling/status conferences
- On-the-record appeals
- Default hearings
- Motions on 10 a.m. daily docket, and Register of Wills cases - Will continue to be heard by the assigned motions judge remotely.
- Jury Trials - For previously-scheduled trials to occur after October 5, the trial date will remain. For cases that were not heard as scheduled because of the court closure, or those scheduled before October 5, trials will be postponed until December, 2020 or thereafter.
- Bench Trials - For previously-scheduled trials set to occur after October 5, the trial date will remain.
- Motions requiring testimony - Will be heard remotely whenever possible.
- Settlement hearings - Will be heard remotely whenever possible.
- Attorney disciplinary proceedings - Will be heard remotely whenever possible.
- Non-jury trials and de novo appeals

Criminal

- Bail reviews/bench warrants
- Arraignments for detained defendants
- Extradition cases
- Emergency habeas corpus petitions
- Criminal competency matters
- Matters involving locally incarcerated defendants consistent with Judge Barbera's 4/14/20 order
- Deferred sentencing - non-incarcerated cases
- Plea agreements - without incarceration - deferred sentencings
- Remote motions, or those without testimony
- Competency and criminal responsibility - no witnesses - Will be heard remotely whenever possible.
- Discovery and Hicks issues
- Rule 4-215 Initial Appearance Hearings in Track 2, 3, and 4 Cases - Counsel shall clear trial dates at the time defense counsel enters his/her appearance, and set the Scheduling Order, and the case will

then be removed from the docket so that the parties and defendant need not appear. *See Message Regarding New Circuit Court Policies in Criminal Cases (5/28/20)*, posted on the court's website: www.montgomerycountymd.gov/cct, for further information.

- Pretrials in Track 1, 2, and 3 Cases - Track 1 pretrials will be heard telephonically where defendant is represented by counsel. Unrepresented defendants must appear in person, unless the court is able to arrange for a telephonic hearing.
- Track 2 and 3 cases will be heard telephonically where defendant is represented by counsel or, if unrepresented, has provided the court with a telephone number where he/she can be reached at the time of the hearing. *See "New Circuit Court Policy Regarding Pretrials in Track 1, 2, and 3 Criminal Cases,"* effective June 8, 2020, posted on the court's website: www.montgomerycountymd.gov/cct, for further information.
- Search Warrants - Will be handled by the duty judge during business hours, and by the EEP judge after hours (along with District Court judges).
- Bench Warrants - Will be heard by the duty judge on the daily 1:30 p.m. docket.
- Non-Track 4 Bond Reviews - Will be heard at 11:30 a.m. on Fridays.
- Motions - Will be heard in-person, unless parties agree to hold remotely.
- Expungements - Will be heard remotely whenever possible.
- Violations of probation - Will be heard in-person if there is a possibility of incarceration.
- Non-jury trials - Will be heard in-person.
- Jury prayer status hearings - Will be heard remotely.
- Deferred sentencings - Should be heard in-person unless no possibility of incarceration and provision is made for immediate execution of any probation contract and advice of post-trial rights.
- Post-conviction hearings
- Three (3) judge panel reviews

Family

- Emergency issues in guardianship matters
- Domestic violence protective orders
- Family law emergencies, including time urgent matters related to special juvenile immigrant status
- Motions regarding domestic violence protective orders
- Contempt hearings related to protective orders
- Scheduling and status hearings - Will be handled by Family Magistrates remotely.
- Domestic violence protective orders - Will be heard remotely whenever possible.
- DV, peace and ERPO appeals - Will be heard remotely whenever possible.
- Exceptions hearings not involving testimony - Will be heard remotely whenever possible.
- Uncontested divorces and other uncontested matters - Will continue to be heard by Family Magistrates remotely.
- 1F1J cases - Will remain with assigned 1F1J judge to conduct status conference if necessary.
- Non-emergency guardianships
- Adoptions - Will be heard remotely by the assigned judge.
- SJIS cases - Will be heard remotely whenever possible.
- Mediations - Available in divorce and custody matters with pro bono attorneys as mediators.
- Temporary Domestic Violence Petitions - Will be heard in-person.
- Motions requiring testimony - Will be heard remotely whenever possible.
- Pendente lite hearings - Resume with three hour time limit in every case, will be heard remotely whenever possible.
- Contempts - Will be heard in-person.
- Adoptions - Will be heard remotely whenever possible.

- Non-emergency guardianship hearings - Will be heard remotely whenever possible.
- Establishment of child support (MCOCS) - Will be heard in-person, in staggered time slots.
- Settlement hearings - Will be heard remotely whenever possible.
- Court-ordered mediations - Will be heard remotely whenever possible.
- Hearings and trials
- Child support contempt (MCOCS) - Will be held in-person, in staggered time slots.

Juvenile Delinquency/CINA

- Juvenile detention hearings
- Shelter care hearings
- Peace order petitions (juvenile respondents)
- CINA matters, consistent with FCCIP Subcommittee recommendations of 4/3/20.
- Emergency delinquency hearings, consistent with Judge Barbera's 4/13/20 order.
- Exceptions hearings, no testimony - Will be heard remotely.
- Uncontested CINA matters including adjudications, dispositions and reviews - Will be heard remotely whenever possible.
- TPR by consent - Will be heard remotely whenever possible.
- Guardianships under juvenile causes - Will be heard remotely whenever possible.
- Adoptions of CINA and TPR juveniles - Will be heard remotely whenever possible.
- First appearances - Will be heard remotely whenever possible.
- Emergency delinquency matters - Will be heard remotely whenever possible.
- Adjudication - no witnesses - Will be heard remotely whenever possible.
- Dispositions by consent - Will be heard remotely whenever possible.
- Delinquency reviews - Will be heard remotely whenever possible.
- Closure of juvenile probation – Will be heard remotely.
- Juvenile expungements not requiring testimony - Will be heard remotely.
- Juvenile permanency plans and reviews if not contested - Will be heard remotely whenever possible.
- Juvenile waivers - no testimony - Will be heard remotely whenever possible.
- All contested matters requiring testimony including adjudications - Will be heard in-person.
- CINA adjudications, dispositions, permanency plans, permanency plan reviews - Will be heard remotely whenever possible.
- TPR hearings - contested - Will be heard in-person.
- Disposition and disposition reviews - Will be heard remotely whenever possible.
- Closure of probation - Will be heard remotely.
- Motions - Will be heard remotely whenever possible.
- Juvenile expungements - Will be heard remotely.
- Juvenile permanency plan and permanency plan reviews - Will be heard remotely whenever possible.
- Juvenile and adult sex offender registration matters - Will be heard remotely whenever possible.
- Waiver hearings, to and from Juvenile Court - Will be heard in-person.
- Exceptions hearings - Will be heard remotely

PHASE V – OCTOBER 5

All courts and services will be fully operational on October 5, assuming it is consistent with the health of the courthouse and surrounding community. Since this phase contemplates the resumption of jury trials in civil and criminal matters, the court is developing protocols for the handling of jury trial cases given the large increase in people who will be coming to the courthouse for jury service. Those protocols will be provided to the Bar and public in the next several weeks.