

IN THE SUPREME COURT OF THE STATE OF ALASKA
SPECIAL ORDER OF THE CHIEF JUSTICE
ORDER NO. 8387

Update Regarding Visitor Health Precautions and Remote Participation

Under the authority of Supreme Court Order No. 1957, this Special Order supercedes Special Order 8310.

The Alaska Court System continues during the COVID-19 pandemic to follow public health guidance from the Centers for Disease Control and Prevention (CDC) and the Alaska Department of Health and Social Services (DHSS). Many changes have occurred throughout the pandemic in reaction to new variants and increased knowledge of how to limit the transmission of COVID-19. The court system is updating its mitigation policies considering two sets of recent information from CDC and DHSS.

COVID-19 Community Levels are a new CDC tool to help communities decide what prevention steps to take based on the latest data.¹ Levels can be low, medium, or high and are determined by looking at hospital beds being used, hospital admissions, and the total number of new COVID-19 cases in an area. The court system is using this CDC tool to determine if mask usage should be required or optional. Individuals in communities at the high level should wear masks indoors; masking is optional in communities at less than the high level.

Alaska DHSS tracks COVID-19 case data for many communities. It has used a four-level COVID-19 alert system for boroughs and census areas based on reported COVID-19 cases per 100,000 persons in the past seven days.² Levels are high (greater than 100 cases), substantial (50-99.99), moderate (10-49.99), and low (0-9.99). These levels are useful to show community transmission of COVID-19. The court system refers to DHSS alert levels to determine if social distancing is required, and has used six-foot social distancing to avoid close contact and possibly transmitting COVID-19 to several people. Courthouses located in communities at the high DHSS alert level require social distancing.

¹ www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html.

² <https://dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/alertlevels.aspx#communitylevels>.

IT IS ORDERED:

1. All visitors to Alaska Court System courthouses and facilities must take precautions to keep other members of the public and court staff safe.
2. Visitors may be required to undergo a screening protocol and fill out a log book, which may include questions about:
 - a. whether the visitor has recently suffered flu-like or cold symptoms;
 - b. whether the visitor has had close contact with anyone diagnosed with COVID-19 within the last 10 days;
 - c. whether the visitor has a current COVID-19 diagnosis or is pending a test result for COVID-19.
3. Based on guidance from the CDC, use of masks in court buildings is optional for all visitors except in communities where the COVID-19 Community Level is “high” according to the CDC community level map tool.³ Also, a visitor who had close contact with someone with a positive COVID-19 diagnosis must wear a mask at all times while in the courthouse until 10 days have passed since the last known instance of close contact with the person who is COVID-19 positive.⁴
4. The following persons are exempt from the mask requirement if the courthouse is in a “high” level community according to the CDC Community Level map tool:
 - a. Any child under two years of age;
 - b. Any individual who has a mental or physical disability that prevents the person from being able to wear or remove a face covering or mask, provided the person is able to maintain required social distancing while in the court system facility; and

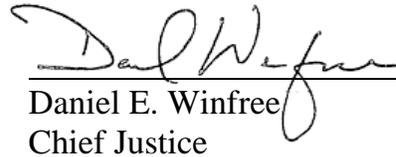
³ See www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html.

⁴ See www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html.

- c. Any individual who has trouble breathing, is unable to remove a face covering or mask without assistance, or has been advised by a medical professional that wearing a face covering or mask may pose an unreasonable risk to that person, provided the person is able to maintain required social distancing while in the court system facility.
5. CDC continues to require quarantine for those exposed to COVID-19 (based on close contact) and not fully vaccinated. Until CDC changes the quarantine requirement or close contact definition, if the DHSS alert level is “high” (100+ COVID-19 cases/100,000), the court system will continue six-foot social distancing including during courtroom proceedings. However, with the consent of the affected participants, the judge may authorize participants who have an ongoing professional relationship to sit or confer without maintaining the usual social distancing. This includes criminal defendants and their attorneys and prosecutors and their case officers. If the COVID-19 case counts drop below high, social distancing will no longer be required. DHSS community alert levels are found at <https://dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/alertlevels.aspx>.
6. During courtroom proceedings in communities where masks are required, the judge may authorize removal of masks as necessary, including for purposes of witness testimony, defendant identification, or making an appropriate record, provided that other protective measures are in place such as Plexiglas barriers.
7. For an individual court location, the presiding judge may use relevant local data to make a decision regarding mask and social distancing requirements that may be different than the CDC community level map tool or DHSS alert information provides.
8. Judges should continue to liberally allow remote participation in regions with high average daily case rates as reported by DHSS. Judges should also continue to liberally allow remote participation by the parties for all pretrial hearings where personal appearance is not necessary. And judges should avoid requiring the parties to attend large block hearings where they cannot enforce social distancing.

9. Court system officers or employees may exclude visitors who refuse to cooperate with this Order.
10. If there is a more restrictive municipal ordinance or local emergency order requiring masks, the court system facility in that location shall also follow that ordinance regarding visitors.
11. This order supercedes prior orders requiring court system facilities visitor health precautions and remote participation in courtroom proceedings. But the presiding judges may issue overriding orders regulating remote participation and personal attendance to address local conditions or to promote consistency.

DATED: March 8, 2022


Daniel E. Winfree
Chief Justice

Distribution:
Supreme Court Justices
Presiding Judges
Area Court Administrators
Administrative Director
Clerk of the Appellate Courts