

IN THE SUPREME COURT OF THE STATE OF ALASKA
SPECIAL ORDER OF THE CHIEF JUSTICE
ORDER NO. 8397

Update Regarding Visitor Health Precautions, Remote Participation, and
Jury Selection Procedures

Under the authority of Supreme Court Order No. 1957, this Special Order supersedes Special Order 8387 which had been an update to Special Order 8310 regarding visitor health precautions. Special Order 8387 reflected the Centers for Disease Control and Prevention's (CDC) adoption of COVID-19 Community Levels, a tool to help communities decide what prevention steps to take based on the latest data.¹ Since the issuance of Special Order 8387, the Alaska Department of Health and Social Services (DHSS) introduced Community Case Rates as a tool to complement the CDC's Community Levels.² Going forward, this order provides that the CDC Community Level is the appropriate tool to determine whether masking and social distancing are required in a courthouse.

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 someone diagnosed with COVID-19 within the last 10 days; and

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

² Community Case Rates are calculated for each borough/census area and reflect new COVID-19 cases reported in the past 7 days per 100,000 residents. See <https://dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/alertlevels.aspx#DHSS>.

- c. whether the visitor has a current COVID-19 diagnosis or is pending a test result for COVID-19.
3. Masking and social distancing requirements will depend on the CDC COVID-19 Community Level³ designation for the community where the courthouse is located. If the COVID-19 Community Level is:
 - a. “high,” all visitors must wear masks and socially distance six feet from others;
 - b. “medium,” all visitors must wear masks or socially distance from others. For court proceedings involving many participants, like jury trials and block hearings, the judge will determine if:
 - (1) all courtroom participants will wear masks and do not need to socially distance from others, or
 - (2) no courtroom participants will wear masks but must socially distance at least six feet from others; or
 - (3) some participants will wear masks but others will socially distance (this means some jurors may be masked in the jury box but others may feel more comfortable sitting socially distanced if the courtroom size can accommodate that arrangement); and
 - c. “low,” visitors do not have to mask or socially distance from others, but masking may be done voluntarily.
4. CDC levels are updated on Thursdays. Less restrictive changes will occur after two consecutive weekly lower level readings for the courthouse community using the CDC COVID-19 Community Level tool. More restrictive changes will occur the following Monday after the CDC Community Level increases, if possible. The judicial district Area Court Administrator, in consultation with the Presiding Judge and local Clerk of Court, will determine when it is appropriate to modify the physical setting in courthouses, including furniture, plexiglass screens, social distancing decals, etc.
5. Regardless of the CDC COVID-19 Community Level, a visitor who had close contact with someone with a positive COVID-19 diagnosis must wear

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

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

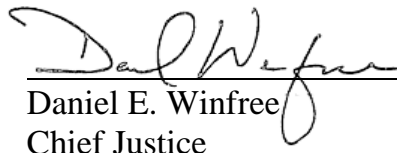
6. The following persons are exempt from the mask requirement if the courthouse is in a “high” level community according to the CDC Community Level map tool:
 - a. Any child under two years of age;
 - b. Any individual who has a mental or physical disability that prevents the person from being able to 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
 - 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.
7. According to Special Order 8194, during courtroom proceedings in communities where masks and/or social distancing is 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 plexiglass screens. Special Order 8194 also provides that where social distancing is otherwise required, 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 CDC community level is medium, the judge and in-court clerk are not required to wear masks if they are socially distanced from others.
8. For an individual court location, the presiding judge may use relevant local data to make decisions regarding mask and social distancing requirements that may be different than the CDC community level map tool.
9. Judges should continue to liberally allow remote participation in regions with high and medium CDC community levels. Judges should also continue

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

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 and /or masking unless the CDC community level is low.

10. Court security officers, entry screeners, or employees may exclude visitors who refuse to cooperate with this Order.
11. If there is a more restrictive municipal ordinance or local emergency order requiring masks, the court system facility in that location shall follow that ordinance or emergency order regarding visitors.
12. This order supersedes 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.
13. Regardless of the CDC community level, Chief Justice Special Orders [8259](#) and [8194](#) are still in effect regarding jury selection procedures.⁵

DATED: April 22, 2022



Daniel E. Winfree
Chief Justice

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⁵ Special Order 8259, section 6 references *Alaska Court System Conducting Criminal and Civil Jury Trials, and Grand Jury During the COVID-19 Pandemic*. That document was updated March 10, 2022; see <https://courts.alaska.gov/covid19/docs/conducting-trials-gj-pandemic.pdf>.