

## **CIRCUIT COURT PHASE ANNOUNCEMENT – 07/08/20**

As directed by the Missouri Supreme Court on May 4, 2020, judicial circuits cannot rush to “open their doors” during this pandemic. They must do so gradually. The Court developed four phases to allow for this process. In determining whether phasing up is appropriate, the Court provided the following specific “Gateway Criteria” to consider:

- “1. No confirmed COVID-19 cases in the court facility within a 14-day period.
2. Rescission or lack of stay-at-home orders or the relaxing of group gathering restrictions applicable to the community.
3. Improving COVID-19 health conditions over a 14-day period in the community, including conditions such as the number of confirmed COVID-19 cases and related deaths in relation to a community’s population density, size of particularly vulnerable populations, and availability of medical facilities including emergency and intensive care capacity.
4. Consultation with local health officials or departments concerning changes to levels of court and courthouse activities.
5. Consultation with local judiciary partners such as children’s division personnel, juvenile officers, members of the local bar, prosecutors and public defenders, law enforcement and probation and parole.”

Starting on May 12, 2020, the 21<sup>st</sup> Circuit has engaged in phasing discussions with judges, law enforcement officers, court administrators, prosecutors, public defenders, juvenile officers, Department of Public Health officials, probation officers, bar leaders and others. These discussions occur on a weekly basis, and will continue even after this Circuit enters into Phase Three, as the possibility of moving back to a lower phase always remains, depending on the status of the spread of the virus. This Circuit has also engaged in discussions with the Chief Judge of the Eastern District Court of Appeals and the Presiding Judge of the 22<sup>nd</sup> Circuit; both Presiding Judges agreed to regularly speak with the Chief Judge and always before deciding to change phases.

**The 21<sup>st</sup> Circuit is currently in Phase One, as it has been since June 18, 2020.**

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Factors that this Circuit has considered this week include the following:

1. At this time, no resident of the St. Louis County Family Court Detention Center is deemed to be positive for COVID-19. Two residents of the St. Louis County Justice Center Jail were found to be positive for COVID-19 on June 10, 2020 (after being tested on June 9, 2020). These individuals have not been in the County Courthouse. Further, no employee of the St. Louis County Courthouse is deemed to be positive for COVID-19.

2. On May 18, 2020 St. Louis County Executive Dr. Sam Page relaxed his March 13, 2020 Executive Order, allowing certain businesses to open while continuing to observe social distancing and follow protocols recommended by the CDC and County Department of Public Health. On June 15, 2020, all remaining St. Louis County businesses began to reopen, pursuant to Dr. Page's June 1, 2020 announcement. Those businesses include gyms, fitness centers, pools and movie theaters.

3. On July 1, 2020, Dr. Page issued a public health order requiring all individuals over the age of 9 to wear a face mask when inside businesses and other public accommodations in St. Louis County, and outside when social distancing is not possible, effective July 3.

4. In St. Louis County, during the week of June 1, 2020, 383 residents tested positive for COVID-19 and 26 residents died due to COVID-19 complications. During the week of June 8, 2020, 341 residents tested positive for COVID-19 and 12 residents died due to COVID-19 complications. During the week of June 15, 2020, 352 residents tested positive for COVID-19 and 5 residents died due to COVID-19 complications. During the weeks of June 22 and June 29, 1,073 residents tested positive for Covid-19 and 13 residents died due to Covid-19 complications. (*Source: St. Louis County Department of Public Health, July 2, 2020.*)

Since the pandemic began, Missouri has had 24,629 confirmed cases of COVID19; of those cases 7,066 (28.6%) came from St. Louis County. Of the 1,042 deaths due to COVID19 in Missouri, 593 (56.9%) came from St. Louis County. The number of cases has increased statewide by 8.3 percent in the past week.

The *St. Louis Post Dispatch* reports on July 7, 2020 that "Hospitalizations at the major St. Louis-area hospitals ... are rising, according to the St. Louis Metropolitan Pandemic Task Force, which includes St. Luke's Hospital, BJC Healthcare, Mercy and SSM Health."

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**Accordingly, after the aforementioned consultation and consideration, the 21<sup>st</sup> Judicial Circuit will remain in Operating Phase One on July 8, 2020.** The Court's Phase status will continue to be reviewed on an ongoing basis.

Michael D. Burton, Presiding Judge of the 21<sup>st</sup> Circuit  
St. Louis County, Missouri  
July 8, 2020

### **WHAT DOES PHASE ONE ALLOW BEYOND WHAT PHASE ZERO ALLOWED?**

According to the Missouri Supreme Court's May 4, 2020 Operational Directives, during Phase Zero, all in-person proceedings must be suspended, with very few designated exceptions.<sup>1</sup> The Court, however, did not suspend court operations; it simply indicated that proceedings continue, but through video conferencing and other means.

Court operations during Phase One do not significantly change from those permitted in Phase Zero. Only the "most extraordinary, pressing and urgent" cases can additionally be heard in person. Occupancy rates in courtrooms and other court areas must be ten people or less, whenever possible. The Supreme Court has consequently made it clear to presiding judges that Phase One does not allow for any jury trial exceptions whatsoever.

In summary, there simply cannot be any additional "in person" court proceedings than those allowed in Phase Zero, unless a judge deems them to be "most extraordinary, pressing and urgent."

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<sup>1</sup> a. Proceedings necessary to protect the constitutional rights of criminal defendants, including the right to a speedy trial, and the rights afforded under section 544.676.3;

b. Proceedings pursuant to chapters 210 and 211 pertaining to juvenile delinquency and abuse, neglect, and termination of parental rights;

c. Proceedings pursuant to chapter 453 pertaining to adoption;

d. Proceedings in which civil or criminal jury trials are already in progress as of March 16, 2020;

e. Proceedings pursuant to chapter 455 pertaining to orders of protection;

f. Proceedings related to emergency child custody orders;

g. Proceedings related to petitions for temporary restraining orders or other forms of temporary injunctive relief;

h. Proceedings related to emergency mental health orders;

i. Proceedings pursuant to Chapter 475 for emergency guardianship or conservatorship;

j. Proceedings directly related to the COVID-19 public health emergency;

k. Oral arguments regarding time-sensitive matters; and

l. Other exceptions approved by the Chief Justice of this Court.