

IN THE COURT OF APPEALS OF MARYLAND
NINTH ADMINISTRATIVE ORDER
CLARIFYING COVID-19 HEALTH MEASURES
IN COURTHOUSES AND JUDICIAL BRANCH FACILITIES

WHEREAS, Pursuant to the Maryland Constitution, Article IV, § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, Title 16, Chapter 1000 of the Maryland Rules of Practice and Procedure sets forth emergency powers of the Chief Judge of the Court of Appeals; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, the more recent emergence of the Delta variant of the novel coronavirus, and consistent with guidance issued by the Centers for Disease Control and Prevention (CDC), an emergency exists; and

WHEREAS, The COVID-19 emergency continues to require measures to protect the health and safety of Maryland residents and Judiciary personnel; and

WHEREAS, Although vaccination efforts have made significant progress and infection rates have fallen, the emergence of the highly contagious Delta variant and the attendant risk posed to those who are vaccinated and those who have not completed the vaccination process require the return to health measures that have been proven effective in reducing the likelihood of infection and will allow the continuation of emergency court operations in Phase V,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order, this 6th day of August

2021, effective August 9, 2021, and for the remainder of the COVID-19 emergency period, pending further order, that:

- (a) The wearing of face masks is voluntary for judges, Judiciary personnel, and any other persons who have completed the vaccination process, except that, consistent with the CDC guidelines, in the event any county or Baltimore City reaches or has reached the transmission status¹ of “substantial” or “high” on any day after Friday, August 6, 2021, all individuals entering a state courthouse or judicial facility in that jurisdiction shall wear face masks indoors regardless of vaccination status or other related health measures until such time that the county or Baltimore City has achieved a transmission status of “moderate” or “low,” per the CDC transmission status map, for fourteen consecutive calendar days; and
- (b) During CDC “substantial” and “high” transmission status periods, as well as during any subsequent fourteen-day CDC “moderate” or “low” transmission stabilizing period, all judges, Judiciary personnel, and any other persons over the age of two (2) years shall wear masks in all courthouses and judicial facilities at all times including during in-person court proceedings, except as noted in Sections (e), (f), and (g) of this Order, with such masks to cover the nose, mouth, and chin completely, without vents; and
- (c) In instances in which members of the public or Judiciary personnel arrive at a courthouse or judicial facility without such a mask and one is required, they shall be provided with a disposable mask, if available, or given alternative means for remote access, if appropriate and possible; and

¹ See <https://covid.cdc.gov/covid-data-tracker/#county-view>: As of August 6, 2021, “substantial” is orange; “high” is red; “moderate” is yellow; and “low” is blue on the CDC county transmission rate map.

- (d) Barriers, including clear personal barrier shields, are not a substitute for and shall not fulfill the masking requirement in Section (b) of this Order; and
- (e) Except during CDC “substantial” and “high” transmission status periods and with any subsequent fourteen-day CDC “moderate” or “low” transmission stabilizing period when all individuals are required to be masked, social distancing of six feet or more shall not be required for those persons who have been fully vaccinated or those who identify as being part of a social “pod” or cohort, unless determined by an administrative judge or the State Court Administrator to be necessary in a large congregate setting, such as a jury pool. However, social distancing will not be a substitute for the masking requirement for those who have not been fully vaccinated; and
- (f) When masks are required to be worn, they may be lowered, with appropriate social distancing, to eat, drink, or take oral or nasal medications, but shall be replaced upon completion; and
- (g) Throughout courtroom proceedings, all participants shall wear masks as required in Sections (a) and (b) of this Order; however, the presiding judge or magistrate may require a participant who is required to wear a mask to use a clear mask or wear a personal barrier shield in lieu of a mask for a limited duration to ensure that the participant can be heard or observed, with due consideration given to social distancing and other public health guidelines; and
- (h) Where Judiciary personnel are assigned to single-occupancy enclosed offices, those personnel who are fully vaccinated against COVID-19 may lower their masks when alone and the door is closed; however, masks shall be worn as described in Section (b) of this Order when any other person enters the office or the occupant leaves the office; and

- (i) Where Judiciary personnel are assigned to common area workspaces, including cubicles, masks shall be worn as described in Sections (a) and (b) of this Order; and
- (j) Any person who does not comply with this emergency order shall be subject to removal from the courthouse or judicial facility and disciplinary action as appropriate; and
- (k) To the extent that any local order conflicts with this Order, this Order shall prevail; and
- (l) This Order shall be modified as appropriate; and
- (m) The *Eighth Administrative Order Clarifying COVID-19 Health Measures in Courthouses and Judicial Branch Facilities*, filed on May 24, 2021, shall be and hereby is rescinded effective midnight, August 8, 2021.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: August 6, 2021

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

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Suzanne C. Johnson, Clerk