



# Supreme Court of Appeals State of West Virginia

## News

Administrative Office  
1900 Kanawha Blvd., East  
Bldg. 1, Room, E-316  
Charleston, West Virginia 25305  
(304) 340-2305 Jennifer Bundy  
(304) 340-2306 April Harless  
(304) 558-1212 FAX  
Web Site: [www.courtswv.gov](http://www.courtswv.gov)  
Facebook: [wvjudiciary](https://www.facebook.com/wvjudiciary)  
Twitter: [WVCourts](https://twitter.com/WVCourts)  
SmugMug: <https://wvcourts.smugmug.com>  
Email: [Jennifer.Bundy@courtswv.gov](mailto:Jennifer.Bundy@courtswv.gov)  
Email: [April.Harless@courtswv.gov](mailto:April.Harless@courtswv.gov)

### **WV Courts to Begin First Step of Gradual, Phased-in Resumption of Operations on May 18; New Protocols to Guide Procedures**

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CHARLESTON, W.Va. – West Virginia courts can begin the first steps of a gradual, phased-in return to normal operations beginning May 18, 2020, under a new order and accompanying guidance, the Supreme Court announced Wednesday.

“The Court recognizes that, even though the Governor has relaxed containment efforts, it will be many more months before society returns to some of its pre-pandemic practices,” as stated in the COVID-19 Resumption of Operations Order and Protocols issued by the Court: <http://www.courtswv.gov/covid19/ResumptionOfOperations-ProtocolsandMap5-6-20.pdf>.

While the Order and Protocols allow certain court proceedings to resume subject to the protections contained in the Protocols, local courts are not required to resume in-person proceedings, and retain the discretion to delay, impose additional restrictions, or to continue to hear matters via video or remote technology.

The Court’s Protocols are designed to mitigate risks associated with a gradual return to normal, in-person court functions, and are generally consistent with federal and state public health guidelines. The Protocols establish minimum statewide standards. The Court encourages local judicial officers to work with other elected officials and administrators in their counties on public health and safety issues. “When a localized outbreak occurs, it may be appropriate for the Chief Circuit Judge or Chief Family Court Judge to issue temporary judicial emergency orders,” the Protocols say.

The Protocols establish a two-tier system of “Green” and COVID-19 “Hot Spot” counties, as designated by the West Virginia Department of Health and Human Resources.

Green Counties – those which are not Hot Spots – can gradually resume normal operations provided that strict guidelines concerning sanitization, social distancing and personal protection equipment are followed; however, judicial officers are encouraged to still hold hearings or proceedings via video or teleconferences when appropriate.

Subject to the Protocols, in Green Counties:

- In-person hearings or proceedings may commence on or after May 18;

- Grand jury proceedings may begin June 15, and jury trials may begin June 29;
- Judicial officers should continue to enforce social distancing in court facilities and may move jury trials to alternative locations that are large enough to allow appropriate social distancing, as long as the location can provide adequate provisions for examination of witnesses and presentation of evidence;
- Employees may return to work beginning May 18, but must comply with Protocol instructions on social distancing, must continuously disinfect common work areas, should continue to use remote technology for meetings whenever possible, and must wear masks when interacting with other employees and the public. In all counties, employees who have a fever or other common COVID-19 symptoms cannot come to work and must remain at home for 14 days after the onset of symptoms. Employees directly exposed to a suspected case of COVID-19 should self-quarantine and not return to work for 14 days; and
- Employees should wear masks in common areas and when interacting with the public. Attorneys, litigants and witnesses must also wear masks when appearing in court. Consistent with recommendations from the CDC and Governor Justice, any type of face covering that catches droplets leaving the nose and mouth, including homemade fabric masks or bandanas, are effective. Medical masks or N95 masks are not required.

In Hot Spot Counties:

- Judicial officers must still hold hearings or proceedings via video or teleconference if appropriate. While judicial officers may not hold an in-person hearing or proceeding specifically prohibited by the Protocols, they may impose additional restrictions and take additional precautions designed to protect health and safety;
- Jurors and grand jurors may not be summoned until the Hot Spot designation is removed. Upon a Hot Spot County reaching Green County status, a grand jury proceeding or jury trial may commence on the dates provided for Green Counties, or seven (7) days after that county obtains Green County status, whichever is later; and
- Employees should continue to work remotely if possible, and offices should continue to be staffed with minimal personnel.

Along with the Protocols, the Supreme Court also issued an order that establishes new deadlines for filing of matters and pleadings in cases in which the filing of such matters or documents was stayed during the judicial emergency period.