

3/31/2021

Clerk, U.S. District Court
District of Montana
Missoula DivisionIN THE UNITED STATES COURTS
FOR THE DISTRICT OF MONTANAIN RE: PUBLIC ACCESS AND
COURT OPERATIONS IN
RESPONSE TO CORONAVIRUS
COVID-19 PUBLIC EMERGENCY

ADMINISTRATIVE ORDER 21-4

This Administrative Order supersedes Administrative Order Nos. 20-18 dated April 10, 2020, 20-39 dated December 2, 2020, and 21-2 dated January 25, 2021, relative to cases and proceedings before the United States District Court and the operation of the federal courthouses in Montana. This Administrative Order also supersedes Administrative Order 20-15 dated March 24, 2020 (regarding interim CJA vouchers), Administrative Order 20-16 dated March 24, 2020 (regarding release of pretrial services bond report to parties in criminal cases), and Administrative Order No. 20-25 dated July 9, 2020 (regarding precautionary measures in federal courthouses). This Administrative Order supplements Administrative Order No. 20-21 and supersedes that order in the event of a conflict. Administrative Order No. 20-31 remains in effect.

The current outbreak of the coronavirus 2019 disease (“COVID-19”) has been declining across the State of Montana. The Montana DPHHS has indicated that on April 1, 2021 all Montanans 16 and older will be eligible for the COVID-19 vaccine and over 19% of Montanans are now fully vaccinated. As such, the

District of Montana will be moving to Phase IV of its Phased Plan for Resumption of Operations on May 3, 2021.

Because the threat of the virus is ongoing, the Court will continue to require social distancing and mask wearing as first ordered in Administrative Order 20-25.

IT IS HEREBY ORDERED that the United States Courts for the District of Montana will adopt the following measures effective May 3, 2021:

1. Subject to the mask policy set forth below, all restrictions on entering any federal courthouse are lifted.
2. In-person court proceedings may resume in all divisions as deemed appropriate by the presiding judge.
3. The grand jury shall convene in all divisions as scheduled.
4. In an effort to limit unnecessary risk of exposure to an individual, all documents and signatures required from any party including, but not limited to, financial affidavits, consents to waive preliminary hearing, pretrial and probation reports, and appearance bonds/orders for release may be performed electronically with the [/s/name] format. Defense counsel may sign on behalf of a criminal defendant, after receiving consent, and file the document electronically.
5. During the pendency of this Order, and pursuant to Federal Rule of Evidence

502(d), the attorney-client privilege applicable to a communication between an attorney and client using electronic communication technology available at a local detention facility is not waived by the presence of third parties or the existence of monitoring, regardless of whether the monitoring is disclosed. For this paragraph to apply, the following factors must be satisfied:

- a) the communication is otherwise covered by the attorney-client privilege;
 - b) the communication is made using a third-party teleconferencing or video conferencing system available at the detention facility; and
 - c) defense counsel makes a statement at the beginning of the electronic communication indicating that the conversation is protected by the attorney-client privilege.
6. The following non-case-specific hearings and events may continue provided local COVID restrictions allow for larger groups to gather:
- Group tours or visits;
 - Naturalization ceremonies; and
 - Attorney admission ceremonies.
7. Drop boxes shall be removed at all courthouse locations.
8. Cash will be accepted as a form of payment at the Billings, Great Falls, and

Missoula divisions.

9. The Court's CARES Act findings, currently in force pursuant to Administrative Order 21-3, remain in effect.
10. Announcements regarding any further restrictions to Court services will be posted on the Court's public webpage at <https://www.mtd.uscourts.gov>, and attorneys will receive updates and notices via the CM/ECF system or other electronic means.
11. The Court will continue to assess the public health situation during the pendency of this order. The Court may vacate or amend this administrative order as circumstances require.

IT IS FURTHER ORDERED that the following protocols shall apply at the James F. Battin Federal Courthouse, the Mike Mansfield Federal Building and United States Courthouse, the Missouri River Federal Courthouse, the Paul G. Hatfield Federal Courthouse, the Russell Smith Federal Courthouse, and the United States Probation Offices located in Browning, Glasgow, and Hardin (hereinafter referred to collectively as "federal court facilities"):

1. All persons over the age of 12 years seeking entry to or occupying a federal court facility in the District of Montana must wear a mask while in public spaces within the facility. Public spaces include courtrooms, lobbies, hallways, restrooms, and any other unsecured space accessible to the public.

The mask, when worn, must completely cover the nose and mouth.

2. To the greatest extent possible, all persons shall maintain a distance of at least six feet from other persons within federal court facilities. This provision shall not apply to members of the same family group, nor shall it be interpreted to prohibit those interpersonal interactions and communications necessary for court staff, attorneys, and other case participants to continue to efficiently and effectively conduct the business of the court.
3. The clerk of court shall provide masks to potential jurors and other one-time visitors to the facility who do not have a mask. Repeat visitors to the federal court facilities—including attorneys—and employees of the United States Courts or of other tenant agencies of federal court facilities are encouraged to provide their own masks. The clerk of court shall maintain a limited supply of masks as needed for repeat visitors and employees who do not have a mask.
4. All persons physically present in the courtroom during hearings or trials shall wear masks. During in-court proceedings, a judge may authorize removal of masks for purposes of witness testimony, defendant identification, making an appropriate record, or other reasons as deemed necessary by the judge provided that appropriate social distancing or other

protective measures are followed.

5. For grand juries and petit juries, the clerk of court shall arrange for suitable space to enable the jurors to deliberate while maintaining social distance.
6. The requirement to wear a mask shall not apply to employees of the United States Courts or of other tenant agencies of federal court facilities when working in a private office or workspace, or when occupying secure (non-public) space which permits at least six feet of physical distance from other persons. Employees of the court or other tenant agencies shall wear a mask in all public areas and in secure (non-public) space in which social distancing is not practical.
7. The United States Marshal, his deputies, and the court security officers shall enforce this order by denying entry to any person not wearing a mask and removing from the facility any person who acts in violation of this order. A deputy U.S. marshal or court security officer may direct a person to temporarily lower or remove a mask for purposes of identification or security screening.

DATED this 31st day of March, 2021.



Brian Morris, Chief Judge
United States District Court