



4th Judicial District
Anderson • Coffey • Franklin • Osage

Fourth Judicial District of Kansas

Anderson – Coffey – Franklin – Osage
Counties

Jury Trial Plan

Introduction

The Fourth Judicial District, in compliance with directives from the Kansas Supreme Court, developed this plan for the resumption of jury trials during the COVID-19 pandemic. The goal of this plan is to resume criminal and civil jury trials in a manner prioritizing the safety of jurors, litigants, staff, and the public.

I. Communication with the public

The Fourth Judicial District website will include information about the District's response to the COVID-19 pandemic. The website will include:

- The District's jury trial plan
- A link to the Jury Trial Task Force recommended video
- Jury trial check-in procedures and reporting location
- The "Keeping you safe in our courts" and COVID-19 Supplemental Jury Questionnaire recommended by the Jury Trial Task Force
- Contact information for each district court

The District will prepare a press release that summarizes the jury trial plan, the efforts the district will use to keep jurors safe, and the District website where the public may obtain additional information.

II. When to resume jury trials

The District developed its jury trial plan following public guidance from multiple organizations. The District believes this plan takes reasonable measures to help mitigate risk of COVID-19 spread but also recognizes no private or public organization can eliminate all risk associated with COVID-19.

The Court, in determining when to begin a jury trial, assess the risk factors present in the community at the time the jury trial would start, not the time of this plan. The trial judge will use then available data and guidance from public sources in determining when to begin the trial.

III. Prioritizing jury trials and using pretrial measures to reduce length of jury service

A. Prioritizing Jury Trials

Kansas Supreme Court Administrative Order 2020-PR-48 mandated courts triage cases. In compliance with this directive jury trials will resume with the following priority applied:

1. Criminal felony cases with speedy trial concerns
2. Criminal misdemeanor cases with speedy trial concerns
3. Criminal felony cases where the defendant is in custody

4. Criminal misdemeanor cases where the defendant is in custody
5. Sexually violent predator cases
6. Criminal felony cases involving person crimes
7. Criminal felony cases
8. Criminal misdemeanor cases
9. All other jury trials

B. Alternative Dispute Resolution

Alternative dispute resolution is encouraged for all case types. Judges may order litigants in civil cases set for jury trial to participate in settlement conferences or mediation.

Judges may encourage litigants in criminal cases to participate in a settlement conference. The defendant in a criminal case should be advised on the record that participation is voluntary and declining to participate will not be held against them.

C. Pretrial Conferences

The Court should utilize pretrial conferences to resolve as many trial related matters as possible. Stipulations or agreements relating to issues of law, such as evidence or procedure, are encouraged.

D. In person vs virtual proceedings

The District does not intend to conduct virtual proceedings for grand jury, jury selection, or jury trial proceedings at this time.

IV. Juror Summons and Communication

A. Adequate Juror Pools

The historical appearance rate of panel members in the District is between 45% and 50% of the number of mailed summons. Initially the District will double the number of jurors historically summoned. Adjustments may then be made for subsequent jury trials based on community factors as well as data obtained from jury trials conducted under this plan.

B. Juror Summons Packet

The summons packet sent to each summonsed juror will include the following items:

1. Jury Trial Task Force recommended letter to prospective jurors
This letter provides information about the steps the Court is taking to keep jurors safe during their service. It also details who jurors should contact with questions or requests for excusing or deferring jury service and how to update the Court with contact or COVID-19 information.
2. Jury Trial Task Force “Keeping you safe in our courts” handout
3. Jury trial check-in procedure and reporting location

The information will include how and where to report for duty, whether to remain in their vehicle or enter the venue, and arrival time.

4. Jury questionnaire approved by the Court
5. Jury Trial Task Force recommended supplemental COVID-19 questionnaire
This supplemental questionnaire makes inquiries into health conditions of the panel member and those in their household or care, as well as contact with individual positive with COVID-19. The questionnaire details that responses are not subject to the Kansas Open Records Act. It also will include contact information for panel members to update their information with the court.
6. District court business card

C. Protecting confidential health information

The supplemental COVID-19 questionnaire informs panel members their answers are not subject to a Kansas Open Record Act request. The supplemental health screening questionnaire would not be provided to counsel and kept confidential by the Clerk of the Court.

D. Excusing or deferring juror service

The District will use the historic individualized considerations for deferring or excusing service for reasons not related to COVID-19. These guidelines dictate which requests clerks may excuse or defer on their own and those requiring judicial approval. All COVID-19 related requests will be reviewed by the trial judge. Each request will be evaluated for its merits on an individual basis.

V. COVID-19 protocol and safety measures

A. Communicating safety measures

Signs will be posted in areas frequented by panel members, the public, and jurors indicating that masks are required and to maintain at least six feet distance. The “keeping you safe in our courts” flyer developed by the jury trial task force will also be posted. Signs limiting the number of individuals simultaneously using elevators and stairwells will be posted where applicable and practicable. Signs dictating safety and cleaning protocols will be displayed in English and Spanish. These signs will comply with the informational and directional category of signs in the Americans with Disabilities Act (ADA).

B. Personal protective equipment

All persons entering the trial venue are required to wear a face covering in compliance with Supreme Court Administrative Order 2020-PR-124. The District requires face masks be worn unless the Court finds an exception applies pursuant to 2020-PR-124, in which case a face shield must be worn. Because of their decreased efficacy face shields are a non-preferred option. The trial judge will make independent determinations if an individual has a condition that prohibits the wearing of any type of face covering.

The District preference for panel members, seated jurors, litigants, attorneys, and witnesses is the ClearMask brand of face masks, subject to availability. These masks are FDA approved as a surgical mask. The clear construction of the mask allows individuals to view facial expressions and see the mouth during communication. The District intends to provide these masks for those parties listed.

Disposable gloves will be available to trial participants upon request. Hand sanitizer will be located at entry ways, restrooms, litigant tables, the witness stand, auxiliary rooms, and in the jury room. Seated jurors will be assigned an identifiable plastic tote that includes hand sanitizer, gloves, tissues, a bottle of water, notepad, and pen. These totes will be stored separately and the outsides disinfected prior to the next day.

C. Cleaning Protocol

In each venue surplus furniture and fixtures will be removed where feasible. Permanent seating will be roped off to restrict seating to those areas designated by the Court and to maintain a minimum of six feet distance.

Surfaces in venue areas used for jury selection and trial, including restrooms and auxiliary rooms, will be disinfected at least daily by court staff or a contractor. Panel member seating will be disinfected between jury panels in addition to daily disinfection. High touch surfaces such as door handles and tables will be disinfected frequently.

All Court surfaces – the bench, witness stand, litigant tables, and seating – will be disinfected during the lunch hour and at the end of the day. The witness stand and chair along with the lectern, if applicable, will be disinfected between each individual. During jury selection and trial all microphones will either use a disposable device or be disinfected between each individual.

Disinfectant spray or wipes will be placed in the jury room, auxiliary rooms, and restrooms.

D. Notification of COVID-19 concerns

If a participant in the trial proceedings or court staff experience COVID-19 symptoms or becomes aware of someone else with symptoms they will immediately report the situation to the Court. The Court will then determine what actions, if any, need to be taken to ensure the safety of the participants.

VI. Jury Selection

A. Juror check-in

The Court will stagger the arrival times of panel members and increase the time allowed for check-in procedures. Panel members will remain in their vehicles or outside the venue until instructed by court staff through phone, text, application, or other means to enter the venue. Once instructed panel members will enter the venue. Panel members will be given a mask upon entry if they are not presently wearing one.

The panel members will next undergo COVID-19 screening by court staff using the District's COVID-19 screening tool. The screening times will be staggered to help prevent panel members from congregating in the check-in area. Court staff will direct

panel members to maintain sufficient distance so as not to disclose confidential health information during the screening. Panel members who pass the COVID-19 screening will be assigned a juror number and directed to physical security screening. Jurors who fail the COVID-19 screening will be instructed to leave the venue and their jury service will be deferred or excused by the trial judge.

In the alternative court staff may check jurors in at their vehicles using the same procedures above.

To complete the check-in process panel members will undergo physical security screening. Once completed panel members will be directed by court staff to seating where jury selection will take place.

B. Jury panel orientation

During jury panel orientation the trial judge will detail the COVID-19 procedures for all in attendance as well as the safety measures the Court is taking. This includes the disinfection measures, the physical distancing and face covering requirement, and encouragement to wash hands for at least 20 seconds. The trial judge will also admonish jurors to notify the Court immediately if they are not feeling well and to stay home and contact court staff at the provided number if they believe they have COVID-19 symptoms.

C. Alternate jurors

The Court should plan for the loss of jurors for reasons such as quarantine or caring for other family members. The Court will consider the type of trial, estimated length of trial, and community conditions when determining the number of alternate jurors. The Court should use the pretrial conference to determine the manner of alternate juror selection and how to proceed if jurors are lost during the trial.

VII. Jury trial

A. Exhibits

The Court will direct counsel to utilize digital presentation of evidence when available and practicable. To prevent excessive handling of documents, proponents of paper exhibits will provide a separate marked copy for the Court, all individuals present for opposing party, the witness, and court reporter. Disposable gloves will be available upon request for participants. Three dimensional exhibits will be handled with disposable gloves. The Court may alter or make new directives as appropriate.

During jury deliberations electronic systems will allow review of digital evidence. Each juror will be given their own photocopy of paper exhibits. Three dimensional exhibits will be handled with disposable gloves.

B. Interpreters

All venues have sufficient space near the witness stands and litigant tables to allow an interpreter with social distancing. The Court will issue directives prior to trial regarding interpreter use if an interpreter is required.

VIII. Specifics to Anderson County

A. Location

The courtroom in the Anderson County District Court is of insufficient size to support the physical distancing required for jury selection or trial. The District has permission to conduct jury selection and trial at the Anderson County Community Building in Garnett, KS.

B. Court configuration

The venue consists of a single building. The judge's bench, witness stand, and litigant tables will be located at the rear of the room. The jury panels would sit in the first 6 rows of audience seating during jury selection. The seated jurors would be located in the first 2 rows once the trial starts. Public seating will be located behind the jury. Security will be located at the entrance.

There are no permanent fixtures in this building so hard surfaced portable chairs and tables will be used. The venue will be arranged to maintain six feet distancing between individuals. Court staff and signage will direct panel members to their seats while maintaining COVID-19 distancing.

Juror deliberations will also occur in this building. When deliberations begin the Court will order the building vacated except for jurors.

C. Jury panel size

This venue is of sufficient size to support a jury panel of up to 36 individuals while maintaining at least six feet of separation. The Court will determine the exact number of individuals seated for each panel up to the maximum of 36.

D. Public and press viewing

This venue has sufficient space to allow for public and press seating during both jury selection and the trial. The need to live-stream to ensure public access is not anticipated but may be done at the discretion of the Court.

E. Audio / Video

The venue does not have an integrated sound system for video proceedings. The District purchased portable microphones and a sound system for use at off-site jury venues such as this one. During jury selection microphones will be either stationed or distributed to jury panel members who need to answer questions. Visual presentations will be done through an ELMO and portable television or projector. The sound system is sufficient that all individuals in the building will be able to hear.

F. Confidential communications and sidebars

There are ancillary rooms in the facility that can serve as litigant rooms for confidential communications. The trial judge will determine how sidebars are conducted.

G. Jury room use, deliberations, and food

Juror deliberations, recesses, and breaks will occur in the main area of the venue. There are two sets of restrooms available to jurors during breaks. During deliberations the Court will order the venue cleared. A bailiff will remain near the main area but separated by sight and sound from the jury. Any food delivered to the jury will be handled by individuals wearing masks and disposable gloves.

H. Physical security

The Anderson County Sheriff will provide physical security similar to that of the courthouse at the off-site jury trial.

I. Procedure review

Prior to any trial the Court, attorneys, Anderson County Sheriff, court staff, and facilities representative will perform a walk-through of jury trial procedure. Any details or modifications will be agreed upon prior to trial.

IX. Specifics to Coffey County

A. Location

The courtrooms in the Coffey County District Court are of insufficient size to support the physical distancing required for jury selection or trial. The District has permission to conduct jury selection and trial at Kelly Park in Burlington, KS using both the 4-H building and Kelly Hall.

B. Court configuration

The venue consists of two buildings. The 4-H building is the larger building where the trial will be held. The judge's bench, witness stand, litigant tables, jury seating, and public seating will be in this building. Jurors will be seated in the rows closest to the bar. There are no permanent fixtures in this building so hard surfaced portable chairs and tables will be used. The venue will be arranged to maintain six feet distancing between individuals. Court staff and signage will direct panel members to their seats while maintaining COVID-19 distancing.

Kelly Hall will be used as the jury room once the trial begins. The chairs in the jury room will be arranged for the jurors to maintain six feet distancing.

C. Jury panel size

This venue is of sufficient size to support a jury panel of up to 18 individuals while maintaining at least six feet of separation. The Court will determine the exact number of individuals seated for each panel up to the maximum of 18.

D. Public and press viewing

This venue has sufficient space to allow for public and press seating during both jury selection and the trial. The need to live-stream to ensure public access is not anticipated but may be done at the discretion of the Court.

E. Audio / Video

The venue does not have an integrated sound system for video proceedings. The District purchased portable microphones and a sound system for use at off-site jury venues such as this one. During jury selection microphones will be either stationed or distributed to jury panel members who need to answer questions. Visual presentations will be done through an ELMO and portable television or projector. The sound system is sufficient that all individuals in the building will be able to hear.

F. Confidential communications and sidebars

The 4-H building will be used for trial. Kelly Hall will be used for the jury room. Sidebars will require the jury to be sent to Kelly Hall and then return when the sidebar is completed. There are no rooms available to be designated as litigant rooms at the venue. Therefore, if litigants need time for confidential communication, the jury and other litigants will remain in the 4-H building and the individuals requesting confidential communication will exit the building and return when the communication is complete.

The Coffey County Courthouse is approximately 5 minutes from the venue. During the trial a room at the courthouse for each litigant will be designated as a litigant room for extended confidential communications or breaks.

G. Jury room use, deliberations, and food

A bailiff will be assigned to the jury. This bailiff will escort the jury to and from the jury room located in Kelly Hall. During deliberations the bailiff will remain near Kelly Hall and available to the jurors if needed. Any food delivered to the jury will be handled by individuals wearing masks and disposable gloves.

H. Physical security

The Coffey County Sheriff will provide physical security similar to that of the courthouse at the off-site jury trial.

I. Procedure review

Prior to any trial the Court, attorneys, Coffey County Sheriff, court staff, and facilities representative will perform a walk-through of jury trial procedure. Any details or modifications will be agreed upon prior to trial.

X. Specifics to Franklin County

A. Location

The courtrooms in the Franklin County District Court are of insufficient size to support the physical distancing required for jury selection or trial. The District has permission to conduct jury selection and trial at the Ottawa Memorial Auditorium in Ottawa, KS. The auditorium has a 35-foot stage and traditional seating capacity of 835.

B. Court configuration

The venue consists of a stage and theater style seating. The main auditorium will serve as the courtroom. The judge's bench, witness stand, court reporter, and litigant tables will be located on the stage with seating arranged at least six feet apart. The

prospective jurors will be seated in the theater seating beginning on the first level spaced at least six feet in any direction. Court staff and signage will direct panel members to their seats while maintaining COVID-19 distancing.

The building has numerous ancillary rooms to serve as litigant rooms, witness rooms, and a jury room.

C. Jury panel size

This venue is of sufficient size to support a jury panel of up to 100 individuals while maintaining at least six feet of separation. The Court will determine the exact number of individuals seated for each panel up to the maximum of 100.

D. Public and press viewing

This venue has sufficient space to allow for public and press seating during both jury selection and the trial. The public and press will be seated in the balcony. The need to live-stream to ensure public access is not anticipated but may be done at the discretion of the Court.

E. Audio / Video

The venue has an integrated sound system sufficient for court proceedings. During jury selection microphones will be either stationed or distributed to jury panel members who need to answer questions. Disposable microphone covers and / or disinfection will be used between individuals using the microphones. Visual presentations will be done through an ELMO and portable television or projector. The sound system is sufficient that all individuals in the building will be able to hear.

F. Confidential communications and sidebars

The auditorium has numerous ancillary rooms. The trial judge will assign a room for confidential communication to each litigant. The trial judge will designate whether sidebars occur at the bench or in one of the ancillary rooms in the building.

G. Jury room use, deliberations, and food

The basement of the auditorium will be designated as the jury room. It is of sufficient size to allow distancing and has multiple restrooms. A bailiff will be assigned to the jury. A bailiff will be assigned to the jury but remain sight and sound separated during deliberations. Any food delivered to the jury will be handled by individuals wearing masks and disposable gloves.

H. Physical security

The Franklin County Sheriff will provide physical security similar to that of the courthouse at the off-site jury trial.

I. Procedure review

Prior to any trial the Court, attorneys, Franklin County Sheriff, court staff, and facilities representative will perform a walk-through of jury trial procedure. Any details or modifications will be agreed upon prior to trial.

XI. Specifics to Osage County

A. Location

The main courtroom at the Osage County district court is of sufficient size to conduct jury selection and hold the jury trial.

B. Court configuration

The courtroom consists of a large area in front of the bar and a large gallery with pew seating. The area in front of the bar is of sufficient size to maintain six feet distancing of the judge, witness, and litigants. The gallery will be used to seat prospective jurors and seated jurors. The jurors will set in the gallery pews closest to the bar. The litigants will face the gallery during jury selection and towards the front of the courtroom during trial.

C. Jury panel size

This venue is of sufficient size to support a jury panel of up to 18 individuals while maintaining at least six feet of separation. The Court will determine the exact number of individuals seated for each panel up to the maximum of 18.

D. Public and press viewing

This venue has sufficient space to allow for public and press seating during both jury selection and the trial. Public and press seating will be located to the rear of the gallery and in the jury box, if needed. The need to live-stream to ensure public access is not anticipated but may be done at the discretion of the Court.

E. Audio / Video

The venue has an integrated audio and video system used regularly for court hearings. If microphones are needed during jury selection they will be either stationed or distributed to jury panel members who need to answer questions. Disposable microphone covers and / or disinfection will be used between individuals using the microphones.

F. Confidential communications and sidebars

The courthouse has numerous ancillary rooms. The Court will assign a room for confidential communication to each litigant. Sidebars will occur in the courthouse room labeled jury room. During sidebars the jurors will remain the courtroom.

G. Jury room use, deliberations, and food

Juror deliberations, recesses, and breaks will occur in courtroom. The bathroom in the jury room will be designated for jury use. During deliberations the Court will order the courtroom cleared. A bailiff will remain near the main area but separated by sight and sound from the jury. Any food delivered to the jury will be handled by individuals wearing masks and disposable gloves.

H. Physical security

The Osage County Sheriff will provide physical security at the courthouse.

I. Procedure review

Prior to any trial the Court, attorneys, Osage County Sheriff, court staff, and facilities representative will perform a walk-through of jury trial procedure. Any details or modifications will be agreed upon prior to trial.