**Jury Trials and Voir Dire Taking Place at the Zoofari Conference Center (Zoofari)**

These polices and procedures are drafted in accordance with Chief Judge Directive 20-18 (Amended) Approving Resumption of Jury Trials. This document provides added specificity as to issues that pertain to the Children’s Division. Directive 20-18 sets forth additional expectations related to cleaning and sanitizing, wearing of masks, tracing positive COVID cases among staff/litigants, etc.

In an attempt to maximize the use of any jury pool ordered to appear for the Children’s Division at the Zoofari Conference Center, we have created two main spaces separated from each other; a jury assembly room and a courtroom. The creation of these two spaces enables greater flexibility when holding multiple jury trials in a single week. The newly created space can accommodate up to 55 prospective jurors in the jury assembly room. The following is a two-phase approach to jury trials. Phase 1 begins on Monday October 5, 2020 and Phase 2 has an anticipated start date of October 19, 2020.

In Phase 1, the jury panel would be assembled in the jury assembly room at Zoofari. Once the panel of 34 (for a Termination of Parental Rights (TPR) case) has been determined, the panel can be moved into the Zoofari courtroom where voir dire will take place. Once voir dire is completed the remaining prospective jurors (those not selected) will be ordered back to the jury assembly room for further instructions. Those impaneled jurors will remain in the courtroom and the trial will begin.

In Phase 2, once the panel of (24 for a CHIPS case and 34 for a civil) has been determined, the panel can be moved into the Zoofari courtroom where voir dire will take place. Once voir dire is completed the remaining prospective jurors (those not selected) will be ordered back to the jury assembly room to be used in the next panel selection. Those impaneled jurors will be ordered to an alternate site such as:

* 1. Room 1407 (Judge Sander’s courtroom) of the VPYFJC for a 6-person jury CHIPS trial. Deliberations for CHIPS cases will occur at the VPYFJC Jury Management Room 1044.
	2. Downtown for a 14-person jury civil trial whereby the panel is hearing the case remotely using a laptop while the court staff and parties to the case and their attorney are seated in a downtown courtroom (similar to the Utah model).

The remaining prospective jurors will be reassembled in the jury assembly room along with additional prospective jurors (jury management might have to call in additional prospective jurors for the afternoon) to create a new panel of 34 to be used at 1:30 p.m. that same day for the TPR jury.

Attached is the Children’s Division jury trial schedule from October 5, 2020 through December 31, 2021. If there are multiple TPR cases scheduled in one day, priority will be given to the oldest case unless other circumstances warrant a different decision. All other trials will be put over until Tuesday in case the status of the first case changes. Parties should be prepared to proceed.

**Phase 1 Procedures Applicable to In-person Jury Trials for the Children’s Division Termination of Parental Rights (TPR) Cases**

Notice shall be sent out for all in-person TPR jury trials at least 30 days prior to the hearing if the party did not receive verbal notice at the prior hearing. If the party is to appear via Zoom the notice should include the instructions for how to appear remotely for Zoom. When providing notice (either verbally or in writing) for the in-person jury room at Zoofari, notice shall ensure that the address 9715 W. Bluemound Rd, Wauwatosa, WI 53226 is provided.

TPR Court Hearings Scheduled for an In-person Jury Trial at Zoofari

When a party is requesting an in-person TPR jury trial the court will ensure that parties understand what an in-person hearing entails.

1. Both the attorney and their client must understand that they will be in the Zoofari courtroom wearing a face mask seated side by side with a plexiglass separation during the hearing.
2. Courts should address health risks for all individuals. This can be done off the record in a breakout room on Zoom with the Judge and the party with the health risk to avoid sharing someone’s private information. The party with the health risk should request the breakout room discussion. Does an individual have a compromised immune system?  Are there family members with compromised immune systems? Have they considered their client’s contacts in the community?
3. Courts need to limit the footprint in the courtroom for in-person hearings. It is paramount for the judge to specify, identify, and articulate who will appear in-person and who will appear via Zoom for the hearing.
4. Attorneys should articulate how they wish to communicate with their clients during the hearing.  Will the court allow texting via cell phones?  Have the parties practiced this function?  Will they need breaks to discuss events with their client? Remember, the plexiglass will prevent whispering and passing of paper back and forth. Will the court allow attorneys to communicate with their client via electronic devise? Wi-Fi is available at Zoofari. **There will not be individual court computers on each attorney table similar to the in-person hearing room at VPYFJC.**

Face Mask Social Distancing Policy

When parties come for an in-person hearing they will be required to follow the Supreme Court Orders as well as the Milwaukee County Universal Face Mask Policy. Please see the attached Milwaukee County Policy and Procedure for greater details.

1. The Milwaukee County Universal Face Mask Policy provides that employees, contractors, vendors, volunteers, service users and members of the public wear face masks when entering county facilities and grounds that have a "controlled entry point."  Thus, face masks shall be worn upon entry to the Zoofari and while on the premises.
2. The Wisconsin Supreme Court in its order filed May 22, 2020 indicated that all persons present in courtrooms shall wear face coverings, unless a judge specifically determines on the record that it is necessary for a witness not to wear a face covering, during the witness’s testimony in order for the judge or jury to weigh the witness’s credibility. Notices as to this requirement will be posted at the entrance of each courtroom and court related confined space. The judges of the Milwaukee County Circuit Court will enforce this requirement.
3. Types of Face masks – Acceptable face masks include cloth face masks, such as handmade/sewn cloth masks, scarves, buffs, or bandanas; or disposable face masks, such as non-medical grade paper or procedure masks. A medical-grade face mask is not required.
4. Supply and Distribution of Face masks to Members of the Public. - If a member of the public does not have their own mask, they will be provided either a cloth mask or disposable paper mask at the controlled public entry point at the Zoofari.
5. People who are Exempted from Wearing a Mask (Please note it is unlikely that the jury room will have children under the age of 12 present.)
	1. Children ages two (2) years old and younger.
	2. Children ages 2 through 12 should only wear a face mask if a parent or guardian monitors to make sure it is worn safely. All children under 12 years old must remain within six (6) feet of parent/guardian, or household unit, and those who are small enough should be in a stroller or cart.
	3. Anyone with a disability that makes it difficult to put on, wear, or remove a face mask.
		1. Anyone consistently interacting with a person who is deaf or hard of hearing and primarily relies on lip reading.
		2. Anyone who a medical professional advised not to wear a face mask because of personal health issues.
		3. Anyone who has difficulty breathing or is incapacitated.
6. Times When a Person May Temporarily Remove Their Face Mask- Face mask use is required when testifying unless the judge authorizes the removal of the mask to assist in judging the credibility of the witness. Parties should discuss or litigate this, as necessary, during the pretrial hearings.
7. Parties shall maintain the social distancing six-foot requirements.

Prior to the Final Pre-trial

1. Preliminary Witnesses: Parties shall exchange preliminary witness lists within 30 days of the date set for trial.
2. Discovery:
3. All written discovery requests will be served no later than 35 days before final pretrial.
4. All depositions will be completed no later than 14 days before the final pretrial. If a parent fails to attend scheduled depositions, the parent may be subject to sanctions.
5. Pursuant to §804.01(5)(c) Wis. Stats., if any trial date or substantive hearing is adjourned, all parties, including the Petitioner and Division of Milwaukee Child Protective Services (DMCPS), shall supplement discovery to all other parties no later than 14 days prior to the adjourned trial date or substantive hearing.
6. Any discovery that is not disclosed in accordance with §48.293(2) Wis. Stats, shall be barred at trial.
7. Expert witnesses:
8. A party who intends to call an expert witness, including rebuttal expert witnesses, shall certify to the court and all other parties the expert's name, subject matter of expertise, qualifications, including any report at least 14 days before the Final Pretrial. Counsel shall be responsible for confirming the availability and attendance of their experts at the scheduled trial date.
9. This section does not apply to court-appointed experts. The above deadline may be amended, without further leave of court, by filing a Stipulated Amendment to this Order listing the dates agreed upon and signed by all attorneys and self-represented litigants. Such Stipulated Amendment cannot serve as a basis for a continuance of the trial date or affect the date for pretrial submissions.
10. When setting a matter for trial the court may use the attached scheduling order.

**Final Pre-trial and Final Status Hearing for TPR Jury Trials**

A final pre-trial hearing should be scheduled prior to the jury trial in accordance with the court’s schedule. A final status hearing should be scheduled the Friday before the Monday jury trial to determine the prioritization of cases for Monday.

Final Pretrial for in-person TPR Jury Trials at Zoofari

1. Final pre-trial documents
	1. The witness list, jury instruction list and motions in limine shall be filed 10 days prior to the final pre-trial.
2. The final pre-trial shall be conducted via Zoom.
	1. Final pre-trial hearings shall be called as any other Zoom hearing.
	2. At the final pre-trial, the parties should be prepared to discuss and confirm the following:

- length of trial;

- if witnesses have been subpoenaed and confirmed;

- witness order and potential testimony;

- motions in limine;

- jury instructions;

- time limitations on voir dire, opening statements and closing arguments;

- contested and uncontested issues and potential stipulations;

- exhibits;

- courtroom procedure including: mask use, microphones, witness examination, sidebar conferences and other matters; and,

- mask removal during the trial.

1. Exhibits
	1. All legal parties shall eFile the proposed exhibits and exhibit list by Wednesday at 5 p.m. the week before trial.  Petitioner shall use numbers 1-99; the Guardian ad Litem shall use numbers 100-199; mother’s exhibits shall be marked 200-299; and father’s exhibits shall be marked 300-399. Exhibits must be marked before eFiling.
	2. Each legal party is responsible for providing copies to the interested parties (i.e. defense counsel makes copies for the parents and State makes copies for DMCPS.)
	3. If the legal parties have an exhibit that is being added after Wednesday at 5 p.m., the week before the trial, that party is required to bring copies of the exhibit for all legal parties and each of the contesting respondents.
	4. If the legal party expects the exhibit to be published to the jury (i.e. photographs or pictures), the legal party will provide 20 copies by the final status hearing with the court on the Friday before the trial UNLESS the party presenting the exhibit has made a document viewer available to the parties or has requested the court to share the exhibit on Zoom and the court has agreed.

The Final Status Hearing

1. The final status hearing should be held the Friday before the Monday jury trial.
2. The final status hearing will be conducted via Zoom.
3. For cases where the court has determined that the case **will not proceed** to an in-person jury trial on Monday the court or clerk shall immediately email (Elizabeth.finn-gorski@wicourts.gov) Liz Finn Gorski and Tammy Kruczynski (Tammy.Kruczynski@wicourts.gov) with the information.
4. For cases where the court has determined that the case **will proceed** to an in-person jury trial on Monday:
	* 1. The court shall make a specific record that shall be noted in the docket as to which parties will appear in-person. All parties are expected to appear in person unless the court explicitly makes an exception.
		2. The court shall explain that the jury trial will take place at the Zoofari Conference Center located at 9715 W Bluemound Road, Wauwatosa, WI 53226.
		3. **Parties shall be instructed when they arrive at the Zoofari at 8:45 a.m. the Monday of the jury trial to immediately enter the courtroom after passing through security.** This time period will help avoid the overlap of parties and jurors as jurors are instructed to arrive at 8:15 a.m.

General Court Information Related to TPR Jury Trial at Zoofari

1. Voir Dire

* 1. The court shall explain to all parties that the Zoofari will be used for the voir dire and the jury trial.
	2. Voir dire will consist of a maximum number of 34 jurors.
	3. Voir dire shall promptly begin at 9:00 a.m. with the jury manager bringing the panel into the courtroom.
	4. The court may ask the following questions of the jurors, however the court should be made aware that all jurors are requested to complete a COVID-19 Screening & Information form prior to being selected as a juror. The form is attached to the Chief Judge Phase II Jury Trial Plan.
		1. Have you suffered any known symptoms of the virus since filling out the online juror questionnaire? (fever, persistent cough, difficulty breathing, loss of sense of taste). Do you have any family, friends, or associates/co-workers that have tested positive from the virus since that time?
		2. Do you personally know anyone that has been infected or suffered serious consequences as a result of being infected by the virus? (If yes then) Do you believe that will affect your ability to serve on this jury?
		3. Have you suffered any undue anxiety as you thought about reporting for jury duty this week? (If yes then) Has your anxiety been reduced after seeing the steps we have taken to minimize any risk to your health? (If no then) Do you believe that anxiety you are suffering as a result of your jury service will affect your ability to listen to the testimony and focus on the evidence as it is introduced during the trial?
		4. Do you believe any discomfort you may experience from being masked will affect your ability to focus on the trial?
		5. Are you experiencing any lasting physical or mental health issues as a result of either the virus or being isolated from others?
		6. Has the virus resulted in any financial or other hardships that will be made worse by serving on this jury?
		7. Do you have any virus related concerns that you are uncomfortable discussing in front of the other jurors?
	5. Upon a juror being dismissed, they will be sent back to the jury assembly room and provided further instructions by the jury manager.
	6. When the jury panel is selected, the court will instruct the remaining prospective jurors to return to the jury assembly room for further instructions.
1. Appearance Requirements
2. Witnesses, if appearing in person, will only physically appear in the Zoofari court when necessary.
3. If a witness needs to be present in court, the party offering that witness will contact him/her via the phone number provided. All witnesses shall be encouraged to remain outside of the building until their appearance is required due to the limited waiting room space.
4. When the witness is called they will proceed through security and if not needed in court at that moment, the witness will be directed to the waiting area where 6 foot distancing is required.
5. The party offering the witness will be responsible for escorting the witness from the waiting room to the courtroom.
6. Witnesses should be instructed to be available beginning at 1:30 p.m. on the day the trial is scheduled to begin.
7. The waiting room can hold 3 people with social distancing in Room 102.
8. For all other parties that the court has determined should appear in person:
9. Upon arrival at Zoofari, the party should go through security and enter the courtroom.
10. All parties shall practice social distancing requirements.
11. Once in the courtroom the court will instruct the parties where to be seated.
12. For the parties allowed to appear remotely based upon the court’s determination:
	* 1. The parties shall contact the check in clerk via phone to check in for their hearing.
		2. Parties shall provide the check in clerk with a phone number where they can be reached when the hearing is ready.
		3. When the case is ready to be called, the check in clerk shall call the parties that checked-in. The check in clerk will provide the Zoom hearing access information including the Meeting ID and password to those parties who do not have it.
		4. Parties should connect to Zoom and remain in the virtual waiting room until the hearing is ready to proceed.
13. Prior to commencement of the trial, the judge and attorneys shall establish an agreed upon protocol for disinfecting the witness stand after the testimony of every witness. Disinfecting must include the bench surface, chair, laptop and microphone.
14. Deliberations for TPR jury trials will occur in Room 111 at the Zoofari.
15. At the end of any TPR jury trial where a subsequent hearing needs to be scheduled, the judicial officer will be specific as to which parties are to appear either in-person or via Zoom. The clerk will provide the Zoom meeting ID and meeting password to parties for the next hearing. If a party is not at the hearing the court will order the DA’s office to send written notice.

Jurors requested to appear at Zoofari for an in-person TPR jury trial

All prospective jurors will be required to appear 8:15 a.m. and all parties will be required to appear by 8:45 a.m. Monday morning the day of the trial.

Jurors are required to:

* + - 1. Have their temperature checked.
			2. If they have not completed their questionnaire or heath assessment, they will be given a tablet and asked to complete the health assessment/questionnaire.
			3. If any prospective juror discloses that they are not feeling well the jury manager will dismiss the person and adjourn their service.
			4. The prospective juror will then be instructed to have a seat in the jury assembly room.
			5. Water will be provided to jurors.
			6. Once all prospective jurors are seated in the jury assembly room the jury manager will present an overview of the juror’s role.
			7. Once completed the jury manager will receive a voir dire list from downtown.
			8. The manager will line the jurors up for court and escort them into the courtroom.
			9. The bailiff will ensure that each juror is seated in the correct numbered chair.
			10. The remaining perspective jurors will remain in the jury assembly room until given further instructions by the jury manager.

**Phase 2 Procedures Applicable to In-person Jury Trial for the Children’s Division Children In Need of Protection and Services (CHIPS) cases and Termination of Parental Rights (TPR) cases co-occurring**

All policies and procedure applicable to Phase 1 will equally apply to Phase 2 with the exceptions noted below. Phase 2 will expand the use of Zoofari for CHIPS voir dire only.

Once phase 2 is implemented, on weeks where there is also a CHIPS jury trial scheduled, the TPR jury trial voir dire will start on Monday afternoon at 1:30 p.m. and the CHIPS jury trial voir dire will start at 9:00 a.m. on Monday morning. Once Phase 2 is implemented on weeks where there is also a CHIPS jury trial scheduled, witnesses for the TPR jury trial shall be made available beginning Tuesday at 8:30 a.m. and witnesses on the CHIPS jury trial shall be made available at VPYFJC at 1:30 p.m. on Monday.

All policy and procedures related to picking a panel for a TPR jury trial would be the same for a CHIPS jury trial except there will be a maximum of 24 jurors for voir dire. Once the CHIPS panel has been selected, that panel and the parties will be instructed to proceed to VPYFJC in Room 1407 for the CHIPS jury trial. Only the voir dire on a CHIPS jury trial will occur at Zoofari.

Notice shall be sent out for all in-person CHIPS jury trials at least 30 days prior to the hearing if the party did not receive verbal notice at the prior hearing. If the party is to appear via Zoom the notice should include the instructions for how to appear remotely for Zoom. When providing notice (either verbally or in writing) for the in-person jury room at Zoofari, notice shall ensure that the address 9715 W. Bluemound Rd, Wauwatosa, WI 53226 is provided.

General Court Information Related to CHIPS Jury Trials at Zoofari

1. Voir Dire

1. All issues related to CHIPS voir dire at Zoofari are the same as voir dire in the TPRs except for the following:
2. The court shall explain to all parties that Zoofari will only be used for the voir dire in the CHIPS case.
3. Voir dire will consist of a maximum number of 24 jurors.
4. The jurors selected to serve on the CHIPS trial will be instructed by the court to return for the jury trial at 1:30 p.m. at the VPYFJC located at 10201 Watertown Plank Road, Wauwatosa, WI 53226 in Room 1407.
5. Once released the panel will be taken back to the jury assembly room where the jury manager will also instruct the panel regarding location of the trial that will begin at 1:30 p.m.

2. Appearance Requirements at VPYFJC after voir dire is completed at Zoofari

1. Witnesses, if appearing in person, will only physically appear at the VPYFJC only when necessary.
2. If a witness needs to be present in court, the party offering that witness will contact him/her via the phone number provided. All witnesses shall social distance in the waiting room.
3. The party offering the witness will be responsible for escorting the witness from the waiting room to the courtroom.
4. Witnesses should be instructed to be available beginning no earlier than 1:30 p.m. on the day the trial at the VPYFJC.
5. For all other parties that the court has determined should appear in person:
6. Upon arrival at VPYFJC, the party should go through security and go to Room 1407 and check in.
7. All parties shall practice social distancing requirements.
8. Once in the courtroom the court will instruct the parties where to be seated.

3. Jury Trial Disinfecting Protocols

 Prior to commencement of the trial, the judge and attorneys shall establish an agreed upon protocol for disinfecting the witness stand after the testimony of every witness. Disinfecting must include the bench surface, chair, laptop and microphone.

4. Deliberations for all CHIPS cases will occur at the VPYFJC Jury Management Room 1044.