
Ministry of the Attorney General

Protocol for Maintaining and Enforcing Safe COVID-19 Practices in Courthouses

Court Services Division

1.0 Introduction

In March 2020, a state of emergency was declared in the Province of Ontario as the COVID-19 Pandemic was declared by the World Health Organization. In response and at the discretion of the judiciary, in-person trials and preliminary hearings were ceased in order to minimize persons physically attending court buildings and thereby reducing the risk of exposure. The courts remained open and technology was leveraged where feasible to facilitate virtual hearings.

Over the course of the past few months, much has been learned about the transmission of this virus, as well as best practices and protocols established to mitigate the risk of contracting the virus in the workplace.

On July 6, 2020, both the Superior Court of Justice and the Ontario Court of Justice will resume in person judge-alone trials and preliminary hearings on a limited basis. The Recovery Secretariat has been planning for a gradual, phased approach to re-opening with a focus on preparing courthouses to safely receive and accommodate justice participants with minimal risk for exposure to COVID-19.

2.0 Guiding Principles

- Access to justice is a fundamental right of every citizen of Canada.
- Courthouses are public buildings and as such any person has a right to enter and observe court proceedings.
- Some justice participants are compelled to attend a courthouse in response to a judicial release, summons, subpoena or other Order of the Court.
- For many persons, a courthouse is a workplace as defined in the *Occupational Health and Safety Act (OHS) RSO 1990* and as such there are duties placed on the employer, in this case the Ministry of the Attorney General, to protect health,

safety and to take every precaution reasonable in the circumstances for the protection of a worker.

- COVID-19 is primarily transmitted from person to person through large respiratory droplets being expelled through coughing, sneezing, talking or breathing. To a lesser degree, COVID-19 can be transmitted via fomite contamination and introduced into the body when a person touches a contaminated surface and subsequently touches their own mucus membranes.
- The virus poses a serious health threat to all persons, especially the elderly and those with underlying medical conditions and may be fatal.
- Best practices have been identified to reduce the risk of transmission including:
 - Wearing a medical mask or face covering as a form of source control
 - Keeping physical distance of at least 2 metres (6 feet) and
 - Sanitizing/washing hands frequently
- The Ministry of the Attorney General must balance the rights of the individual to enter a courthouse with its responsibility in keeping all other persons healthy and safe from contracting this virus.

3.0 Trespass to Property Act

- Under the authority of the *Trespass to Property Act RSO 1990 (TPA)*:
 - As an occupier of courthouse premises, the Ministry has the right to determine who enters the courthouse and for what purposes. It can also determine who can be prohibited from entering the courthouse by providing notice, orally or in writing.
 - The Ministry of the Attorney General can also declare certain activities as prohibited. A notice under the *TPA* may be given orally or in writing, by posted signs, or by means of a marking system.
- Engaging in a prohibited activity is an offence.
- The *TPA* affords the Police, the Occupier or a person authorized by the occupier certain powers to enforce the Act.

4.0 Prohibited Activities

The Ministry of the Attorney General, in consultation with Public Services Health and Safety Association (PSHSA) caused local risk assessments to be conducted at all court locations resuming in-person hearings on July 6, 2020. Several recommendations were made to mitigate the risk of transmission of the virus including but not limited to:

- Active COVID-19 screening at courthouse entrances for all persons entering.

- Wearing of a mask or face covering at all times in the courthouse
- Maintaining physical distancing of 2 metres (6 feet)
- Establishing and maintaining an occupancy cap

4.1 As such, the Ministry of the Attorney General makes the following declarations:

4.1.1 All persons seeking entry into a courthouse must answer the COVID-19 screening questions either by:

- Completing the on-line electronic screening questionnaire or
- Completing the paper-based alternative or
- Orally answering the screening questions.

Failure or refusal to answer the screening questions will deem the person as inadmissible.

4.1.2 All persons must wear a medical mask or face covering at all times while inside the courthouse with the following exceptions:

- When testifying or making submissions in court.
- Children under two years of age.
- Children under five years of age, either chronologically or developmentally, who cannot be persuaded to wear a face covering by their caregiver.
- Persons with an underlying physical or mental medical condition which inhibits the ability to independently wear a face covering.
- Persons who are unable to place or remove a face covering without assistance.
- Persons for whom wearing a face covering would inhibit their ability to breathe in any way, or for any other medical reason they cannot safely wear a face covering such as, but not limited to, respiratory disease, cognitive difficulties or difficulties in hearing or processing information.
- Additional accommodations in accordance with the Ontario Human Rights Code

Each courthouse has an Accessibility Coordinator identified on site who can assist in situations where people may require accommodation or assistance related to safety measures

Where a person does not have their own face covering or mask, one will be provided upon request at the entrance.

4.1.3 At all times while in the courthouse, persons should maintain a physical distance of at least 2 metres (6 feet) from any person with whom they do not ordinarily cohabit and follow the direction of distancing markers placed on the floor and seats. This includes at times where persons:

- are waiting in a queue.
- sitting/standing in hallways or in courtrooms
- sitting in a dining facility (i.e. cafeteria – if open)

4.1.4 Be cognizant of the existence of a gathering cap (i.e. the number of people allowed in a particular space at one time), and recognize that, depending on the reason that a person is present at the courthouse (i.e. compelled or voluntarily present) may be asked to voluntarily exit and to therefore comply with the direction of the Police, Occupier or person designated by the occupier and leave the courthouse.

4.2 In view of the aforementioned declarations, and for clarity, the following activities are prohibited (except where an exception is noted above) while in or seeking entrance into a courthouse:

4.2.1 Fail or refuse to answer COVID-19 screening questions

4.2.2 Fail or refuse to wear a mask or face covering

4.2.3 Fail or refuse to maintain physical distance of at least 2 metres (6 feet)

4.2.4 Fail to voluntarily leave the courtroom, or other space within a courthouse, or the courthouse itself when directed to do so or when the gathering cap has been exceeded.

5.0 Notice

In order to give effect to the declarations of what activities are prohibited in a courthouse, proper notice must be given to persons attending courthouses. This notice will occur in the following manners:

- Notice will be posted on public facing internet sites
- Signage will be posed at the entrances to courthouse (See Appendix A and B)
- Signage will be posted at various locations throughout the courthouse.

6.0 Enforcement

The Ministry of the Attorney General will employ the services of contracted Security Officers for the purpose of monitoring the safety practices addressed in this protocol. Security Officers will:

- familiarize themselves with the authority invested in them as a designate of the Occupier for the purposes of enforcing the Trespass to Property Act and
- familiarize themselves with the safety measures in effect at court locations as outlined in this protocol.

Security Officers will conduct regular patrols of courthouse hallways, courtrooms and other public areas keeping watch for persons not adhering to the safety practices.

When Security Officers encounter non-compliance, they should initially approach the situation with an educational posture and:

- Remind the person of the safety requirement
- Direct the person to any signage or markers
- Make notes of the encounter in each case.

Where a person refuses to comply or after being spoken to disregards the safety measures, a more stern approach may be necessary where:

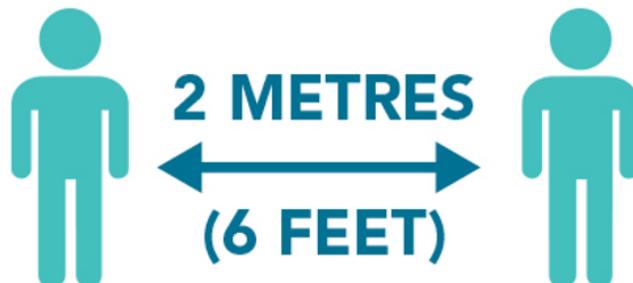
- The person is cautioned by the security officer that failure to comply constitutes an offence and if the person does not wish to comply, may be instructed to leave the courthouse.

If, after being cautioned, the person continues to refuse to comply, or otherwise becomes agitated or aggressive, the security office will contact the Police.

NOTICE

While in this courthouse, persons
must at all times:

- maintain a physical distance of two metres or more from other persons



AND

- wear a face covering, unless exempt
(A mask will be provided upon request.)



NOTE: Capacity limits are being maintained. If you do not have a matter before the court, you may be required to leave the building.

Appendix B



You must be screened for COVID-19

There are two ways you can take the assessment:

1. **Use the online tool.** Type this link into your cell phone browser:
www.covid-19.ontario.ca/courthouse-screening – or scan this QR code:



2. **Fill out the paper form.** You will find copies **(at the / on the) (information to be completed locally).**

Be prepared to show| the information to Entrance Personnel