



Revised COVID-19 Operating Plan for the Harris County Judiciary District Courts, County Courts at Law & Probate Courts

Recognizing the need to reevaluate the Operating Plan from time to time to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of **Harris County, Texas** revise their Operating Plan and effective January 11, 2021 will implement the following protective measures:

General

1. All judges will comply with the Emergency Orders issued by the Supreme Court of Texas and Court of Criminal Appeals, including that all courts will use all reasonable efforts to conduct hearings remotely and will only conduct in-person hearings when factually or constitutionally required.
2. All in-person proceedings will be conducted according to the guidance issued by the Office of Court Administration (OCA) regarding social distancing, maximum group size, and other restrictions and precautions.
3. The local administrative district judge will maintain regular communication with the local health authority and the county judge and adjust this operating plan as necessary with conditions in the county.
4. All judges will adhere to future and subsequent local guidance from the local administrative judge which is developed in coordination with public health.
5. Effective January 11, 2021, Judges will cease setting non-essential in-person proceedings, and will not resume such settings before March 1, 2021.

Judge and Court Staff Health

1. Judges and court staff who can perform the essential functions of their job remotely will telework when possible.
2. Judge and Court Staff Monitoring Requirements: The County will ensure that there are screeners at the entrances of all of the courthouses in the downtown courthouse complex, and all Judges and Court Staff will submit to having their temperature taken. If a Judge or staff member does test positive for COVID-19, the Judge will notify the other court staff and other courts sharing space that an individual in the court has tested

positive. The judge will also notify District Court Administration or Office of Court Administration so that proper notification can be made to the local health authorities so that contact tracing can be performed.

3. Judges or court staff who feel feverish or have measured temperatures equal to or greater than 99.6°F, or with new or worsening signs or symptoms of COVID-19 such as cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or having known close contact with a person who is confirmed to have COVID-19 will not be permitted to enter the building and should seek medical advice.
4. Judges and court staff will be required to wear face coverings, practice social distancing, and practice appropriate hygiene recommendations at all time.
5. Protective Measures: The County has provided sneeze guards for the clerks, court reporter and witness. The County has also provide each court with face coverings and gloves. The County will, throughout the day, clean "touch points" and will perform a thorough cleaning of the complex at least once a week. The County will make all reasonable efforts to use EPA-registered products that have an approved emerging viral pathogen claim for COVID-19. These cleaning products will be used according to label instructions.

Scheduling

1. The following court schedules are established to reduce occupancy in the court building: Each court will review its docket and determine cases which can be handled by submission, which cases can be handled remotely or partially remotely and which cases needed to have in person hearings. Each court will strive to reduce its number of in person hearings and will strive to schedule in person hearings in such a way as to maintain proper social distancing within the courtroom itself. As Harris County is a large county with specialized divisions, each division will establish a schedule to stagger dockets (by times and days) to reduce the flow of litigants, witnesses and general public entering the courthouse complex at one time. Further, the divisions will develop a schedule ensuring that the most pressing cases are given priority.

Vulnerable Populations

1. Individuals who are 65 or older and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations.
2. Each judge will include information on orders setting hearings, dockets notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations. A notice with this information will be posted on the courts' websites

and in conspicuous locations around the court building, and made available to attorneys for communication to litigants and witnesses.

3. Vulnerable populations who are scheduled for court will be accommodated by allowing testimony or participation by remote proceedings, by allowing testimony through deposition testimony, and as appropriate through continuances of current settings.

Social Distancing

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.
2. The Courts will work with the local medical community to determine the number of individuals allowed in the court elevators at one time. Currently, no more than four individuals not from the same household will be permitted in an elevator. If more than one individual from the same household is in an elevator, no other individuals will be permitted in the elevator.
3. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.
4. The main lunchroom in the civil courthouse has been closed to the public for in space dining, though "to go" food is still available.
5. Signage will be provided throughout the courthouse complex on social distancing.

Gallery

6. The maximum number of persons permitted in the gallery of each courtroom has been determined and posted. The maximum capacity of the courtroom will be monitored and enforced by court staff.
7. The gallery of the courtroom has been marked to identify appropriate social distancing in the seating. Seating is limited to every other row.

Well

8. In each courtroom the counsel tables, witness stand, judge's bench, clerk, court reporter, and bailiff seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space.

Hygiene

1. Hand sanitizer dispensers have been placed at the entrances to the building, outside of elevators on each floor, outside of each courtroom, and outside of bathrooms. The County will make all reasonable efforts to ensure hand sanitizer contains at least 60% alcohol.
2. Tissues have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the judges' benches, and in the hallways.

3. The Department of State Health Service's "Stop the Spread of Germs Flyer" has been posted in multiple locations on each floor of the court building.

Screening

1. When individuals attempt to enter the court building, County provided screeners will ask the individuals if they are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals who indicate yes to any of these questions will be refused admittance to the court building.
2. When individuals attempt to enter the court building, County provided screeners will use an infrared thermometer to determine the temperature of the individual. Individuals whose temperature equals or exceeds 100.0°F will be refused admittance to the court building.
3. Inmates being transported from the jail to the court building will be screened for symptoms of COVID-19 and have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 99.6°F will not be transported to the court building.
4. Staff who are screening individuals entering the court building will be provided personal protective equipment, including gloves and masks.

Face Coverings

1. All individuals entering the court building will be required to wear face coverings at all times and courts will have the right to turn away an individual who declines to wear a mask. Masks will be provided to those coming to the courthouse without one, so long as a supply is available.
2. Individuals will be encouraged to bring cloth face coverings with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided.
3. Individuals who will be required to be in the court building and who do not have a mask will be provided surgical masks and required to wear them while in the court building if the supply is available.
4. Signage will be posted on how to properly wear a face mask.

Cleaning

1. Court building cleaning staff will clean the common areas of the court building so that common spaces are cleaned at least every 4 hours.
2. The County will make all reasonable efforts to use cleaning products must be EPA-registered products that have an approved emerging viral pathogen claim for COVID-19. The court cleaning staff will use the EPA-registered products that have an approved emerging viral pathogen claim for COVID-19 according to label instructions.

3. Court building cleaning staff will clean the courtrooms between every hearing, between morning and afternoon proceedings, and at the end of each day the courtroom is used.
4. Court building cleaning staff have been provided cleaning supplies shown to be effective with this coronavirus.
5. Court building cleaning staff have been trained on proper cleaning techniques and provided appropriate personal protective equipment.

Other

The County has installed sneeze guards in all district and county courts. Further, the County has purchased its own streaming service to ensure open courts. The County has installed computers or tablets at local libraries to increase remote access for the litigants and the public and has secured large, off-site facilities for larger trials, grand juries and jury pools.

Harris County has worked with public health and developed a jury information card that provides information on contact tracing and how to report a positive COVID-19 diagnosis. Further, the Harris County Judiciary developed an internal plan and procedure when an employee or a participant in an in-person proceeding has apprised the Court of a recent, positive COVID-19 diagnosis.

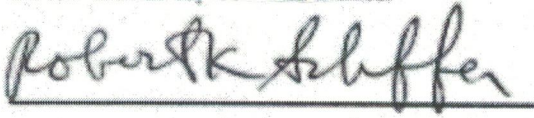
The Texas Supreme Court's current Emergency Order can be found at: <https://www.txcourts.gov/court-coronavirus-information/emergency-orders/>

The Guidance of the Office of Court Administration can be found at: <https://www.txcourts.gov/court-coronavirus-information/court-guidance/>

All operating plans are accessible at: https://www.dropbox.com/sh/8k065da6v5som2d/AAB7-SXM_Fr-4JzbLPfl_79oa

Additionally, Harris County's Operating Plan and COVID-19 information is displayed at: <https://www.justex.net/>

I have contacted all judges of courts with courtrooms in the court building regarding this Operating Plan. In developing the plan, I consulted with the local health authority and county judge, documentation of which is attached to this plan. I will ensure that the judges of courts with courtrooms in the court building covered by this Operating Plan conduct proceedings consistent with the plan.

Date: 01/10/2021

Local Administrative District Judge



Recertification of COVID-19 Operating Plan for the Harris County Judiciary District Courts, County Courts at Law & Probate Courts

January 10, 2021

Re: Re-Certification of In-Person Operating Plans

To allow for the continuation of limited, In-Person proceedings as outlined in the COVID-19 Operating Plan, and as required by the Supreme Court's Emergency Orders and Guidance from the Office of Court Administration, I, as Local Administrative Judge for Harris County, submit the following for Recertification of their COVID-19 Operating Plan:

I have consulted with the local public health authority regarding the local pandemic conditions and have reviewed with the health authority the previously-submitted in-person operating plan to determine whether the plan provides sufficient health and safety protocols to permit in-person proceedings. The local public health authority has determined that (check one):

- Local pandemic conditions are conducive to in-person proceedings under the precautions and protocols contained in the previously-submitted in-person operating plan;
- Local pandemic conditions are conducive to in-person proceedings with modifications to the precautions and protocols in the previously-submitted in-person operating plan;
- Local pandemic conditions are not currently conducive to in-person proceedings under the precautions and protocols contained in the previously-submitted in-person operating plan.

In addition, I have conferred with the judges of the courts with courtrooms in county/municipal buildings and have determined that the following criteria will be used to determine when an in-person proceeding is necessary and when all reasonable efforts do not permit the proceeding to be conducted remotely:

All judges in Harris County Courts, before conducting an in-person hearing shall first determine if an in-person hearing is necessary by following this procedure:

1. The judge shall inform each counsel and pro se litigant that the hearing shall be conducted remotely over Zoom. The judge shall provide each counsel and pro se litigant a phone number or email address to inform the judge if they believe any counsel, their clients, a pro se litigant, any witness, an interpreter, or any other participant (all referred to below as "Participant") cannot participate remotely. The judge or judge's staff shall then determine whether a Participant is unable to participate in the hearing due to any one or more of the following:

- a. lack of technology which precludes or impedes their ability to participate in the hearing via the Zoom videoconferencing app. Examples of the lack of such technology include:
 - i. lack of access to a computer tablet or other device with internet video capability;
 - ii. lack of access to a cell phone; or
 - iii. lack of access to an internet connection.
 - b. A physical, mental, or other disability that prevents a Participant from being able to effectively operate or utilize the required technology. Examples of such a disability include:
 - i. a physical or mental disability that precludes them from effectively operating the technology necessary to access the Zoom videoconferencing app;
 - ii. a physical disability that precludes them from effectively seeing, hearing, or otherwise participating in a Zoom video hearing;
 - iii. the lack of or unavailability of an interpreter who can assist the individual in communicating during a Zoom hearing;
 - iv. incarceration and the incarcerating facility's lack of technological resources or facilities to allow the inmate to participate remotely in the hearing or confer privately with the inmate's legal counsel; or
 - v. if the proceeding is in a specialty court defined by Title 2, Subtitle K of the Texas Government Code (e.g. veteran's court, mental health court, drug court, etc), the specialty court team determines that there is a risk to the physical or mental well-being of a participant in the specialty court program if the proceeding is not held in person.
 - c. A confrontation clause constitutional objection is raised by criminal defense counsel or a pro se litigant, and the judge sustains the objection after conducting a *Haggard* analysis.
 - d. A proceeding where one Participants needs to appear in person due to a need to provide fingerprints, is subject to incarceration, or must meet with multiple departments as a result of the court proceeding, in which case that party may need to appear while the other parties appear remotely.
2. If an individual is unable to participate for one of these reasons, prior to holding an in-person hearing, the judge shall make reasonable efforts to accommodate the individual as set forth in the procedure below.

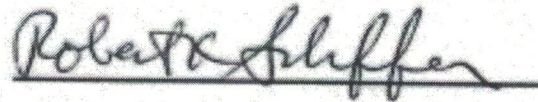
When an individual is found to be unable to participate in a Zoom videoconference for one of the reasons stated above, prior to holding an in-person hearing, the judge considering the in-person hearing shall make all reasonable efforts to make accommodations that will allow the individual(s) to participate. The accommodations that the judges of the County/Municipal Court shall consider include:

1. When an individual does not have adequate technological resources on their own to participate in a Zoom videoconferencing hearing, a judge shall:
 - a. determine whether the court has the ability to provide the individual with a laptop or other device which would allow the individual to participate in the hearing from some segregated location within the court facility while following appropriate COVID-19 precautions and protocols;
 - b. determine if such technological resources can be provided to the individual by some other source (e.g. a participating attorney, a party, a family member, friend, public library, or an appropriate agency of the State of Texas); and

- c. determine whether the individual could participate in a meaningful manner by telephone (audio only).
2. When an individual has physical or mental disabilities that would prevent the individual from operating the technology required, a judge shall:
 - a. determine if the individual has legal counsel, family or friends who can assist in operating the required technology; and
 - b. inquire as to what, if any, accommodations could be made which would allow the individual with a disability to participate.
3. When an individual is incarcerated, a judge shall:
 - a. determine whether the facility has the technological resources or facilities to allow the incarcerated individual to participate in the hearing;
 - b. if the facility does not have the technological resources to allow the inmate to participate in a Zoom videoconference, determine whether the inmate could participate in a meaningful manner by telephone (audio only).
4. When an individual is otherwise unable to participate in a hearing via videoconference or by audio only, a judge shall determine whether the individual can effectively participate in the proceeding by a sworn statement made out of court as permitted by the Emergency Orders of the Supreme Court of Texas.
5. If no accommodation is available, the judge shall determine if a continuance is warranted, balancing the risk to public health and safety with the need to resolve the particular case.
6. If no accommodation is available and the judge determines a continuance is not warranted, the judge may permit the hearing to occur in-person under the precautions and protocols in the approved in-person operating plan.

Having completed the required re-certification, I am submitting it to you in your role as Regional Presiding Judge. I understand and have communicated to the judges with courtrooms in county/municipal facilities that no in-person hearings will be permitted on or after January 11 until I receive an acknowledgement from you that the re-certification meets the requirements of OCA's Guidance.

Date: 1/10/2021



Local Administrative District Judge



Eleventh Administrative Judicial Region of Texas

Susan Brown

Presiding Judge

Rebecca Brite, Executive Assistant

January 11, 2021

Re: Revised Re-Certification of Operating Plan for Harris County District Courts, County Courts at Law & Probate Courts

Dear Judge Schaffer,

I have completed a review of your revised re-certification submission and I find that it meets the requirements¹ for proceeding with in-person proceedings after January 11, 2021. Your plan is re-certified.

I have received complaints that judges are not complying with the orders of the Supreme Court and the guidance of the Office of Court Administration (OCA) regarding remote hearings. The orders² of the Supreme Court and the guidance of OCA³ place the burden of compliance on the trial judges. The regional presiding judges are ordered to investigate and report compliance failures to the Chief Justice.

I am concerned that a report of non-compliance to the Chief Justice could also result in the complainant filing a complaint with the State Commission for Judicial Conduct. I urge all judges to strictly comply and to contact me if they need assistance in applying the orders of the Supreme Court and the guidance of OCA.

Thank you for all your hard work.

Sincerely,

A handwritten signature in black ink that reads "Susan Brown".

Susan Brown

SB/rb

¹ See COVID UPDATE #19 dated December 17, 2020 – Required Recertification of In-Person Proceeding on or after January 1, 2021; COVID UPDATE #20 dated December 31, 2020 – Template for Re-Certification and Extension of Deadline.

² See Twenty-Ninth Emergency Order Regarding the COVID-19 State of Disaster, Misc. Docket No. 20-9135, November 11, 2020.

³ *Supra. Note 1.*