

PETITION NO:

IN THE MATTER OF

§

IN THE DISTRICT COURT OF

§

§

315 TH JUDICIAL DISTRICT

§

§

HARRIS COUNTY, TEXAS

**ORDER AND FINDINGS ON REQUEST FOR
IN-PERSON PROCEEDING**

On January _____, 2021, the Court considered the need for an in-person proceeding. The Court finds that the following is a participant (s) in this case:

- An attorney ad litem
- A party
- A witness
- An interpreter
- A parent or guardian of a juvenile
- A parent or guardian of a disabled party or witness

And that he/ she/ they:

1. lacks access to a cell phone, computer, tablet or other device that provides satisfactory access to the internet to participate remotely and could not readily access the "Zoom rooms" set up in the County to allow for remote access, and the Court does not have available extra computers, tablets or other devices to give to the participant to allow for remote participation;
2. has a disability which prevents them from being able to effectively operate the necessary technology to participate remotely, and there is no one available to assist them with the technology;

3. [] has a disability which prevents them from being able to effectively participate remotely, and no one is available to interpreter for them or otherwise adequately assist to make remote participation effective;
4. [] is currently incarcerated and the facility does not have sufficient technology available to allow for effective remote participation;
5. [] has raised a constitutional claim and the Court, after holding a hearing, has determined that the important public policy of protecting the physical health of the participants is not outweighed by the defendant's right to face his accusers in court and the reliability of the testimony is not sufficiently assured via Zoom or other remote technology (See *Haggard v. State*, 2020 WL 7233672 (Tex. Crim. App. 2020)¹;
6. [] must provide a form of personal identification and/or meet with multiple departments as a result of the court proceeding;
7. [] is subject to incarceration or detention as a result of the court proceeding.
8. [] this is a proceeding in a specialty court as defined by Title 2, Subtitle K of the Texas Government Code and the specialty court team has determined 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;
9. [] this is an essential hearing as defined by OCA guidance² and the Court has found that it is not possible or practicable to proceed with all parties or all participants appearing

¹ The Court has considered several factors including: 1) the importance of the witness' testimony to the case; 2) whether or not the testimony is cumulative; 3) the presence or absence of evidence or contradicting the testimony of the witness on material points; 4) the overall strength of the prosecutor's or petitioner's case; 5) the participants' compliance with the COVID-19 Operating Plan for the courts; 6) the effectiveness of the available remote technology for fully viewing the witness and the surrounding area to judge credibility and reliability; 7) the ability of the participants to effectively question and cross examine the witness through remote technology, including review of exhibits and documentation; 8) the finality or temporal nature of the decision at issue; and 9) the nature of the constitutional right claimed by the party.

² The OCA guidance from December 31, 2020, on page 3, footnote 6, notes essential hearings include, but are not limited to "criminal magistration proceedings, CPS removal hearings, temporary restraining orders / temporary injunctions, juvenile detention hearings, family violence protective orders and certain mental health proceedings."

remotely. The Court, balancing the risk to public health and safety with the need to resolve the particular case, determines that a continuance of the proceeding is not warranted.

10. the matter requires a fingerprint be provided.

11. has raised a constitutional claim regarding right to counsel.

12. Other _____
