

257th JUDICIAL DISTRICT REVISED POLICIES AND PROCEDURES

EFFECTIVE OCTOBER 1, 2023

NOTICE: BEGINNING 10/01/2023, THE FOLLOWING MATTERS WILL BE HEARD IN PERSON:

ALL FINAL TRIALS, JURY TRIALS, ENFORCEMENTS,
PROTECTIVE ORDERS, WRIT OF HABEAS PROCEEDINGS

ALL OTHER MATTERS WILL BE HEARD IN PERSON OR VIRTUALLY, AS ASSIGNED!

- I. AS OF 10/01/2023 ALL HEARINGS WILL BE SET THROUGH THE DISTRICT CLERK E-HEARING SYSTEM OR VIA SCHEDULING ORDER.
- II. VIRTUAL HEARING PROTOCOL:
 1. Raise your physical or virtual hand to be acknowledged during the hearing (objections, etcetera).
 2. Make sure your full name is displayed on the Zoom screen.
 3. Recording of the virtual hearing proceedings is strictly prohibited under all circumstances.
 4. No children are allowed in the courtroom without prior specific permission.
 5. Appropriate attire is expected.
 6. No smoking, vaping, gum chewing, eating or drinking (except water).
 7. No inappropriate background pictures or backdrop screens, including ads.
- III. TRIAL DOCKETS:
 - A. The 257th has implemented VIRTUAL COURTROOMS, effective 8/10/2020.
 - B. General 9:00 AM trial/dismissal/ancillary docket will continue via the Zoom Virtual Courtroom.
 - C. Each courtroom is assigned a separate ZOOM meeting number.
 - D. Effective 10/01/2023, all contested final trials will be conducted in person, except as indicated below.

E. The following final trials will still be conducted on Zoom

1. All CPS matters, including final trials, will be conducted on ZOOM, unless changed by the Court.
2. Uncontested prove-up trials, including agreements and defaults.
3. Trials in which the method of appearance has been determined in accordance with Texas Rules of Civil Procedure 21d.

YOU MAY ACCESS THE VIRTUAL COURTROOMS DIRECTLY FROM THE COURTS WEBSITE: WWW.JUSTEX.NET (Click on the streaming link)

E. Trial dockets will be held 2 times per month, except months with dead weeks.

F. The court coordinator will establish trial dockets.

1. Notification will be sent at least 60 days prior to the setting. If this is the first trial setting, we will continue our policy of granting one continuance, with or without cause.
2. If your case is ready for trial, it will be scheduled for later in the day, later in the week, during the week immediately following the Monday trial docket or as the courts' scheduling permits. Your case will be scheduled depending on time estimates. All settings occurring after the trial date will be considered preferential settings.
3. If your time estimate exceeds 2 hours, you must obtain setting from the court coordinator.

G. If you are requesting a record of testimony be made at your Final Trial, you **must** follow the guidelines for a hearing requiring a record as set out in section X below.

IV. PRE-TRIAL CONFERENCES REQUIRED FOR THE FOLLOWING MATTERS:

A. Adoptions and Terminations (including CPS in which termination has already been completed).

B. Jury Trial - Seven days (7) prior to the pre-trial conference, parties shall:

1. Have mediated;
2. Prepared a Pre-trial Conference Checklist;
3. Timely filed motions in limine and any other pre-trial motions;
4. Drafted proposed jury charge.

Please refer to local rules regarding the exchange of exhibits.

C. Bench trials lasting 1 day or longer:

Seven days (7) prior to pre-trial conference, parties shall:

1. Have mediated; and

2. Completed pre-trial exchange of exhibits.

D. Any trials lasting 2 days or longer:

Submit at pre-trial a draft of findings of fact and conclusions of law in an editable format in addition to the requirements set forth in C (1) and C (2) above.

E. Requesting A Record of Testimony

If you are requesting a record of testimony be made at your Pre-Trial Conference, you **must** follow the guidelines for a hearing requiring a record as set out in section X below.

F. SIJ Cases (Special Immigrant Juveniles)

Pre-trials are required for **all** SIJ (Special Immigrant Juveniles). Within **30** days of filing your lawsuit, forward an email to the court coordinator requesting a pre-trial date. In the “subject” section of the email, please include the cause number and “SIJ - Request for Pre-trial Date”. Pre-trials for SIJ cases are set on Friday mornings at 8:30 a.m. by zoom with the Associate Judge. Trial dates for SIJ cases will be assigned upon completion of a final pre-trial.

V. TEMPORARY ORDERS HEARINGS

Temporary Orders hearings are limited to 45 minutes per side. The Court has the discretion to allow longer hearings depending upon the circumstances of a case. Hearings on Temporary Orders and Motions to Compel in which exhibits will be offered are heard in person.

A. Newly-filed Divorce/SAPCR/Paternity

1. Mediation is required prior to a temporary order hearing if custody is at issue.
2. The Court may waive the mediation requirement prior to a temporary orders hearing provided that a notarized affidavit is filed with the pleadings detailing an **emergency circumstance** concerning the health or safety of a child. The Court may also consider issuing “band-aid” orders prior to mediation.

B. Modification of Existing Orders

1. Request for modification of existing orders requires that a **notarized affidavit** be filed with the pleadings evidencing the necessity of a hearing for Temporary Orders.
2. **If custody is at issue, mediation is required prior to the hearing.**
3. Modification of support will be considered on a case-by-case basis. The Court requires 3 recent paycheck stubs, 2 years tax returns, and a copy of the

Attorney General payment record be exchanged and/or filed with court prior to the hearing.

C. Band-Aid Orders

If at the time a hearing for temporary orders is set, the case is not reached or must be reset, the Court will assess if a band-aid Order is necessary. Band-aid Orders may be issued up to 60-days.

D. Requesting A Record of Testimony

If you are requesting a record of testimony be made at your Modification or Temporary Orders hearing, you **must** follow the guidelines for a hearing requiring a record as set out in section **X** below.

E. In Person Appearance

Temporary Orders hearings in which exhibits will be offered are held in person.

VI. ENFORCEMENTS

- A.** Enforcement of possession and access and child support shall be set on Thursdays by motion. Visitation and access enforcement hearings will be limited to 45 minutes per side. Child support and spousal support hearings will be limited to 30 minutes per side. If Attorney General is a necessary party, you must provide proof of notice.
- B.** Enforcements of property division will be set on the trial docket.
- C.** Habeas Corpus proceedings will be set upon motion as soon as possible. Immediately upon filing your motion and obtaining your date, contact the court clerk for further instructions.

Since the making of a record of testimony is required in all Enforcements and Habeas Corpus proceedings, you **must** follow the guidelines for a hearing requiring a record as set out in section **X** below.

If you are appointed to represent an indigent Respondent in a contempt and your client needs a translator, you must email the court coordinator a request for a translator at least 7 days in advance of your hearing. Include in the subject line your cause number and "Request for Translator". Please include the language needing translating and the hearing date.

- D.** All Enforcements and Habeas Corpus proceeds are held in person.

VII. CPS

- A. CPS hearings will continue to be heard on Tuesdays as scheduled in Judge Gooden's VIRTUAL COURTROOM.
- B. If you are appointed to represent a party in CPS companion cases and you make a court appearance for both cases on the same day, only bill on 1 case per court appearance. All out of court hours must be submitted for payments within 90 days of the date of the activity. Additionally, when possible, please obtain pre-approval for out-of-pocket expenses.
- C. If you represent a party in a CPS case and your client needs a translator, you must email the court coordinator a request for a translator at least 7 days in advance of your hearing. Include in the subject line your cause number and "Request for Translator". Please include the language needing translating and the hearing date.

VIII. EXPRESS DOCKET

Agreed prove-ups in which all parties have signed the proposed Order/Decree or appropriate Waivers have been filed, can be considered by submission with a notarized Affidavit of Testimony or by appearing in the Virtual Courtroom on the Court's Express Docket between 8:15 and 8:50 AM, Monday - Friday. The Express Docket is not held during dead weeks. Dead weeks are list on the Court's website under the Express Docket link.

A. Prove-ups by Submission:

- 1. Sign up on through the District Clerk E-hearing System page for a submission.
- 2. File the necessary documents 10 days before the submission will be considered including your notarized affidavit of testimony and proper notice of submission when required. Responses and/or objections are due 3 days prior to the submission date. The Court will advise if a hearing is necessary to address any issues in opposed submissions via docket sheet entry.
- 3. Submit a final order signed by both parties or provide a waiver of citation that allows the court to proceed without further notice to Respondent.
- 4. File the MSA if that is part of the agreed order.

B. Agreed Prove-ups on the Express Docket

- 1. All documents (other than Exhibits) that are intended to be used or referred to for a prove-up must be properly signed and filed at least 7 days before appearance in the Virtual Courtroom.

The Harris County Law Library's website has sample forms for prove-ups available for download at <https://texaslawhelp.org>. PLEASE NOTE: Your **notarized affidavit** must contain all

testimony necessary to prove up the essential elements of your cause of actions, including name change requests within a divorce. *Forms are not appropriate for all cases.*

IX. DEFAULTS

Defaults will be heard in the virtual courtroom or in person. Defaults are not heard on the Express Docket. Since the making of a record of testimony is required in all defaults, you **must** follow the guidelines for a hearing requiring a record as set out in section **X** below.

- A. If prove-up is for default, a non-military affidavit completed by the litigant and certificate of last known address are required to be filed along with final order and prove-up affidavit.
- B. If the default is a divorce, you must also file a notarized sworn Inventory and Appraisalment.

X. HEARINGS REQUIRING OR REQUESTING A RECORD & EXHIBITS:

- A. VIRTUAL HEARINGS REQUIRING OR REQUESTING A RECORD:** If any virtual hearing requires the making of a record of testimony, or you are requesting a record, complete and send the Court Reporter Form for Zoom Including Zoom Oath to: Angela_McBride@justex.net 48 business hours prior to your hearing date.

A record is required or frequently requested in the following trials/hearings: Defaults, Habeas Corpus, Enforcements/Revocations, Protective Orders, CPS Cases Termination/Adoptions, New Trials, TFC Chapter 33 Hearings, Bill of Review, SIJ Cases, Recusals, Motions to Disqualify, & TFC Chapter 31 Hearings.

- B. EXHIBITS FOR VIRTUAL HEARINGS:** If you have any exhibits you intend to offer at a virtual hearing, they must be given directly to the court reporter, Angela McBride, 48 business hours prior to the hearing date. If your exhibits total less than 25 pages, you may email them to the court reporter at Angela_McBride@justex.net 48 business hours prior to your hearing date. If your exhibits total more than 25 pages or you are presenting audio or video files, then you must courier the exhibits to the 257th District Court, Attention Angela McBride, 48 business hours prior to your hearing date. All exhibits, whether they are couriered or emailed, must be marked and accompanied by an Exhibit List. If your exhibits are couriered they must be printed, marked and stapled or bound and audio or video files must be downloaded to a separate thumb drive. Additionally, a copy of your exhibits should be provided to the testifying witness and a courtesy copy provided for the Court's use. Any exhibits emailed to the court reporter less than 48 business hours prior to your hearing will not be printed.

- C. RECORDS AND EXHIBITS FOR IN PERSON HEARINGS:**

1. If you appear in person and your hearing requires a record to be made or you want a record made, please complete and tender the Court Reporter Form to the court reporter prior to the start of the hearing/trial.
2. If you have exhibits you intend to offer at an in person hearing or trial, they must be properly marked and stapled and provided to the court reporter and opposing attorney prior to the start of the hearing/trial. Additionally, please have a copy for the any testifying witness and the Court.

XI. ESSENTIAL MATTERS (CONTESTED OR UNCONTESTED)

Essential matters are generally considered to consist of the following and shall by leave of Court only, be conducted **via in-person hearings or** by the **Virtual Courtroom** if requested.

1. Suits brought under Texas Family Code Title 4 (protective orders and family violence); and
2. Suits brought under TFC 157, Subchapter H (habeas corpus and writs of attachment for children; and
3. Suits filed by a governmental entity under TFC Title 5 (CPS cases); and
4. Enforcements under TFC Chapter 157 if a respondent is in custody; and
5. Other suits or hearings with jurisdictional deadlines; and
6. Other matters that may be designated at the Court’s discretion. (Ex. In cases involving an emergency situation involving the health or safety of child, or imminent risk to property. A request to have the matter deemed essential must be accompanied by an affidavit where temporary orders are necessary.

For each of the above-enumerated matters, please note the following:

1. In-person hearing dates for **habeas corpus hearings** and **enforcement hearings** for visitation and access and support issues are scheduled on Thursdays.
2. For all other matters, please contact court clerk for a date and time.
3. File an Order Setting Hearing with the hearing date included.
4. Please note first setting will require rights be read to Respondent if jail time is being requested.
5. Future setting will be provided at the time of the initial setting.
6. If any hearing requires a record or you request a record, you **must** follow the guidelines for a hearing requiring a record as set out in section **X** above.

XII. SUBMISSION DOCKET

A. SUBMISSION DOCKET MOTIONS: The court will consider the following motions by written submission (i.e. no oral hearing). These submissions shall be scheduled through the District Clerk E-hearing System, the court’s online scheduling system. If the court believes that an oral hearing is necessary, the court will contact the parties via docket sheet entry with further instructions:

1. Motions for Adoption Evaluation;
2. Motions for Alternative or Substituted Service;

3. Motions for Appointment of Attorney Ad Litem or Amicus Attorney (Motions for Appointments which require an allocation of cost should be set for Virtual hearing or in-person hearing);
4. Agreed Motions for Continuance;
5. Agreed Motions to Enter;
6. Motions for Judgment Nunc Pro Tunc;
7. Motions to Reinstate;
8. Motion To Appoint Mediator;
9. Motions for Summary Judgment (traditional or no-evidence).

B. OBTAINING A SUBMISSION DATE:

1. After filing your motion, obtain a submission date from District Clerk E-hearing System. File a notice of submission using the submission date obtained.
2. The submission date shall never be less than the amount of time required by statute or rule and shall be at least 10 days from the date of filing, except upon leave of court.

C. NOTICE OF SUBMISSION REQUIREMENTS:

1. Notice of submission SHALL be served on all necessary parties at least 10 days before the submission date (unless a rule or statute requires more than 10 days' notice).
2. **Notice of Submission must state that:**
 - a) **The motion will be heard by submission;**
 - b) **No party may appear for the hearing in person; and**
 - c) **Except on leave of court, any response to the motion shall be filed at least 3 days prior to the submission date.**
3. Please note: If your motion is dispositive, such as a motion for final summary judgment, please contact the court to confirm the submission schedule.
4. It is the responsibility of the attorneys or pro se parties to monitor the docket sheet for the ruling.

XIII. ENTRY SETTINGS AND MOTIONS TO ENTER

- A. If the order has all signatures: File the proposed order before your entry date for the judge's signature. Inform the court clerk that the agreed order has been filed so the order may be moved into the judge's box for signature.
- B. If the order is missing signatures: A motion to enter must be filed and will be considered by submission (XII.C. above). The motion to enter should have the proposed order attached and contain the signature of the moving party. The party objecting to the form of the order must timely respond by addressing each objection to the order in the body of the response and attaching the objecting party's proposed order signed by that party. If the Court is unable to resolve the

drafting disputes via submission, a docket entry will be made to that effect and either side may request a virtual hearing to resolve dispute via District Clerk E-hearing System.

- C. Entry Settings: Entry settings are limited to two (2). If 3rd Entry setting is requested or given and Order is not submitted, case will be dismissed for want of prosecution.

XIV. IN-PERSON HEARINGS

The OCA has suggested guidelines for the safe use of our courtrooms during this Covid-19 pandemic for the safety of the bar, family and staff, court family, and the public.

APPROACHES

Judge Peake and Judge Gooden will entertain approaches in their Virtual Courtrooms and in person as time permits provided that all parties/attorneys are present. Please call the clerk or coordinator to set up a time if needed.

XV. REQUIRED INFORMATION IN ALL HEARING NOTICES

Texas Rules of Civil Procedure Rule 21(b) requires specific instructions be included in hearing notices. Please review this Rule and include such instructions in all notices/orders that give notice of a hearing setting. Suggested language is as follows:

Contact information for the 257th Court can be found on the Court's website at <https://www.justex.net/court/257>. Evidence in this case must be submitted according to the 257th Judicial District Revised Policies and Procedures which can be found on the Court's website; and according to the Texas Rules of Evidence, Local Rules, and Standing Orders which can be found at <https://txcourts.gov/rules-forms>.

XVI. AFFIDAVITS OF INABILITY TO PAY COSTS

Any litigant filing a Statement of Inability to Afford Payment of Court Costs in accordance with Texas Rules of Civil Procedure Rule 145 should be prepared to demonstrate the inability to afford payment of costs if a challenge to the affidavit is asserted by the clerk, the court reporter, another party in the case or the Court. You may submit with your Statement and evidence of your inability to pay costs.

If you file a motion challenging a Statement of Inability to Afford Payment of Court Costs, request a hearing date that gives 10 days advance notice. The Court, after reviewing an affidavit, may set a hearing to determine if the affidavit is approved. **The**

party filing the affidavit can waive the 10 day advance notice and the making of a record if there is no objection from any party.

If your affidavit has been approved by the Court and you need a translator, you must email the court coordinator a request for a translator at least 7 days in advance of your hearing. Include in the subject line your cause number and "Request for Translator". Please include the language needing translating and the hearing date.

SIGNED this 02 day of October, 2023.

A handwritten signature in blue ink, appearing to read "Sandra J. Peake", is written above a horizontal line.

SANDRA J. PEAKE
JUDGE, 257th JUDICIAL DISTRICT COURT