

Judges, Clerks, and Court Staff:

As I told you last week, the information on coronavirus is changing rapidly and the situation is becoming more concerning in the state and United States. Last week, I informed you of the first presumptive positive test of the virus in the state, and the number of confirmed cases has risen to 25 today. The Department of State Health Services (DSHS) anticipates that number will continue to increase and is encouraging individuals and entities to take actions to reduce the spread to the degree possible.

We have been in consultation with the Department of State Health Services on what guidance we should provide to courts. We have also consulted the Supreme Court, Court of Criminal Appeals, and the Regional Presiding Judges. Courts should be mindful of the need to reduce the impact of the virus on parties, jurors, the public, judges, and staff. In addition to the suggestions provided last week (see below), the following updated guidance is being provided today:

Updated Guidance #1 (Issued 3/12/2020):

- If a court deems that non-essential (see below), in-person proceedings may pose an unnecessary or unreasonable risk to participants, court staff, or the public, the court should avoid that risk, when possible, by simple delay or by a telephone or video remote appearance. Our suggestion is that you follow this practice until at least April 1.
- Essential proceedings 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.
- Courts should schedule or suspend proceedings to avoid the gathering of large groups of people until at least April 1, including jury trials and large docket calls.
- Courts should publicly encourage persons with COVID-19 or flu-like symptoms, a fever, or who are coughing or sneezing, to contact the court before appearing. Courts should also publicly encourage attorneys who know that clients, witnesses, or others have such a condition to alert the court in advance. The court should make reasonable accommodations and reschedule appearances and hearings as needed.
- You may wish to consult with your local health authority for additional guidance on the timing of the suspension of proceedings as conditions in the local community may vary from jurisdiction to jurisdiction.
- Courts should implement telephonic or video remote appearances for all proceedings which may occur remotely.
- Please be aware that the Open Courts provision of the Constitution will generally require that the public have access to proceedings. If you hold telephonic or video remote hearings, you should consider a method by which the public can have access.

Request for Notice

Should your court choose to suspend proceedings for a period of time, please notify OCA by email at court closures@txcourts.gov with information about the closure or fill out the webform at <https://www.txcourts.gov/programs-services/court-security/emergency-court-preparedness/closures/report-a-closure/>. OCA will post the information on our court closure [website](#) in an effort to provide public notice of the suspension.

As this situation unfolds, we will keep you informed and provide updated guidance as appropriate. If you have any questions, please feel free to reach out via email (david.slayton@txcourts.gov) or by phone (512-463-1625).

Thanks,
David Slayton
Administrative Director
Texas Office of Court Administration

Previous week's guidance (issued on 3/5/2020):

Previous Preparation Work: The Supreme Court of Texas established the Task Force to Ensure Judicial Readiness in Times of Emergencies (JRITE) in 2008 and charged the Task Force with reviewing and updating its plan in 2016. Included in JRITE's work is an interim plan and other resources, including resources for preparing and responding to pandemics such as COVID-19. To view these resources, please visit <http://txcourts.gov/organizations/policy-funding/task-force-on-judicial-emergency-preparedness/jrite-resource-archives/>. The ultimate goal of the preparedness plan is to allow courts to operate in a way that protects the health and safety of everyone at the court facilities and to keep courts open to ensure the justice system continues.

Personal Protection/Prevention:

The most important steps in responding to the virus is prevention. The CDC has issued the following prevention tips:

- Avoid close contact with people who are sick.
 - DSHS has recommended to OCA that you maintain at least 6-8 feet between you and a person who is symptomatic to reduce the risk of spread of the virus.
 - DSHS has indicated that evidence shows that the virus is not able to survive in the ventilation system.
 - If you have a proceeding involving a person who is symptomatic and the proceeding must continue, attempt to isolate that proceeding to reduce the risk of interaction with others.
- Avoid touching your eyes, nose, and mouth.
- Stay home when you are sick.
 - Judges, court employees, attorneys, or litigants who are sick should be encouraged to stay home and to seek medical attention.
- Cover your cough or sneeze with a tissue (or into your arm if a tissue is not available); then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces using a household cleaning spray or wipe. A list of products recommended by DSHS for this purpose is available at <https://www.americanchemistry.com/novel-coronavirus-fighting-products-list.pdf>.
- While some might think that the use of a facemask is necessary or advisable, CDC does not recommend the use of a mask for people who are well, as they are less effective at preventing infection and are in short supply for health care workers. However, CDC and DSHS has recommended that courts consider providing facemasks (the common surgical masks can be used) to individuals who are showing symptoms of COVID-19 to help avoid spread of the virus to others.
- Wash your hand often with soap and water for at least 20 seconds, especially after going to the bathroom; before eating; and after blowing your nose, coughing, or sneezing.
 - If soap and water are not available, use an alcohol-based hand sanitizer with at least 60% alcohol.

Preparation:

While there is currently no need for alarm, courts should prepare now to ensure a proper response if an outbreak occurs.

- Courts should consider and identify who is authorized to make decisions in an emergency including evacuation (partial or total) and the closing of court operations.
- Courts should consider which functions are essential and must continue if an outbreak occurs.
 - Essential functions are typically divided into those that are necessary in the first 7 days, 7-30 days, 30-90 days, and 90+ days.
 - Examples of essential functions that must occur in the first 7 days include: criminal magistration proceedings, CPS removal hearings, temporary restraining orders/temporary injunctions, juvenile detention hearings, family violence protective orders.
 - Courts are encouraged to delay non-essential functions in the event of an outbreak and to reduce the need for large numbers of possibly infected people to congregate. This may include the need to consider delay of jury trials.
- Courts should consider which staff are essential and which staff could stay home if court functions are to be continued.
 - Courts should prepare now for the possibility of permitting staff to work remotely, including considering the technology needs for that to occur.
- Courts should consider which proceedings could occur by telephonic or video remote appearances. This may include using “low-tech” solutions such as teleconferencing, Facetime, Skype, or some other common remote appearance tool.
 - Courts should plan how to notify self-represented litigants, witnesses, and others of the remote appearance technology.
 - Some courts have begun to place wording on orders setting hearing and docket notices reminding attorneys/parties to contact the court if they are ill.
- Courts should consider how to promptly communicate the activation of plans to judges, courts staff, and the public.
 - The Office of Court Administration and the State Bar of Texas have a communication plan that allows for prompt notification of the bar and public notices; however, additional local notifications will likely be necessary.
 - Some courts have posted notices or entered orders encouraging or requiring attorneys and parties to notify the court if they (or their clients) are experiencing symptoms.

Quarantine:

While the state and local health authorities generally have responsibility for establishing quarantine control methods, a court may need to become involved if a person does not comply with those control orders from the health authority. Chapter 81, Health and Safety Code, sets out the procedures in such cases. A bench book at <https://www.law.uh.edu/healthlaw/HLPIBenchBook.pdf> provides guidance and forms for district judges who are responsible for hearing these cases.

To ensure quick response and continuity, the Regional Presiding Judges and Chief Justice Nathan Hecht have identified several judges from each region of the state who are being assigned to hear proceedings under Chapter 81, Health and Safety Code. These judges will be on-call for the proceedings should the need arise in an emergency or after-hours situation. Your regional presiding judge can provide you additional information on the assignments in your region.