

Misc. No. _____

**NUECES COUNTY STANDING ORDERS ON REMOTE PROCEEDINGS IN CIVIL,
FAMILY AND FELONY CRIMINAL CASES**

These Standing Orders on Remote Proceedings in Civil, Family and Felony Criminal Cases were unanimously adopted by the Nueces County District Judges during a specially held meeting on April 16, 2020. These orders are effective on April 16, 2020, and shall remain in effect until the Governor of the State of Texas and/or The Supreme Court of Texas lifts all emergency orders and/or the orders are revoked by the Board of Judges.

WE, THE UNDERSIGNED NUECES COUNTY DISTRICT JUDGES AND TITLE IV-D JUDGE, FIND:

1. Governor Abbott declared a State of Emergency for the State of Texas regarding the COVID-19 Virus;
2. The Supreme Court of Texas issued multiple emergency Orders regarding the COVID-19 State of Disaster, requiring measures to help mitigate the spread of COVID-19 to protect the health and welfare of all; and
3. Nueces County adopted The Order to Stay at Home.

IT IS THEREFORE ORDERED:

- A. All jury trials are hereby cancelled and will resume on June 1, 2020.
- B. All essential and non-essential hearings will be held via Zoom and/or CourtCall videoconferencing until further order of the courts.
- C. The general requirements for remote Civil, Family and Criminal proceedings are as follows:

1. Notification of Information for Remote Proceeding

When a court proceeding is scheduled, the court will e-mail the parties, through their attorneys, if represented, the information needed to attend the proceeding by Zoom and/or CourtCall video conferencing.

Each attorney or self-represented party **shall** communicate this information to the attorney's clients and witnesses, including any witnesses the attorney subpoenaed for the proceeding, and **shall** provide each such person with a copy of this order.

2. Use of Real Names

In all communications with the court and during the court proceeding, including when joining a Zoom meeting and/or CourtCall video conferencing, each party, attorney, witness, or other persons attending the proceeding shall use that person's real name when identifying him or herself. Any party not identified properly will not be allowed access to the hearing.

3. Interpreter

A self-represented party or attorney acting on a party's behalf **shall** contact the court coordinator as soon as possible, but not less than 48 hours, after the court proceeding is scheduled if an interpreter will be needed.

4. Necessary Hardware and Software

At least 48 hours before the proceeding, each party, attorney, witness or other person attending the proceeding **shall** create a zoom account at <https://zoom.us/home> and/or contact CourtCall (888-882-6878) to schedule the hearing.

The person **shall** create the account using the person's legal name and the person's real e-mail address. For each attorney, that e-mail address **shall** be the same as the one described in Rule 21(f)(2) of the Texas Rules of Civil Procedure.

At least 48 hours before the proceeding, each person **shall** download and install the Zoom app on a compatible device (e.g. computer, smart phone, tablet) that the person intends to use to communicate with the court during the proceeding and/or have CourtCall videoconferencing enabled.

The device must have a functional speaker, video camera, microphone, and a reliable internet, or data, connection.

If a person, including a witness, knows he or she cannot attend the proceeding by video, that person or that person's attorney, if represented, **shall** contact the court as soon as possible, but not later than 48 hours before the proceeding. The person or that person's attorney if represented, **shall** join the meeting telephonically and show good cause for failure to appear by video at the proceeding.

6. Submission of Exhibits by e-filing and to the Parties

To be potentially admissible into evidence, all exhibits, other than rebuttal exhibits, **shall** be e-filed with the District Clerk and copies transmitted to all parties not later than 48 hours before the court proceeding in the manner required in subsection (7) herein. If the exhibits are not e-filed within that time period, those exhibits will not be admissible during the hearing.

7. Format of Exhibits

Any party needing to admit either exhibits or other evidence, must electronically e-file the same in PDF format in advance of the hearing, already pre-marked with exhibit stickers and chronologically numbered, for ease of reference and directing a witness's attention during remote proceedings. The pages of each exhibit, deposition, or declaration of other proffered evidence, must be sequentially numbered for ease of reference. Copies must be contemporaneously directed to opposing counsel.

Each exhibit **shall** be in PDF format unless the exhibit is an image file, audio file, or video file. The file name of each exhibit file **shall** state the name of the exhibit. A party wanting to offer any audio recordings or video recordings **shall** upload the labeled files to a folder in Dropbox, or similar cloud storage service, and **shall** include a link to the folder in the party's e-mail exhibit. All audio and video recordings **shall** be in the MP4 format. Unless critical to an issue in the case, a party must redact personal identifying information and sensitive personal information from an exhibit before submitting it.

8. Exhibits with Rebuttal or Unanticipated Evidence

During the proceeding, and only with the permission of the court, a party may offer as rebuttal evidence, an exhibit, if the party could not have reasonably anticipated the need for such evidence before beginning the proceeding, through the Chat/File feature in Zoom and/or CourtCall videoconferencing.

9. Submission of Orders, Pleadings, and Other Documents

A meaningful conference between opposing attorneys **shall** be required prior to court intervention. Parties and attorneys are hereby advised that the present public health crisis demands that whenever possible, attorneys come to an agreement without necessitating a hearing before the court.

The parties **shall** confer before the court proceeding, and at least 48 hours before the proceeding is scheduled to begin, **shall** e-mail opposing counsel or pro se litigant - whichever applies, electronic copies of all orders, pleadings, returns of citations, and other documents filed with the district clerk that are relevant to the proceeding. If the documents are too voluminous to attach to an e-mail, the parties **shall** upload the documents to a folder in Dropbox, or similar cloud-based storage service, and include a link to the folder in the e-mail. Each document **shall** be in PDF format with a file name that reflects the title of the document. However, if the document is an audio or video file, the party may use the file format described by paragraph 7, above.

10. Electronic Signatures

In accordance with the Electronic Signatures in Global and National Commerce Act (E-Sign Act) and the Uniform Electronic Signatures Act, all parties will be allowed to electronically sign any necessary documents that are to be provided to the court.

11. Submission of Late Responses and Replies

Each party **shall** e-mail to the court coordinator and each of the other parties any responses or replies the party e-filed with the district clerk, if less than 48 hours before the court proceeding. The e-mailing of such a document to the court coordinator is not a substitute for e-filing the document with the district clerk. No party **shall** include the judge or court coordinator as a service contact when e-filing a document.

12. Submission of Case Law, Statutes, Regulations, or Similar Documents

If a party wants the court to consider any case law, statute, regulation, or similar document, the party **shall** e-mail to the court or court coordinator such case law, statute, regulation or similar document. Failure to comply with the procedures in this order for submitting proposed exhibits, information required by the court's local rules, responses and replies, or supporting statutes, case law, regulations, or similar documents without good cause may result, as applicable, in the exclusion of the exhibits, or the documents not being recognized by the court, or other sanction as provided by the court's local rules or inherent powers.

13. Dress Code and Location

You are hereby advised that remote proceedings are official court proceedings. Therefore, all parties, witnesses, experts, or anyone involved in the proceeding **shall** appear in appropriate business attire.

Additionally, all parties, witnesses, experts, or anyone involved in the proceeding, **shall** be in an appropriate location, free from all distractions, while participating in the remote proceeding.

14. Opening in Zoom App

Before the proceeding begins, when a person attempts to join a Zoom court proceeding from the Zoom webpage, the webpage will ask whether to open the Zoom app. Each person **shall** instruct Zoom to open the Zoom app and allow it to install the program and not rely on the web browser. In this way, the attorneys and parties will have the means to communicate confidentially in private breakout rooms, which are unavailable on the website-based plug-in.

15. Joining Proceeding before Scheduled Start

The parties, attorneys, witnesses, and all other persons attending the proceedings **shall** join the proceeding on Zoom by clicking on the Zoom link sent by the court at least ten (10) minutes before the proceeding is scheduled to begin.

16. Virtual Waiting Room

When each person joins the meeting, the person will appear in a virtual waiting room with all other parties, attorneys and witnesses. There may be several cases sent on the docket at the same time. When the case is called, the court will bring the attorneys and clients into the virtual courtroom. When the court brings the attorneys and clients into the virtual courtroom, their video will automatically be on and their audio **shall** remain muted until the proceeding begins. The attorneys **shall** always appear on video during the proceeding, except when the court recesses the proceeding. As soon as your hearing is concluded, you are excused from the virtual courtroom.

17. Witnesses

When taking the oath to testify and when testifying, **each witness shall appear on video**, unless the witness is in the presence of a notary public, identified to the court, who can verify the identity of the witness, in which case the witness may testify through Zoom via audio only. Otherwise, all other potential witnesses who are not on video through zoom may not testify.

Unless permitted by the court or as provided below, a witness may not have access to any electronic information or physical notes while testifying, just as if the witness were on the witness stand in a courtroom. Except during a recess in the proceeding, no person **shall** communicate, verbally or non-verbally, with a witness through any method other than the video or audio means shared with all the participants in the proceeding who are present in the virtual courtroom. There will be no private chatting in the virtual courtroom between the participants without permission of the court. If "The Rule" is invoked, no one may communicate in any manner, including by telephone, text message, or e-mail, with any witness placed under the Rule, except as permitted by the Rule and then only during a recess in the proceeding. While placed under "the Rule," witnesses who are not testifying at the time, are prohibited from viewing the proceeding, including the court's YouTube live video link.

A list of witnesses **shall** be provided to the court no later than 48 hours before the scheduled hearing date.

All attorneys are reminded they are officers of the court and are expected to abide by all terms of the Texas Lawyer's Creed and ethical rules of conduct.

18. Muting of Microphone

All persons participating in the proceedings except the Judge, the currently testifying witness, participating attorneys, or self-represented party, **shall** have their microphones muted.

19. Recesses

The court may recess the proceeding for breaks or to allow attorneys to confer with their clients. If an attorney wishes to confer with a client, the attorney **shall** make that request to the court, identifying the client by name. The court will send those video streams into a confidential breakout room to confer for a period of no more than ten (10) minutes. In a similar manner, attorneys or self-represented parties may ask the court to confer privately with one another. An attorney or self-represented parties may ask the court to confer privately with one another. An attorney or self-represented party may ask the court to allow the attorney or self-represented party to confer privately with a witness.

20. Defendants and/or Respondents in the Nueces County Jail

All attorneys are advised that the jail is equipped with a computer, capable of Zoom and/or CourtCall videoconferencing, so that defendants and/or respondents in custody are able to participate in any essential hearings. Additionally, the jail has allowed 2P, and the 4th and 5th floors of the jail, for attorneys to use for confidential communications when visiting their clients.

Also, the jail has made available an unrecorded telephonic line, Monday through Friday, from 8:00 a.m. to 4:00 p.m., by appointment only through the Sheriff's Office, so that attorneys and defendants and/or respondents may communicate remotely without exposing any party to any unnecessary risks or waiver of constitutionally protected privileges.

Per Sheriff Hooper, any attorney who calls and requests an attorney/client telephone conference, should fax that request to Jail Administration. For inmates housed at the Main Jail, use fax: 361.887.2240; for the inmates housed at the Annex, use fax: 361.289.4208. This request from the attorney needs to be sent Monday - Friday between the hours of 8:00 a.m. to 4:00 p.m. Once the request is received, the request will be forwarded to Inmate Management. When the request is received at Inmate Management, the inmate will be taken to an office at the mutually agreed upon telephone time, Monday - Friday between the hours of 8:00 a.m. to 4:00 p.m. Any attorney's request for a telephone conference received after 4:00 p.m. will not be responded to until the following business day. If the attorney is requesting to talk to their client via telephone, but not requesting a specific time to speak with them, the attorney's telephone number will be taken down and the inmate will call from the unit using the designated attorney telephone line (which is a free attorney phone call). All phones used for said conferences are secure and not subject to monitoring or recording.

In addition, the Nueces County Sheriff's Office must be in compliance with the feeding schedules as per the Texas Commission on Jail Standards, so attorney telephone calls will NOT be completed during the hours of 4:30 a.m. to 5:30 a.m. or 10:30 a.m. to 11:30 a.m. or 4:30 p.m. to 5:30 p.m. In addition, attorney telephone calls will not impede inmate roll call or head counts. Please contact Sheriff's office for these times.

The attorneys are also advised that the Nueces County Jail is OPEN as usual for in person attorney visits.

21. No Circumvention of Order

No attorney, party, or witness may circumvent the terms of this order by having another person perform a task prohibited for that party or attorney.

21. Special Provisions for Criminal Law Hearings

a. Waiver to be Signed by Defendant and the Attorney Representing the State

As a prerequisite to any felony criminal proceeding conducted through Zoom and/or CourtCall videoconferencing, the defendant **shall** be required to execute a waiver of the defendant's right to appear in court in person and with counsel. Waiver forms **shall** be included in the plea/MTR documents, and **shall** be signed by the defendant and the attorney representing the state, as required by the Code of Criminal Procedure, §27.18(a)(1).

b. Agreement Notifications

If a plea offer is accepted or there is an agreed recommendation on an MTR, the defense attorney **shall** notify the court coordinator by e-mail, and obtain a setting for said hearing.

c. Hearing Notifications

The court coordinator **shall** send via email the hearing notices to the following persons:

- i. the designated clerk in the District Clerk's office;
- ii. the designated jail officer in the Nueces County Jail;
- iii. the attorneys for the state and the defendant; and
- iv. the designated court probation officer assigned to each court, who in turn will notify the specific probation officer assigned to that case.

d. Telephone Number for Defendant on Bond

If a pre-sentence investigation (PSI) is requested and the defendant is on Bond, the defendant's attorney **shall** also provide a working telephone number for the defendant, in order that the CSCD may contact the defendant and conduct a pre-sentence interview and prepare a PSI report prior to any plea.

e. Preparation of Bill of Costs

Unless waived, the district clerk's office **shall** prepare the Bill of Costs and provide it to the prosecuting attorney assigned to the case for inclusion in plea documents.

f. Submission and Review of Plea Documents

Not later than noon on the third business day prior to the plea/MTR hearing, the prosecuting attorney assigned to the case **shall** prepare the documents for the plea hearing, sign the paperwork where indicated, and send said documents to the defendant's attorney for review.

The attorney and the defendant are to review the documentation, and the defendant is to initial and sign all applicable plea paperwork. The defendant's attorney shall follow these steps to secure the defendant's initials and signatures on the applicable paperwork:

- i. Those defense attorneys that go to the jail in person, are to use the officers in the jail to assist in having the required documents initialed and signed;
- ii. Those defense attorneys that do not go to the jail, will call the Sheriff's Office to set up an appointment to meet with their client, as set out in section twenty (20) above;
- iii. Review all required paperwork with the defendant; the jail will have a copy of all necessary admonishments;
- iv. Make sure that the defendant reviews, initials, and signs where required;
- v. Completion and filing of documents;

- A. For those defense attorneys that go to the jail in person to meet with their clients and obtain the required initials and signatures with the assistance of the jail officers, those attorneys **shall** be responsible for scanning and e-filing the completed documents to the district clerk's office;
 - B. For those defense attorneys that do not go to the jail to meet with their clients in person, wherein the jail officers have assisted them in obtaining the necessary initials and signatures, the district attorney **shall** be responsible to scan and forward to the defense attorney for e-filing with the district clerk's office, the completed documents; or
 - C. For those defense attorneys who do not want the district attorney's office to scan and e-mail the completed documents to them for e-filing, said defense attorneys may call the Sheriff's Office to make arrangements to pick up the completed documents for scanning and e-filing to the district clerk's office.
- vi. The defense attorneys will e-file all plea and/or MTR paperwork. Each file must be a "Lead Document."

All necessary documents must be e-filed with the Nueces County District Clerk's office no later than 48 hours prior to the scheduled court date. All hearings, where the documents are not e-filed 48 hours in advance, will be canceled and defense counsel **shall** contact the court coordinator to obtain another hearing date.

g. Signing of Plea Documents by Defendant in Custody

i. Documents delivered to the Nueces County Jail

Multiple copies of all necessary documents are available at the Nueces County Jail. The Local Administrative Judge has delivered to the jail, multiple copies of all necessary pleas, revocations, waivers, and other forms regularly used by the court during business.

ii. Attorney Communication

Attorneys for defendants in custody are to contact the jail to schedule a date and time, prior to the scheduled court date, to set up a time for the attorney to review all necessary documents via an unrecorded telephone line.

h. Signing of the Plea Documents by Defendant on Bond

The attorney and the defendant are to review all necessary plea or revocation paperwork prior to the scheduled court date. Both the attorney and the defendant are to fill out all the necessary paperwork, e-file it, and submit it to the prosecutor no later than 48 hours prior to the scheduled court date. If the documents are not e-filed 48 hours in advance of the scheduled date and time of the hearing, the hearing will be canceled and the defense attorney **shall** contact the court coordinator to obtain another hearing date.

i. Submission of Completed Documents

When any necessary plea or revocation documents are signed by all necessary parties, the documents are to be e-filed and submitted to the court no later than 48 hours prior to the proceeding. If the documents are not e-filed 48 hours in advance of the scheduled date and time of the hearing, the hearing will be canceled and the defense attorney **shall** contact the court coordinator to obtain another hearing date.

22. Special Provisions for Family Law Hearings

When the Court grants an application to interview a child in chambers in accordance with Section 153.009, Texas Family Code, the following procedures shall apply to the Court's interview with the child:

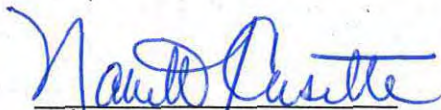
- a. The Court shall conduct the interview with the child using Zoom. The Court will notify the parties and attorneys by e-mail of the Zoom meeting, in which the Court will confer with the child or if more than one child, each will be interviewed child separately. The party in possession of the child at the time of the interview shall ensure the child is available at the time of the Zoom meeting and has possession of a separate device (for example, computer, tablet, smartphone) that the child will use to communicate with the Court during the interview.
- b. When the Court begins the Zoom meeting, the party in possession of the child or an adult designated by that party shall join the meeting, identify himself or herself to the Court, and then leave the room.
- c. **While the Court is interviewing the child, no person may be present in the same room as the child or may be located outside of the room in which the child is physically located and/or within a distance in which the person can hear the child's interview.**
- d. With the exception of the Court's court reporter, no person including the child, may record any statements of the child or the Court made during the interview.
- e. **Additionally, no parent, guardian or person in possession of the child, shall in any way instruct, coach or prompt the child immediately before or during the child's interview with the court. Any parent, guardian or person in possession of the child, is subject to contempt of court for violation of this provision.**

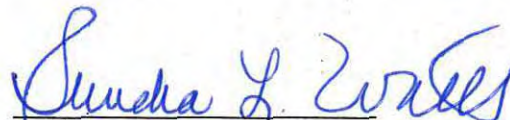
IT IS FURTHER ORDERED that in compliance with the Open Courts provision of the Texas Constitution:


1. The Office of Court Administration is providing Judges the ability to stream and host court proceedings via Zoom and/or CourtCall videoconferencing, via YouTube.

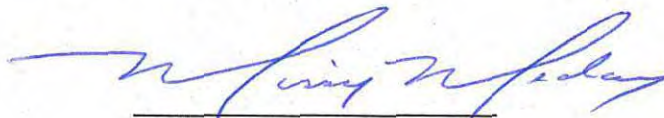
Under the Open Courts provision of the Texas Constitution, all courts are required to maintain public access. In general, court proceedings, are presumptively open to the public in Texas state Courts. This YouTube Channel is setup to comply with that provision, however recording of these proceedings is strictly prohibited. Participants and viewers are hereby admonished that violators are subject to the Court's contempt powers. The punishment for contempt of a court is a fine or note more than \$500 or confinement in the county jail for not more than six (6) months, or both such a fine and confinement in jail. Tex. Gov. Code, Sec. 21.002.

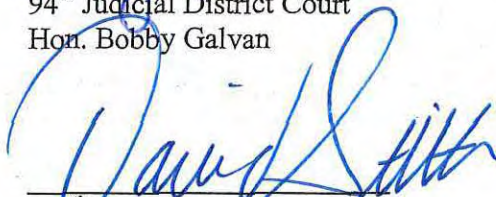
THESE ORDERS SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL SET ASIDE.



28th Judicial District Court
Hon. Nanette Hasette



117th Judicial District Court
Hon. Sandra Watts

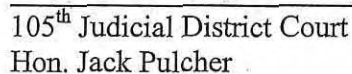

94th Judicial District Court
Hon. Bobby Galvan



347th Judicial District Court
Hon. Missy Medary


319th Judicial District Court
Hon. David Stith


148th Judicial District Court
Hon. Carlos Valdez


214th Judicial District Court
Hon. Inna Klein


105th Judicial District Court
Hon. Jack Pulcher


Title IV-D Court
Hon. Susan E. Barclay