

From: [Office Of Court Administration Announcements](#)
To: [Office Of Court Administration Announcements](#)
Subject: UPDATED COVID-19 Guidance #8
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Judges, Clerks, and Court Staff:

Since the last update, the number of positive COVID-19 cases reported by the Department of State Health Services (DSHS) in the state has risen from 16,455 to 25,297 (as of noon). Texas has been able to test 290,517 individuals so far, up from 158,547 as of last week. You can follow updated statistics on Texas cases on the [DSHS website](#).

Chief Justice Issues New Emergency Order Renewing, Clarifying and Amending Previous Emergency Orders

Today Chief Justice Nathan L. Hecht issued the [Twelfth Emergency Order](#) Regarding the COVID-19 State of Disaster, effective immediately and expiring June 1, except as noted below. The Emergency Order renews as clarified and amends the 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, and 11th Emergency Orders, as follows (**key changes noted in bold**):

- Extends the ability or the requirement (to avoid risk to court staff, parties, attorneys, jurors, and the public) of judges – in all case types – and without a participant’s consent to:
 - Modify or suspend deadlines and procedures, whether prescribed by statute, rule, or order, for a stated period ending no later than 30 days after the Governor’s state of disaster has been lifted;
 - Allow or require anyone involved in any hearing, deposition, or other proceeding of any kind – including but not limited to a party, attorney, witness, court reporter, **or grand juror**, but not including a petit juror – to participate remotely, such as by teleconferencing, videoconferencing, or other means;
 - Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, such as by teleconferencing, videoconferencing, or other means;
 - Conduct proceedings away from the court’s usual location with reasonable notice and access to the participants and the public;
 - Require every participant in a proceeding to alert the court if the participant has, or knows of another participant who has, COVID-19 or flu-like symptoms, or a fever, cough or sneezing;
 - Take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.
- Prohibits courts from conducting **any in-person proceeding contrary to guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.**
- **Requires courts to use all reasonable efforts to conduct proceedings remotely.**
- Extends the statute of limitations deadlines in civil cases for deadlines that fall between March 13 and June 1 to **July 15** (not including appellate deadlines, requests for relief from which must be made to the court and should be generously granted).
- Extends the order clarifying that existing trial court orders control when determining a

person's right to possession of and access to a child in a Suit Affecting the Parent-Child Relationship and that possession of and access to a child is not affected by any shelter-in-place order or other order restricting movement issued by a government entity. Extends the order clarifying that the original published school schedule controls with regard to possession and access to a child. Permits parties to alter possession by agreement if allowed by the court order(s) and courts to modify their orders on an emergency basis or otherwise.

- Extends the suspension of residential evictions proceedings under Chapter 24 of the Texas Property Code and Rule 510 of the Rules of Civil Procedure as follows:
 - **Prohibits a trial, hearing, or other proceeding in an eviction, and tolls all deadlines**, until after **May 18**.
 - Prohibits the posting of the written warning required by Sec. 24.0061(d)(1) of the Property Code and the execution of a writ of possession until after **May 25**, and the deadlines in Rule 510.8(d)(1)-(d)(2) are suspended while the Emergency Order remains in effect.
 - Permits new filings of eviction cases and suspends the time period in Rule 510.4(a)(10), but prohibits issuance and service of citation until after **May 18**.
 - Permits one of these proceedings to proceed only if the following three actions are met:
 - the plaintiff files a "sworn complaint for forcible detainer for threat to person or for cause";
 - the court determines the facts and grounds for eviction stated in the complaint, under oath with personal knowledge, taken as true, show that the actions of the tenant, or the tenant's household members or guests, pose an imminent threat of (i) physical harm to the plaintiff, the plaintiff's employees, or other tenants, or (ii) criminal activity; and
 - the court signs an order stating procedure for the case to proceed.
- Extends all deadlines, whether prescribed by statute, rule, or order, that expired or would have expired between March 13 and June 1 to **July 15** in:
 - Attorney professional disciplinary and disability proceedings; and
 - Relating to the issuance or renewal of certifications, licenses, or registrations issued by the Judicial Branch Certification Commission, or for fulfilling mandatory continuing education.

Guidance on Conducting Court Proceedings (UNCHANGED FROM LAST WEEK)

The Twelfth Emergency Order Regarding the COVID-19 State of Disaster prohibits courts from conducting any in-person proceedings contrary to guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions. It also requires courts to use all reasonable efforts to conduct proceedings remotely.

The following guidance is provided for all courts:

- **In-person proceedings** of any size should be delayed until **at least June 1**.
- Essential proceedings should occur in-person only if holding the proceeding remotely is not possible or feasible.
- If essential proceedings must be held in-person, the court should ensure that:

- No more than 10 persons are gathered in the courtroom or in areas around the courtroom (see EXCEPTION below);
- **Participants wear face coverings where possible;** and
- Participants in the courtroom are separated consistent with social distancing and other precautions.
- EXCEPTION: Essential proceedings may occur in-person in excess of the 10-person maximum if the law requires more than 10 persons for the proceedings, such as grand jury deliberations. **Participants should be separated consistent with social distancing and should wear face coverings where possible. (Note: Emergency Order 12 permits, but does not require, grand jurors to meet remotely).**
- No non-essential proceedings should be held in-person.
- With the introduction of the remote proceedings capability through Zoom, most non-essential proceedings, except for jury trials, can be conducted remotely, and there are no limitations on those remote proceedings so long as reasonable notice and access is provided to the participants and the public.

OCA has been consulting with the state health experts on guidelines for permitting in-person proceedings in the future and anticipates releasing updated guidance later this week.

Governor Abbott issues new Executive Order related to Opening Texas

Today Governor Greg Abbott issued Executive Order [GA-18](#), effective immediately through May 15, relating to the expanded reopening of services as part of the safe, strategic plan to Open Texas in response to the COVID-19 disaster. The Executive Order does the following:

- Maintains the requirement that every person in Texas, except where necessary to provide or obtain **essential services** or **reopened services**, minimize social gatherings and minimize in-person contact with people who are not in the same household;
- Continues the prohibition on people visiting nursing homes, state supported living centers, assisted living centers, or long-term care facilities except for limited exceptions;
- Strongly encourages people over 65 to stay home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation;
- “Essential services” remain mostly unchanged, except that there is an updated version of the [Guidance on the Essential Critical Infrastructure Workforce](#) that clarifies the description of a small number of essential services and adds functions to the list;
- [Religious service guidance](#) is unchanged;
- “Reopened services” are expanded on May 1 from just retail to-go to also include the following, so long as they operate at 25% of occupancy:
 - In-store retail services;
 - movie theaters;
 - dine-in restaurants (with less than 51% of their gross receipts from the sale of alcohol);
 - shopping malls (no food courts, play areas, or interactive displays); and
 - museums and libraries, except for any interactive exhibits and child play areas (local governments can choose when local public museums and local public libraries may operate);

- “Reopened services” also include:
 - services provided by an individual working alone in an office;
 - golf course operations; and
 - county and municipal government operations relating to permitting, recordation, and document-filing services, as determined by the local government;
- Reopened services in counties with 5 or fewer COVID-19 cases that have filed with the Department of State Health Services (DSHS) an [attestation form](#) promulgated by DSHS may operate at 50% of occupancy in the “reopened services” areas;
- The Executive Order permits the Governor to identify additional services to be reopened or to identify counties in which reopened services are thereafter prohibited (should an increase in COVID-19 transmission, hospitalization, or fatalities occur);
- People and businesses that are permitted to operate are required to follow the [minimum health protocols](#) recommended by DSHS, and should implement social distancing, work from home if possible, and practice good hygiene, environmental cleanliness, and sanitation; and follow the Guidelines from the President and the CDC; and
- Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering.

Supreme Court Opinion Issued in Mandamus Proceeding in Case Challenging GA-13

Last week, the Supreme Court issued an [opinion](#) in *In Re Greg Abbott and Ken Paxton* (20-0291), a mandamus proceeding regarding the temporary restraining order issued on April 10 restraining the enforcement of [Executive Order GA-13](#) (relating to detention in county and municipal jails during the COVID-19 disaster) as it applies to judges. The Supreme Court conditionally granted the mandamus relief and directed the trial court to withdraw the temporary restraining order after finding that the judge plaintiffs in the original suit requesting the temporary restraining order lacked standing and that the trial court therefore lacked subject-matter jurisdiction to issue a temporary restraining order in their favor. The opinion states in part:

“Our standing jurisprudence ensures that the executive and judicial branches resolve matters of public importance through the adversary system of justice in particular cases involving parties who are genuinely, personally affected. Petitions from one set of judges to another to not fit this mold. That does not mean that the issues raised in this lawsuit are unimportant or cannot be litigated. If a defendant in a bail hearing contends that the executive order is unconstitutional and the suspended statutes should continue to provide the rule of decision, the judge has a duty to rule on that issue, and the losing side can challenge that rule.

Neither branch may short-circuit this process. As discussed [in the opinion], the executive branch cannot criminally prosecute judges for deciding cases based on what they understand the law to be. We appeal judicial decisions we don’t like; we don’t jail the judges. Nor can one judge file a lawsuit against the executive branch that asks another judge to clarify the rule of decision the plaintiff judge should apply in his or her courtroom.

...

When faced with apparently inconsistent legal authority, the judge remains tasked with deciding which authority is dominant. This is the case for GA-13, just as it would be the case for any change in the law affecting judicial decisions in individual cases.”

If you have any questions about anything in this guidance, please feel free to send those to coronavirus@txcourts.gov.

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Texas Office of Court Administration

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