

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9071

SEVENTEENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

Supreme Court Issues Emergency Order Regarding In-Person Proceedings and Jury Trials

Today, the Supreme Court issued the [17th Emergency Order Regarding the COVID-19 State of Disaster](#). Several key points from the order include:

- **No jury proceedings permitted, including jury selection and jury trials, prior to August 1**, except as discussed below.
 - OCA is directed to coordinate with the Regional Presiding Judges and local administrative judges, to assist trial courts in conducting a **limited number of jury proceedings prior to August 1** and to submit a report to the Supreme Court outlining observations and making recommendations regarding procedures for jury proceedings.
 - Trial court judges who have jury proceedings which might be appropriate as one of the limited jury trials should coordinate with their local administrative judge and regional presiding judge. Once that coordination has occurred, the Regional Presiding Judge will alert OCA of the potential trial for further discussion.
 - A trial conducted as one of the limited jury proceedings permitted to proceed must:
 - Be at the request of the judge presiding over the case;
 - Ensure adequate social distancing and other restrictions and precautions are taken;
 - Require the consent of all parties to the case, unless the proceeding is non-binding (e.g. summary jury trials);
 - Take all reasonable steps to protect the parties' constitutional and statutory rights;
 - Require the admonishment of petit jurors as appropriate to ensure that proper attention is given by each juror and that outside influence is removed;
 - Permit OCA to observe the processes used during the proceeding so that OCA can prepare its report to the Court and develop best practices for other courts' use; and
 - For proceedings where petit jurors appear remotely, all potential and selected jurors must be ensured access to technology to participate remotely.
- Petit and grand jurors are permitted to participate remotely.
- **Courts are prohibited from holding any in-person proceedings on or after June 1, 2020, without first submitting and having acknowledgment from the Regional Presiding Judge of an operating plan that is consistent with OCA's May 4 [Guidance for All Court Proceedings During COVID-19 Pandemic](#).**
- **Courts are required until further notice to continue to use all reasonable efforts to conduct proceedings remotely.**
- The Regional Presiding Judges are assigned additional duties to ensure that all courts in each region are operating in full compliance with the Court's Orders and the guidance issued by OCA, including ensuring that all trial judges, including justices of the peace and municipal court judges, do not conduct in-person proceedings inconsistent with the Court's Orders or OCA guidance, and to report non-compliance to the office of the Chief Justice of the Supreme Court.

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9071

SEVENTEENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

- Courts are encouraged to consider extending the terms of a grand jury under Government Code Section 24.0125 and to reassemble discharged grand juries under Article 19.41 of the Texas Code of Criminal Procedure.
- Courts are permitted to **suspend or modify any deadlines or procedures**, whether prescribed by statute, rule, or order, **for a stated period ending no later than September 30**, except that in parental termination cases filed by the government, the dismissal date for any case previously retained on the court's docket can be extended for an additional period not to exceed 180 days from the date of this Order.
- Extends the authority of a court, without a participant's consent, to allow or require anyone involved in any hearing, deposition, or other proceeding of any kind, to participate remotely; to consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court; to conduct proceedings away from the court's usual location with reasonable notice and access to the participants and the public; to require every participant to alert the court of COVID-19 symptoms or exposure; and to take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.
- Extends the statute of limitations deadline for any civil case that fell between March 13 and July 1 to August 15.
- Extends all deadlines occurring between March 13 and July 1 in attorney professional disciplinary and disability proceedings and those relating to regulation by the Judicial Branch Certification Commission to August 15.

Clarification of OCA Guidance on Face Coverings

OCA's recently released [guidance](#), which required courts to address in their operating plan the use of face coverings, was developed in consultation with the Texas Department of State Health Services. The guidance provides best practices for conducting in-person proceedings in a manner that minimizes the spread of COVID-19, and aims to protect the health and safety of court staff and members of the public who, in many instances, are attending in person because they have been required to do so by the court.

The use of face coverings is not mandated by OCA, and OCA's guidance should not be interpreted to require local officials to implement a face covering requirement at courthouses. As stated in OCA's guidance, the local administrative district judge or presiding judge of a municipal court must consult with the local health authority and the county judge or mayor, as applicable, to develop a plan for conducting in-person court proceedings. OCA was advised by DSHS that courts should implement the use of face coverings to minimize the spread of COVID-19, and OCA believes the best practices outlined in its guidance, including the use of face coverings, help to minimize the spread of COVID-19 and protect the health of court staff and the public.

Under a court's inherent power to govern the court atmosphere, a judge may require all persons who enter his or her courtroom or any other area of the building or facility to conduct or participate in a court proceeding to wear a face covering. The Judiciary is a separate, equal branch of government. To the extent that emergency orders issued by the Governor could be

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interpreted to conflict with those issued by the Supreme Court of Texas, the Supreme Court's orders generally prevail with respect to the conduct of court proceedings.

Other Emergency Orders Issued by the Supreme Court

On May 14, the Supreme Court issued the:

- [15th Emergency Order](#) permitting the resumption of eviction proceedings on May 19 but requiring a sworn petition to state that the premises are not subject to the moratorium on evictions imposed by the CARES Act; and
- [16th Emergency Order](#) permitting the resumption of proceedings in consumer debt cases but requiring certain actions related to the stimulus funds that might be subject to a consumer debt action.

Citation by Publication Rules Changes and Website Delayed

On May 26, the Supreme Court issued an [order](#) delaying the effective date of amendments to Rules 116 and 117 of the Texas Rules of Civil Procedure and the website for service of process to July 1. Senate Bill 891 required the Office of Court Administration to create a website for publishing citation by June 1 and directed the Supreme Court to establish procedures for the website. Due to delays related to the COVID-19 pandemic, the effective dates of both will be shifted to July 1.

TDCJ Facilities Enable Zoom for Remote Hearings

OCA staff are working with the Texas Department of Criminal Justice to ensure that courts can connect with prisoners in the TDCJ facilities through Zoom for court proceedings. TDCJ has confirmed that they are working to get the capability operational in all facilities at this time. If a court requests that a prisoner appear via Zoom and the facility indicates that it does not have the capability, please let OCA know by sending an email to coronavirus@txcourts.gov. TDCJ has requested that OCA inform them of these issues so that they can address priorities in installation of the Zoom capability.

Judges Electronically Filing Orders and Judgments

The eFileTexas.gov system allows judges to electronically file court orders and judgments. Doing so permits the electronic service of orders/judgments on the parties in the case and automatically adds the order/judgment to [re:SearchTX](#) once the clerk accepts the order. When documents and orders/judgments are in re:SearchTX, they are available to judges, clerks, attorneys, and others (differing levels of access by case type and document type).

Below are instructions to help you or your court staff set up the ability to electronically file orders or judgments. If additional training is needed or errors occur, please contact eFileTexas support at 877-687-7870.

Initial Setup

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9071

SEVENTEENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

If you do not already have an account on eFileTexas, contact the court clerk that manages the official case file to obtain a county login to eFileTexas. If your jurisdiction spans multiple court clerks, only one of them needs to create a county login. Your login will allow you to file in cases in any county in Texas.

Have the clerk verify that your account has a waiver account set as a payment method for your account. If the clerk needs assistance setting up a waiver account, please have them call eFileTexas support at 877-687-7870.

Filing in a Case

1. Open a web browser and go to <https://efile.txcourts.gov/OfsWeb/>
2. Click on Sign-In and login with your eFiling account.
3. Once logged in, click on **File Into an Existing Case**.
4. Search for the case you would like to file into by selecting a location and searching by case number or party name. Enter your search criteria and then click on **Search**.
5. Once you've found the correct case, click on the **Actions** drop-down menu (at the right of the case) and select **File Into Case**.
6. Verify the filing details in the filing section.
7. Select the appropriate filing type:
eFileandServe - electronically files the document AND serves it on the parties
eFile - electronically files the document, but does not serve it on the parties
Serve - serves the document on the parties, but does not electronically file (used mainly for discovery)
8. Select **No Fee Document** as the filing code.
9. Upload the PDF version of the order/judgement and then click **Save Changes**.
10. Verify the service contacts on the case are correct. If a new service contact is needed, click on **Actions** and then **Add new service contact**.

IN THE SUPREME COURT OF TEXAS

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SEVENTEENTH EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

11. Complete the Fees section of the filing. For Payment Account, select ***Waiver***. Do not select a filing attorney. Set Filer Type to ***Not Applicable***. Click on ***Save Changes***.
12. Click on ***Review a Summary of Your Filing*** and verify all information is correct.
13. Click on ***Submit***.
14. On the **Filing History** page you can see the status of your filings.

If you have any questions or concerns related to anything in this guidance, please do not hesitate to reach out by email at coronavirus@txcourts.gov. Thank you for your continued efforts during this difficult time.

David Slayton
Administrative Director of the Courts
Texas Office of Court Administration