

## Amended McLennan County Protocols

On May 26<sup>th</sup>, 2021, the Texas Supreme Court issued the Thirty Eighth Emergency Order Regarding the COVID-19 State of Disaster. This order requires “the local administrative district judge ... to adopt in consultation with the judges in the county court buildings ... minimum standard health protocols for court proceedings and the public attending court proceedings...”.

Recognizing the need to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of **McLennan County** will implement the following protective measures:

### General

1. All judges will comply with the Emergency Orders issued by the Supreme Court of Texas and Court of Criminal Appeals, including conducting in-person proceedings according to the guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.
2. All judges will use all reasonable efforts to conduct proceedings remotely.
3. Every participant in a proceeding will be required to alert the court if the participant has, or knows of another participant who has: (i) COVID-19 or flu-like symptoms, or a fever, chills, repeated shaking with chills, cough, shortness of breath or difficulty breathing, muscle pain, headache, sore throat, loss of taste or smell, diarrhea; or (ii) been in close contact with a person who is confirmed to have COVID-19.
4. The Best Practices for All Court Proceedings issued by OCA (Effective May 2021) are attached hereto for reference.

### Judge and Court Staff Health

1. Judges and court staff will be required to wear face coverings, practice social distancing, and practice appropriate hygiene recommendations per OCA recommended practices/guidelines.
2. For clarity, a face covering is not required when a person is in a personal office (a single room) when others outside of that person’s household are not present as long as the public does not regularly visit the room. A face covering should be worn when coworkers are nearby.

### Scheduling

1. The following court schedules are established to reduce occupancy in the court building:

After consultation with the judges, most of the judges intend to continue to do virtual hearings for now. The County Court at Law judges have requested in-person hearings on Tuesdays and Thursdays and for half a day on Wednesdays. Scheduling of their hearings will be staggered as to

limit the total number of people in the building at any one time. Jury trials will begin on a rotating schedule and will be set forth in more detail in a separate document.

Judges will limit docket sizes to ensure that adequate social distancing is maintained in the courtroom, in the areas around the courtroom, and in the courthouse.

The LADJ will continue to review ongoing pandemic related issues and will revise the schedule as needed.

### **Vulnerable Populations**

1. Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations.
2. Persons who are in vulnerable populations will have the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations. A notice with this information will be posted on the courts' websites and in conspicuous locations around the court building (a copy of which is attached).

### **Social Distancing**

1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing per OCA recommendations/guidelines.
2. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.

### *Gallery*

3. The maximum number of persons permitted in the gallery of each courtroom has been determined and posted. The maximum capacity of the courtroom will be monitored and enforced by court staff.
4. The gallery of the courtroom has been marked to identify appropriate social distancing in the seating. Seating is limited to every other row.

### **Hygiene**

1. Hand sanitizer dispensers have been placed at the entrances to the building, outside of elevators on each floor, outside of each courtroom, and outside of bathrooms.
2. Tissues have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the judges' benches, and in the hallways.
3. The Department of State Health Service's "Stop the Spread of Germs Flyer" has been posted in multiple locations on each floor of the court building.

### Screening

1. When individuals attempt to enter the court building, McLennan County Sheriff's Deputies or their designee will use an infrared thermometer to determine the temperature of the individual. Individuals whose temperature equals or exceeds 99.6°F will be refused admittance to the court building.
2. Inmates being transported from the jail to the court building will be screened for symptoms of COVID-19 and have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 99.6°F will not be transported to the court building.


### Face Coverings

1. All individuals entering the court building will be required to wear face coverings at all times.
2. Individuals will be encouraged to bring cloth face coverings with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided.
3. No inappropriate messaging should be included on the face covering and each judge will have discretion to exclude a person from the courtroom if he or she considers the message inappropriate.

### Cleaning

1. Court building cleaning staff will clean the common areas of the court building at least twice a day.
2. Court building cleaning staff have been provided cleaning supplies shown to be effective with this coronavirus.
3. Court building cleaning staff have been trained on proper cleaning techniques and provided appropriate personal protective equipment.

Date: June 18, 2021

  
\_\_\_\_\_

Vicki L. Menard

Local Administrative District Judge



## Best Practices for All Court Proceedings During COVID-19 Pandemic (Effective May 2021)

- **Courts should review and consider implementing the updated health recommendations made by the Texas Department of State Health Services (DSHS).**
- **Courts should post on the court's website or another public site the minimum standard health protocols adopted by the local administrative district judge or municipal court presiding judge.** These protocols are minimum standards that must be employed by all judges in the court buildings. Judges who wish to have in-person proceedings may have more stringent standards in their courtrooms but may not have less stringent standards.
- **Courts are encouraged to conduct proceedings remotely where doing so would improve access to justice.**  
Though in-person proceedings are allowed when minimum standard health protocols and an in-person proceedings schedule have been adopted by the local administrative district judge or presiding judge of the municipal court, as applicable, courts are encouraged to conduct proceedings remotely (such as by teleconferencing, videoconferencing, or other means) where doing so would improve access to justice.<sup>1</sup> Courts should also consider conducting hybrid hearings.
- **Judge and Court Staff Health**  
Courts should take precautions to ensure judges and court staff do not enter the courthouse when there is a likelihood that they may have COVID-19 or have been recently exposed to COVID-19, and courts should take reasonable steps to protect judges and court staff from contracting COVID-19.  
  
Courts may wish to consider teleworking for judges and court staff whenever doing so would be beneficial for judge or court staff health or is feasible.
- **Scheduling**  
The in-person proceedings schedule adopted by the local administrative district judge or municipal court presiding judge, as applicable, should ensure that unvaccinated persons are able to adequately social distance while in the courtroom and public spaces of the building. It may be necessary to designate certain areas of the courtroom with adequate social distancing for unvaccinated persons.

Judges may wish to limit docket sizes to ensure that adequate social distancing is maintained in

---

<sup>1</sup> Courts who need technical assistance with remote proceedings may contact the Office of Court Administration at [zoomhelp@txcourts.gov](mailto:zoomhelp@txcourts.gov).

the courtroom, in the areas around the courtroom, and in the courthouse.

- **Vulnerable Populations**

Judges should include with notices of court settings information for unvaccinated individuals or those who live with or are caregivers for unvaccinated individuals setting out how those individuals can request accommodations to reduce the appearance of those individuals at the courthouse.

- **Witnesses**

Courts should inquire whether witnesses to proceedings have COVID-related issues. To the degree constitutionally permissible, judges should consider permitting witnesses to testify remotely via videoconference, especially if that witness has symptoms of or a recent positive test for COVID-19, has been recently exposed, or indicates that he/she is unvaccinated.

- **Screening**

Individuals feeling feverish or with measured temperatures equal to or greater than 100.0°F, or with new or worsening signs or symptoms of COVID-19 such as fever, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, sore throat, loss of taste or smell, congestion or runny nose, nausea or vomiting, and diarrhea should not be permitted in a court facility.

Courts should implement a screening protocol to screen all court participants and observers to determine if the individual has or has recently had symptoms of COVID-19 or been exposed to COVID-19.

Special attention should be given to how inmates or detainees from jail and juvenile facilities who may be transported to a courtroom will be screened, including consideration of a lower threshold temperature of 99.6°F as an indicator of symptoms.<sup>2</sup>

Unvaccinated screeners should be provided appropriate face protection and gloves.

- **Social Distancing**

Courts should consider how to permit social distancing in public common areas, galleries of courtrooms, wells of the courtroom, hallways, elevators, restrooms, or other locations where the unvaccinated public might gather. Fully vaccinated individuals are not required to socially distance.

Special attention should be given to scheduling in buildings with multiple courtrooms, as common areas such as waiting areas, halls and elevators may become crowded in such a way that it is impossible to maintain appropriate social distancing for unvaccinated individuals.

Special attention should be paid by courts to ensure adequate social distancing and managed exits of individuals during breaks, especially when dismissing large groups of people for a break.

- **Face coverings**

Cloth face coverings, at a minimum, should be encouraged of unvaccinated court participants or individuals planning to enter courtrooms or court-related offices while in the courthouse.

---

<sup>2</sup> Suggestion for considering lower threshold for jail inmates made by DSHS physicians.

Participants or individuals who are fully vaccinated are not required to wear a face covering.

As the Supreme Court's 38<sup>th</sup> Emergency Order states, courts may take any reasonable action to avoid exposing court proceedings to the threat of COVID-19. As stated in Attorney General Opinion KP-0322, "judges possess broad inherent authority to control orderly proceedings in their courtrooms, and pursuant to that authority, they can require individuals in the courtroom to wear facial coverings" and "may require any person entering the courthouse in which they preside to wear a facial covering while in the courthouse." Previously-issued executive orders do not alter the Supreme Court's emergency order, the ability of a judge to control his or her courtroom, or judiciary-imposed requirements for those entering a court building who will be attending a court proceeding.

- **Summoning Jurors**

Courts should include with juror summonses information on precautions that have been taken to protect the health and safety of prospective jurors and COVID questionnaires that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.<sup>3</sup>

Courts should consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venirepersons. Courts should liberally grant excuses or reschedule prospective jurors who have been potentially exposed, who are symptomatic, and who are vulnerable or live with someone vulnerable to COVID-19.

Courts should consider conducting voir dire remotely even if the trial portion will be conducted in person.

- **Location(s) for Jury Selection, Trial, and Deliberation**

Courts may wish to use a location for conducting the various phases of a jury proceeding that enables adequate social distancing for unvaccinated persons. Courts should detail how the court will ensure adequate security at any alternative location.<sup>4</sup>

---

<sup>3</sup> See sample COVID-19 questionnaire.

<sup>4</sup> Courts who may need to hold a proceeding outside of the courthouse should review Chapter 292 of the Local Government Code (related to having an auxiliary facility designated as a courthouse) and Government Code Sections 24.033(b) (district courts), 25.0019(b) (statutory county courts), 25.0032(b) (statutory probate courts), 26.009(b) (constitutional county courts), 27.0515 (justice courts), 29.015 (municipal courts), and 30.000123 (municipal courts of record)—relating to designating alternative locations for proceedings.

## **MCLENNAN COUNTY TRIAL SCHEDULES**

### **Scheduling**

Courts in McLennan County have adopted a Jury Trial Rotation Schedule. This schedule is designed to allow for social distancing and gives preference to scheduling trials in matters that are time sensitive.

Judges may trade trial weeks as needed for orderly management of their dockets.

Voir Dire for Jury Trials will begin on the Monday and/or Tuesday of the designated Jury Trial Week.

In order to accommodate the backlog in criminal cases, the civil and family courts will delay the start of any jury trials until at least September 1, 2021. A review of the current dockets will be done at that time and additional scheduling orders will be entered.

Beginning May 1, 2021 the jury trial rotation will be between the 19<sup>th</sup> District Court, 54<sup>th</sup> District Court, County Court at Law 1 and County Court at Law 2. The rotation will begin with the 19<sup>th</sup> District Court on May 3, 2021. The criminal courts will be allowed to create their own schedule moving forward to allow for the most efficient use of court space and their docket needs. The visiting courtroom in the McLennan County Court Annex will be used for felony jury trials and jury selection for County Courts at Law. Jury selection for felony trials will be conducted at the BASE. Any Justice of the Peace may request a jury trial and every effort will be made to accommodate their needs within the space restraints we will be operating under.

### **Hearings on Objections or Motions Related to Proceeding**

Parties scheduled for a jury proceeding are encouraged to make any objections or motions related to proceedings at least 14 days prior to the beginning of Voir Dire.

Any objections or motions related to proceeding with a jury trial will be heard by the judge presiding over the case at least seven days prior to the jury proceeding or as soon as practicable if the objection or motion is made or filed within seven days of the jury proceeding.

### **Location for Trial Proceedings and Space Related Issues**

Trials will be conducted in designated Courtrooms/Spaces.

Jury Deliberation will take place in secured rooms that allow for social distancing.

### **Public Access**

Subject to screening requirements and space limitations, the public will be allowed to observe jury trial proceedings. All observers will be required to wear facial coverings and observe social distancing. Seating will be limited.

The schedule for District Court trials is as follows:

June 7, 2021- 19<sup>th</sup> District Court

June 14, 2021- 54<sup>th</sup> District Court

June 21, 2021- 19<sup>th</sup> District Court

June 28, 2021-54<sup>th</sup> District Court

July 6, 2021- Not Available

July 12, 2021- Not Available

July 19, 2021- 19<sup>th</sup> District Court

July 26, 2021- 54<sup>th</sup> District Court

August 2, 2021- 19<sup>th</sup> District Court

August 9, 2021- 74<sup>th</sup> District Court

August 16, 2021- 19<sup>th</sup> District Court

August 23, 2021- 19<sup>th</sup> District Court

August 30, 2021- 19<sup>th</sup> District Court

County Court at Law 1 and 2 will also have juries available each week.