

MAR 10 2021

**MINIMUM STANDARD HEALTH PROTOCOLS AND IN-PERSON PROCEEDING
SCHEDULE FOR THE MONTGOMERY COUNTY JUDICIARY**

Melissa Miller, District Clerk
By *[Signature]* Montgomery County Texas
Deputy

Pursuant to the Supreme Court of Texas' *THIRTY-SIXTH EMERGENCY ORDER* REGARDING THE COVID-19 STATE OF DISASTER, the undersigned, as Local Administrative District Judge for Montgomery County, Texas, adopts the following provisions.

IN-PERSON PROCEEDINGS

The district courts, county courts at law and justice courts of Montgomery County, Texas, may conduct in-person proceedings, including both jury and non-jury proceedings, pursuant to the following.

Minimum Standard Health Protocols

1. Hand sanitizer dispensers shall be maintained at the entrances to each building, outside of the elevators on each floor of each building, outside of public bathrooms in each building, near all vending machines, outside of each courtroom, and within each courtroom.
2. The Department of State Health Service's "Stop the Spread of Germs Flyer" shall be posted in multiple locations on each floor of the court buildings.
3. Court building cleaning staff will clean the common areas of each court building so that common spaces are regularly disinfected during working hours of each business day.
4. Court building cleaning staff and court staff have been, and will be, provided cleaning supplies shown to be effective with this coronavirus.
5. Court building cleaning staff and court staff have been, and will be, provided with appropriate cleaning supplies and personal protective equipment, such as face masks, tissue and hand sanitizer.

Upon Entry into Courthouse Buildings

6. All individuals entering the court building will be offered a free, disposable face mask if they do not already have their own face covering.
7. All persons not from the same household who enter any court building will be required to maintain adequate social distancing of at least 6 feet if they are not wearing a face mask or face covering.

Within Courtrooms

8. The judge of each court will require all persons within the courtroom to (a) wear a face mask or face covering and/or (b) maintain adequate social distancing of at least 6 feet (excluding persons from the same household) if they are not wearing a face mask or face covering.

9. The judge of each court will ensure that tissues have been placed inside the courtroom, at counsel tables, at the witness stand, and on the judge's bench.
10. The judge of each court will ensure that frequently touched objects and surfaces within the courtroom are regularly disinfected during working hours of each business day.
11. Judges and court staff are encouraged to clean and disinfect frequently touched objects and surfaces in their courtroom(s) and offices.

Scheduling

12. The following district courts (9th, 221st, 359th and 435th) should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.
13. The following county courts at law (CCL1 and CCL5) should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.
14. The following district courts (410th and 418th) should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.
15. The following district courts (284th and 457th) should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.
16. The Ninth Court of Appeals, the Title IV-D court and any courts utilizing the overflow courtroom or the jury assembly room in the Keeshan building should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.

IN-PERSON JURY PROCEEDINGS

The district courts, county court at law and justice courts of Montgomery County, Texas, may conduct in-person jury proceedings pursuant to the following:

17. Paragraphs 1-16 above also apply to all in-person jury proceedings.
18. Any judge wishing to conduct a jury proceeding is required to obtain advance approval for each such trial from the Local Administrative District Judge. With the exception of the justice courts, all requests to conduct a jury proceeding must be submitted online at https://forms.office.com/Pages/ResponsePage.aspx?id=hVJgeubP20qJtf5e6-yxiA_FYdGXweROnKPiKWdluPJURVITN0pUNE9LOVY3OTNTQzRINVdWOUszRS4u. A link will be provided on the webpage for the Montgomery County Office of Court Administration. A request to conduct a jury proceeding for a given week must be submitted no later than 5:00 p.m. of the 34th day prior to the Monday of the week requested, which will always be a Tuesday.

19. Judges should attempt to alert attorneys and/or parties who will not be proceeding prior to the day of trial to reduce attendance at the applicable court facility.

20. Each judge shall consider on the record any motion or objection related to proceeding with a jury trial on the record at least 7 days prior to the trial. If any such motion or objection is made less than 7 days prior to the trial, the judge shall consider same on the record as soon as practicable.

21. Each judge should establish communication protocols with the applicable attorneys and/or parties prior to a jury proceeding to ensure that no participants (attorneys, parties, witnesses, etc.) have tested positive for COVID-19 within the previous 10 days, have had symptoms of COVID-19 within the previous 10 days, or have had recent known exposure to COVID-19 within the previous 14 days.

22. All prospective jurors will receive (a) a letter with their summons that provides information on the precautions that have been taken to protect the health and safety of prospective jurors and (b) a COVID-19 questionnaire to be submitted in advance of the jury selection that elicits from prospective jurors information about their exposure or particular vulnerability to COVID-19. A copy of this letter is attached as Exhibit "A." A copy of this questionnaire is attached as Exhibit "B."

23. Each judge should excuse or reschedule prospective jurors who provide information confirming their COVID-19 infection or exposure, or their particular vulnerability to COVID-19 and request to be excused or rescheduled.

24. In criminal cases where confinement in jail or prison is a potential punishment, remote jury proceedings must not be conducted without appropriate waivers and consent obtained on the record from the defendant and prosecutor. In all other cases, remote jury proceedings must not be conducted unless the court has complied with Paragraph 20 above.

25. Except for non-binding proceedings, a court may not permit or require a petit juror to appear remotely unless the court ensures that all potential and selected petit jurors have access to technology to participate remotely.

Guidance on Appropriate Locations for Jury Selection

26. Each jury selection shall take place in a location large enough to allow for appropriate social distancing between each prospective juror. Such location will be assigned for each trial by the Local Administrative District Judge.

27. The jury assembly room in the Keeshan building is the largest available room within the Montgomery County Courthouse buildings. Any jury selection requiring 57 or less prospective jurors shall take place in this location on the date and at the time assigned by the Local Administrative District Judge.

28. The Lone Star Convention Center is the largest available room for jury selection, although it is not within the Montgomery County Courthouse buildings. Any jury selection requiring 85 or less prospective jurors shall take place in this location on the date and at the time assigned by the Local Administrative District Judge.

29. The 9th District Courtroom is the largest courtroom within the Montgomery County Courthouse buildings. Any jury selection requiring 27 or less prospective jurors shall take place in this location on the date and at the time assigned by the Local Administrative District Judge.

30. One or more other rooms and/or courtrooms in the immediate vicinity of the location of any jury selection shall be made available for the socially distanced assembly of the prospective jurors for each jury selection described above.

Face Coverings/Social Distancing Protocols

31. All prospective jurors entering a court building or the location where jury selection will take place will be offered a free, disposable face mask if they do not already have their own face covering.

32. Upon entry of a court building or the location where jury selection will take place, all prospective jurors will be required to maintain adequate social distancing of at least 6 feet.

33. When speaking, the judge of each court will permit a court participant to lower his/her mask so long as the participant is maintaining adequate social distancing of at least 6 feet (excluding persons from the same household).

34. The judge of each court will situate counsel tables in such a way as to maintain adequate social distancing of at least 6 feet, and will also limit counsel and/or parties to certain areas of the courtroom to maintain adequate social distancing.

35. To exercise peremptory strikes and conduct other pretrial matters during jury selection, the judge and attorneys (and/or parties) will either exit the jury selection room or utilize "white noise" while the venire panel remains inside the jury selection room.

36. Long breaks for prospective jurors are discouraged. Prospective jurors should remain in the jury selection room unless temporarily permitted to leave by the judge, such as for a bathroom break.

37. After a jury is selected, remaining panel members shall be released row by row, limiting the number of persons leaving the courtroom at one time.

38. Opening statements, presentation of evidence and closing arguments will be held in the courtroom regardless of the location where jury selection took place. Unless the applicable jury room is large enough to provide for appropriate social distancing, jury deliberations will be held in the courtroom, which will be secured during such deliberations with no other individuals present in the courtroom other than the jurors.

39. The judge of each court will ensure that appropriate social distancing for the seating area within the gallery of the courtroom is monitored and enforced by court staff. Public access will be available in the courtroom in compliance with these social distancing protocols.

40. The judge of each court will ensure that appropriate social distancing for the counsel tables, witness stand, judge's bench, clerk, court reporter, bailiff and jury is monitored and enforced by court staff.

Alternate Jurors

41. All of the measures within this document shall apply equally to alternate jurors, with the exception that such alternate juror(s) may not participate in jury deliberations unless called upon to serve as a replacement juror.

Arrangement of Courtroom

42. Each judge shall arrange and mark his/her courtroom in a manner to ensure proper social distancing.

Microphone Protection Protocols

43. The judge of each court will ensure that microphones within the courtroom are regularly disinfected or covers are replaced during working hours of each business day. This will specifically include the disinfecting or cover replacement of (1) the microphone at the witness stand following each witness' testimony, and (2) the microphone at the bench following each bench conference.

44. The judge of each court will limit, to the degree possible, the shared use of microphones during the jury proceeding.

45. If a microphone must be shared, the judge of each court will limit the passing of the microphone unless the microphone is cleaned between each user.

46. Disposable microphone covers have been, and will be, made available as needed from the Director for the Montgomery County Office of Court Administration.

Exhibit/Evidence Management

47. Counsel and/or parties shall use the court's camera projection system, as applicable, to present admitted exhibits.

48. All counsel/parties will have provided opposing counsel/parties proposed exhibits electronically, and each counsel/party shall utilize same during the course of the trial so that exhibits will not be handled between counsel during trial.

49. When necessary, gloves will be utilized by counsel, parties and/or jurors to handle exhibits. Such gloves have been, and will be, made available as needed from the Director for the Montgomery County Office of Court Administration.

50. When necessary, the court will provide gloves to all jurors to handle any exhibits and papers during deliberations.

Food Precautions

51. Unless the applicable jury room is large enough to provide for appropriate social distancing, any meals, snacks, water, drinks or coffee should be provided to the jurors in the courtroom.

52. Any meals, snacks, water, drinks or coffee to be provided to the jurors shall be only provided to each juror on an individual basis, i.e. no commonly shared food, snacks, beverages, etc.

Cleaning Requirements

53. All participants (attorneys, parties, witnesses, prospective jurors, jurors, alternate jurors, etc.) will be required to sanitize his/her hands before entering the location utilized for jury selection and/or the courtroom.

54. The judge of each court will ensure that the location utilized for jury selection is thoroughly cleaned and sanitized prior to jury selection.

55. The judge of each court will ensure that the courtroom is thoroughly cleaned and sanitized each day before proceeding with a jury trial.

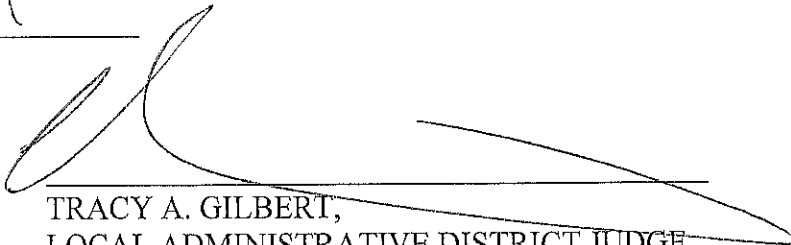
56. The judge of each court will ensure that frequently touched objects and surfaces within the courtroom are regularly disinfected during working hours of each business day. This will specifically include the disinfecting of (1) the witness stand (following each witness' testimony) and (2) the bench (following each bench conference).

57. The judge of each court will ensure that tissues have been placed in the jury box or in the location where the jury will be seated during a jury trial.

NOTHING IN THIS DOCUMENT PROHIBITS ANY JUDGE FROM REQUIRING FURTHER MEASURES TO PROTECT THE HEALTH AND SAFETY OF COURT PARTICIPANTS WITHIN HIS/HER COURTROOM.

Before signing and approving this document, I have consulted with the judges in Montgomery County, Texas. I will encourage that the judges in Montgomery County, Texas, conduct in-person proceedings consistent with this plan.

SIGNED on March 10, 2021


TRACY A. GILBERT,
LOCAL ADMINISTRATIVE DISTRICT JUDGE
MONTGOMERY COUNTY, TEXAS



TRACY A. GILBERT

Judge, 418th Judicial District Court
SCHARLENE W. VALDEZ, *Associate Judge*

Kimberly Perry
Court Administrator
kim.perry@mctx.org

Lisa Shanahan
Court Coordinator
lisa.shanahan@mctx.org

Christa Townes, CSR, RMR
Official Court Reporter
christa.townes@mctx.org

Kathryn Davis Aaron, CSR
Associate Court Reporter
kathy.aaron@mctx.org

To All Prospective Jurors:

As detailed in the document enclosed with this letter, you have been summoned to appear for jury service. I want to assure you that your wellbeing is extremely important. In anticipation of this trial, I have adopted protocols approved by the Public Health District for Montgomery County to ensure that all necessary precautions will be taken to protect the safety and health of all participants.

All participants in the jury selection process will be required to wear a face covering. Additionally, appropriate social distancing will be required during jury selection and in the courtroom. Immediately following check-in, prospective jurors will be seated. This will help avoid jurors congregating and ensure social distancing throughout the selection process. Jurors are encouraged to bring bottled water. For those persons selected to serve as jurors, individual snacks and/or lunches will be provided. If you are unable to serve due to an underlying condition, sickness or matter related to COVID-19, please follow the instructions on the enclosed *Jury Service COVID-19 Pre-Screening Questionnaire*. If you have a pre-existing obligation that cannot be rescheduled, please immediately contact the court identified on the back page of the enclosed summons.

The right to trial by jury is a cornerstone of our democracy, and jury trials necessarily involve sacrifice from those citizens called upon to serve. This has always been true, but it is especially true during these unique and trying times. It is my personal conviction that jury service is the second highest form of public service that any American can perform (second only to service in the Armed Forces). The right to a trial by jury has been enshrined within the Seventh Amendment to our U.S. Constitution since 1791, and it was one of the stated principles in the Declaration of Independence which ignited our struggle to become an independent nation. As such, only those persons with an extreme hardship should seek to be excused based on pre-existing obligations.

I want you to know that the courts of Montgomery County are mindful of these challenging times and have taken numerous precautions to protect your health, as well as that of the parties, lawyers and staff during this upcoming trial. I hope this letter is helpful and I thank you in advance for your participation.

Sincerely,

Tracy A. Gilbert,
Local Administrative District Judge

JURY SERVICE COVID-19 PRE-SCREENING QUESTIONNAIRE

Dear Prospective Juror:

As part of the court's ongoing measures to protect against the spread of the COVID-19 disease, we ask that you complete the following before reporting for Jury Service on (insert date of jury service). Bring this completed questionnaire with you or email it to ejury@mctx.org before (insert date of jury service):

1. SYMPTOMS NOW OR BETWEEN (insert date 10 days before date of jury service) AND (insert date of jury service): Check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD.

Fever (above 100.0°F) Loss of taste or smell Cough Nausea or Vomiting
 Headache Shortness of Breath/Difficulty Breathing Diarrhea Chills
 Muscle pain or body aches Congestion/Runny nose Fatigue Sore throat

I certify that NONE of the symptoms above have been experienced by me or a member of my household between (insert date 10 days before date of jury service) and (insert date of jury service).

IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT CLERK'S OFFICE at (936) 760-6952 BEFORE REPORTING ON (insert date of jury service).

2. CONTACT HISTORY: Check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD.

I have been diagnosed with COVID-19 within the past 10 days
 I or a member of my household has been in close contact with someone exposed to or infected with COVID-19 in the last 14 days
 I or a member of my household are currently on a watch list or self-quarantining because of possible COVID-19 exposure
 NONE of the above apply

IF ANY OF THE ABOVE APPLY, CALL THE DISTRICT CLERK'S OFFICE at (936) 760-6952 BEFORE REPORTING ON (insert date of jury service).

3. COVID-19 RELATED EXCUSE OR POSTPONEMENT: 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 and may request to postpone, or be excused from, jury service at this time. If you wish to be excused, or request that your jury service be postponed, check the box below.

I certify that I meet the above-described conditions and I am requesting to be excused from jury service, or desire to have my service date postponed because of those conditions.

IF YOU ARE REQUESTING TO BE EXCUSED OR YOUR SERVICE DATE BE POSTPONED DUE TO A COVID-19 RELATED REASON, CALL THE DISTRICT CLERK'S OFFICE at (936) 760-6952 BEFORE REPORTING ON (insert date of jury service).

4. FACE COVERINGS: Prospective jurors will be required to wear a face covering while they are in the courthouse. Individuals are encouraged to bring a cloth face covering with them. If an individual does not have a cloth face covering, a disposable face mask will be provided.

I certify the above is true and correct:

Your Juror Number

Signature

Printed Name