



Best Practices for All Court Proceedings During COVID-19 Pandemic (Effective March 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 should consider adopting a metric to help determine when to restrict in-person proceedings.
There is no threshold criteria set forth by the CDC or DSHS regarding opening the courts to in-person proceedings.¹ However, the CDC has suggested that other sectors use the criteria developed for the K-12 school setting.

Indicator ²	Low Transmission Blue	Moderate Transmission Yellow	Substantial Transmission Orange	High Transmission Red
Total new cases per 100,000 persons in the past 7 days ³	0-9	10-49	50-99	≥100
Percentage of PCR Tests that are positive during the past 7 days ⁴	<5.0%	5.0-7.9%	8.0-9.99%	≥10.0%

¹ CDC. [Operational Strategy for K-12 Schools through Phased Mitigation](#).

² County-level data on total new cases in the past 7 days and test percent positivity are available on the County View tab in [CDC's COVID Data Tracker](#).

³ Total number of new cases per 100,000 persons within the last 7 days is calculated by adding the number of new cases in the county (or other community type) in the last 7 days divided by the population in the county (or other community type) and multiplying by 100,000.

⁴ Percentage of positive diagnostic and screening NAATs during the last 7 days is calculated by dividing the number of positive tests in the county (or other administrative level) during the last 7 days by the total number of tests resulted over the last 7 days. Additional information can be found on the [Calculating Severe Acute Respiratory Syndrome Coronavirus 2 \(SARS-CoV-2\) Laboratory Test Percent Positivity: CDC Methods and Considerations for Comparisons and Interpretation](#) webpage.

The CDC indicates that if the two indicators suggest different levels, the actions corresponding to the higher threshold should be chosen.

The CDC has suggested schools use the metrics as follows (modified language from the school to court setting):

Low Transmission Blue	Moderate Transmission Yellow	Substantial Transmission Orange	High Transmission Red
Universal and correct use of masks is required; social distancing; handwashing and respiratory etiquette; cleaning and maintaining healthy facilities.			
In-person proceedings		Hybrid proceedings or reduced attendance	Remote-only proceedings

Note: Courts in counties with small populations may see significant shifts in the metrics with few cases.

- **Courts should continue to use all reasonable efforts to conduct proceedings remotely.**
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 should continue to conduct proceedings remotely (such as by teleconferencing, videoconferencing, or other means) unless litigants or other court participants are unable to successfully participate in a remote hearing for reasons beyond the court's control.⁵ Courts should also consider conducting hybrid hearings.

- **Judge and Court Staff Health⁶**
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 should encourage teleworking for judges and court staff whenever possible and feasible.

- **Scheduling**
The in-person proceedings schedule adopted by the local administrative district judge or municipal court presiding judge, as applicable, should ensure that the number of persons in the courthouse or building are able to adequately social distance while in the courtroom and public spaces of the building.

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

⁵ Courts who need technical assistance with remote proceedings may contact the Office of Court Administration at zoomhelp@txcourts.gov.

⁶ Texas Department of State Health Services (DSHS). [*Checklist for All Employers and Event Organizers*](#).

- **Vulnerable Populations⁷**

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

Vulnerable individuals include those 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.

- **Witnesses**

Courts should inquire whether witnesses to proceedings have COVID-related issues. To the degree constitutionally permissible, judges should permit 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 is vulnerable to contracting COVID-19.

- **Screening⁸**

Courts who can obtain access to rapid tests should consider testing all participants and public entering court facilities prior to admitting those individuals to the court facility.

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 screen all court participants and observers for elevated temperatures and use a questionnaire to determine if the individual 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.⁹

Screeners should be provided appropriate face protection and gloves.¹⁰

- **Social Distancing**

Courts should consider how to ensure distancing in public common areas, galleries of courtrooms,¹¹ wells of the courtroom, hallways, elevators, restrooms, or other locations where the public might gather.

Special attention should be given to scheduling in buildings with multiple courtrooms, as

⁷ DSHS. *Special Guidance for Texans Over 65.*

⁸ DSHS. *Checklist for All Employers and Event Organizers.*

⁹ Suggestion for considering lower threshold for jail inmates made by DSHS physicians.

¹⁰ CDC. *Personal Protective Equipment: Questions and Answers.*

¹¹ DSHS. *Checklist for Churches/Places of Worship.*

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.

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 coverings¹²**

Cloth face coverings, at a minimum, should be required of court participants or individuals planning to enter courtrooms or court-related offices while in the courthouse. Should an individual be in the courthouse for lengthy periods of time, non-medical grade face masks should be considered if they are available.

Court participants who may need to lower their face mask to speak or for a short period of time should be required to wear a face shield. When speaking, a court should permit a court participant to lower his or her mask so long as a face shield is worn and the person speaking is immobile.

- **Ventilation**

Court should consider increasing ventilation in courtrooms, including opening windows, using air cleaners, and improving building-wide air filtration.¹³

- **Hygiene**

Courts should consider having hand sanitizer dispensers available at various locations around the courthouse, including at the entry and exits from the building and courtrooms. Courts should ensure that tissues are available for public use in courtrooms and other public areas. Courts should post readily visible signage reminding individuals of best hygiene protocols.¹⁴

- **Cleaning¹⁵**

Sanitizing should be routinely and more regularly performed, including when a transition of participants occurs within a courtroom between hearings and after recesses.

Courts should implement frequent cleaning protocols during a jury proceeding. Specifically, courts should ensure that shared spaces such as witness stands, seating in the gallery, and seating during qualification/voir dire are cleaned during transitions of those spaces. Courts should assign seats for members of the jury panel and selected jurors to reduce potential transmission and the need for more frequent cleaning.

- **Summoning Jurors**

Courts must 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-19.¹⁶

¹² CDC. *Your Guide to Masks*.

¹³ CDC. *Ventilation in Schools and Childcare Programs*.

¹⁴ DSHS. Stop the Spread of Germs Flyer.

<https://www.dshs.state.tx.us/coronavirus/toolkit/print/StopSpreadofGerms-English.pdf> (English) and <https://www.dshs.state.tx.us/coronavirus/toolkit/print/StopSpreadofGerms-Spanish.pdf> (Spanish).

¹⁵ CDC. *Reopening Guidance for Cleaning and Disinfecting Public Spaces, Workplaces, Businesses, Schools, and Homes*.

¹⁶ See [sample COVID-19 questionnaire](#).

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 should identify an appropriate location for conducting the various phases of a jury proceeding that enable adequate social distancing at all phases. Courts should detail how the court will ensure adequate security at the alternative location.¹⁷

- **Alternate Jurors**

Courts should select alternate jurors to permit the trial to continue in the event of a juror becoming ineligible to serve for a reason unrelated to that person's exposure to or contraction of COVID-19.

- **Arrangement of Courtroom**

Courts should modify the way in which courtroom participants (judge, parties/counsel, jurors, witnesses, court reporters, bailiffs, public) will be arranged in the courtroom. Special attention should be paid to placement of the witness and parties so that the jurors, judge, and attorneys can see the witness and parties during testimony. Special attention should also be paid to placement of evidence presentation displays so that jurors and witnesses can see the information being displayed. Courts should plan for spaces where a judge can have sidebar or private conversations with jurors and counsel.

- **Microphone Protection Protocols**

Courts should limit, to the degree possible, the shared use of microphones during the jury proceeding. If a microphone must be shared, courts should limit the passing of the microphone unless the microphone is cleaned between each user. In addition, disposable microphone covers should be placed on shared microphones and changed between each user.

- **Exhibit/Evidence Management**

Courts should limit, to the degree possible, the use of physical or paper exhibits/evidence where feasible or appropriate by converting the exhibit/evidence to a digital form. When physical or paper exhibits/evidence is required, courts should reduce the exchange of that exhibit/evidence to the number of persons necessary and should limit passing the exhibit/evidence to the individual members of the jury. If an exhibit/evidence is required to be transferred from person-to-person, single use gloves should be worn and discarded immediately after handling the exhibit/evidence.

During jury deliberations, courts should make efforts to provide the jury with access to digital exhibits/evidence that would normally be shared with the jury during deliberation. Where digital

¹⁷ 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.

exhibits/evidence is not feasible, courts should consider limiting the transfer of the exhibits/evidence from juror-to-juror by spreading the exhibits/evidence on a table for inspection from the table in the jury deliberation room.

- **Food Precautions**

Courts that provide food to jurors or other participants during a jury proceeding should ensure individual food portions, such as individually boxed meals, are provided.