

## **COVID-19 PANDEMIC OPERATING PLAN FOR THE JUDICIARY OF BREWSTER, CULBERSON, HUDSPETH, JEFF DAVIS, AND PRESIDIO COUNTIES**

Recognizing the need to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering buildings where proceedings are conducted by the district, county, and justice courts of Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio Counties, the undersigned Local Administrative District Judge and each of the foregoing counties hereby implement the following protective measures, as directed by and pursuant to Texas Government Code Section 74.092, COVID-19 Emergency Orders issued by the Supreme Court of Texas and Texas Court of Criminal Appeals, and the guidance of the Texas Office of Court Administration:

### **General**

1. This Operating Plan fulfills the requirements of the Office of Court Administration and the Emergency Orders issued by the Supreme Court of Texas and the Texas Court of Criminal Appeals, and applies to all buildings in which court proceedings are conducted within Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio Counties.
2. All judges shall comply with the Emergency Orders of the Supreme Court of Texas and Court of Criminal Appeals, and the guidance issued by the Office of Court Administration, regarding social distancing, maximum group size, and other restrictions and precautions recommended to prevent the spread of COVID-19.
3. The local administrative district judge will maintain regular communication with the local health authority and county judge, and adjust this operating plan as necessary.
4. Judges shall conduct all proceedings remotely (such as by teleconferencing, videoconferencing, or other means), rather than in-person, whenever and to the extent possible. Hybrid hearings, where specific witnesses or litigants are permitted to appear remotely from within the court buildings are permitted. Each county shall establish an isolated and secure area in each court building for accommodating such litigants or witnesses during court hearings.
5. Bailiffs and courthouse security personnel are authorized to enforce all provisions of this Operating Plan, and may refuse entry to or remove from the court building anyone who does not comply.
6. All elements of this Operating Plan apply to all security levels unless expressly stated otherwise.
7. Violation of this Operating Plan may constitute contempt of court, subjecting the violator to a fine of up to \$500 and a jail sentence of up to 180 days in jail.

### **COVID-19 Security Levels**

1. Level 1: No probable or confirmed active cases of COVID-19 in the County or any adjacent county.
2. Level 2: Five or fewer probable or confirmed active cases of COVID-19 in the County or any adjacent county.
3. Level 3: More than five probable or confirmed active cases of COVID-19 in the County or any adjacent county.
4. Pecos and Hudspeth Counties are each excluded as an "adjacent county" to Jeff Davis County.
5. Levels for each county shall be established by the Regional Public Health Authority and communicated by the Local Health Authority to the Local Administrative District Judge and county judges.
6. County judges may increase their county's Security Level at their discretion, but not lower it.

### **Judge, Court Staff, and County Employees Health**

1. Courthouse officials and employees who can perform the essential functions of their job remotely shall do so whenever possible.
2. Courthouse officials and employees are prohibited from entering court buildings and should seek medical advice if they:
  - a. have a body temperature equal to or greater than 100.0°F,
  - b. are experiencing symptoms of COVID-19 such as cough, shortness of breath or difficulty breathing, chills, repeated shaking with fever, muscle pain, headache, fatigue, sore throat, loss of taste or smell, diarrhea, vomiting, or myalgias, or
  - c. have within the prior 14 days had close contact with a person diagnosed with a probable or confirmed active case of COVID-19.
3. Courthouse officials and employees shall at all times comply with social distancing and hygiene recommendations in court buildings.

### **Scheduling**

1. The following measures are established to reduce overall occupancy of court buildings and prevent exposure to COVID-19.
2. In-person jury trials are prohibited until at least August 1, 2020, and thereafter shall occur only in accordance with the guidance from the Office of Court Administration.
3. At Levels 1 and 2, judges may begin holding in-person court proceedings beginning on June 1, 2020, subject to the requirements herein.
4. At Level 3, all in-person court proceedings are suspended, and shall take place remotely except in emergency situations when no alternative is possible. Furthermore, all persons shall be required to wear face coverings, practice social distancing, and follow hygiene requirements described in this Plan at all times that they are in the court building.
5. At Level 3, no two courts may hold in-person proceedings in the same court building at the same time. This includes district court, county court, Title IVD court, child protection court, justice court, and any other court utilizing the court building. All court coordinators shall communicate and cooperate to ensure that in-person court proceedings do not overlap. Counties will take all reasonable steps to ensure that commissioner's court meetings and other county meetings in court buildings do not overlap with other court proceedings.
6. Each court building shall have a room in which any participant may appear virtually in a court proceeding if they are unable to do so otherwise, or are subject to a subpoena, show cause order, or order to appear. The room shall be sanitized and comply with all social distancing, hygiene and other requirements of this Plan, and be furnished with the necessary equipment to participate remotely.

### **Screening**

1. These screening procedures are discretionary at Level 1 by the county judge and any judge presiding over court proceedings that day, discretionary at Level 2 by the county judge on days that court is not in session in the building, mandatory at Level 2 on days that court is in session in the building, and mandatory at Level 3 at all times.
2. Only one main entry door to the court building shall be open, which shall be controlled at all times by courthouse security. All other entry doors shall remain locked.

3. Courthouse security shall wear personal protective equipment, including gloves and masks or face-shields, provided by the County.
4. All persons who attempt to enter the court building shall check-in with courthouse security, and provide their full legal name and county of residence. Courthouse security shall note entry and exit times of all persons.
5. Courthouse security shall ask all persons attempting to enter the building whether:
  - a. they are experiencing any cold or flu-like symptoms, including cough, shortness of breath or difficulty breathing, chills, repeated shaking with fever, muscle pain, headache, fatigue, sore throat, loss of taste or smell, diarrhea, vomiting, or myalgias,
  - b. whether they have been diagnosed with a probable or confirmed case of COVID-19, and
  - c. whether they have within fourteen days been in close contact with a person who has a probable or confirmed active case of COVID-19 or is displaying cold or flu-like symptoms.
6. Courthouse security shall either refuse admittance or subject to secondary screening any person who:
  - a. admits any of the factors in the preceding paragraph,
  - b. appears to be suffering from any such symptoms,
  - c. refuses to answer the questions posed to them, or
  - d. resides in a county with more than five active cases of probable or confirmed COVID-19.
7. Secondary Screening: Courthouse security shall use an infrared thermometer to determine the temperature of the person. Individuals whose temperature equals or exceeds 100.0°F shall be refused admittance to the court building. A log shall be kept of all persons excluded in the screening process.
8. Inmates shall be screened prior to transport to the court building. Inmates with these symptoms or a temperature equal to or above 100.0°F will not be transported or admitted entrance to the court building.

**Face Coverings in County Buildings (General Public)**

1. At Level 1, all persons entering court buildings shall be permitted, but not required, to wear face coverings.
2. At Level 2, all persons entering court buildings may be required to wear face coverings at the discretion of courthouse security personnel, the county judge, or any judge holding court proceedings that day.
3. At Level 3, all persons entering court buildings shall wear face coverings at all times. Judges may remove their masks in the courtroom so long as social distancing requirements are followed. Attorneys may remove their masks while participating in court proceedings. The judge presiding may allow witnesses to remove their masks while testifying.
4. Any person who resides in a county with more than five probable or confirmed active cases of COVID-19 or has within the last 14 days returned from such a county shall wear a face covering at all times in the court buildings.
5. A judge presiding over court proceedings may require face coverings for any person involved in or attending the proceedings.
6. Persons may use their own approved face mask, or one will be provided by the county.
7. Surgical masks are recommended but not required for persons who will be in the court building for more than one hour. Counties may but are not required to provide surgical masks.

### Vulnerable and Highly Vulnerable Populations

1. Individuals age 65 to 72, who have no serious underlying health conditions such as high blood pressure, chronic lung disease, decreased lung capacity, diabetes, obesity, asthma, compromised immune systems (including by chemotherapy for cancer or other conditions requiring such therapy), or are receiving oxygen therapy, are members of a **Vulnerable Population**.
2. Individuals age 73 and over, and individuals *of any age* who have serious underlying health conditions, such as high blood pressure, chronic lung disease, decreased lung capacity, diabetes, obesity, asthma, compromised immune systems (including by chemotherapy for cancer or other conditions requiring such therapy), or are receiving oxygen therapy, are members of **Highly Vulnerable Populations**.
3. At Levels 2 and 3, no members of a **Vulnerable Population** and **Highly Vulnerable Populations** shall be involuntarily compelled to enter a court building for a court proceeding, except in an emergency situation or when no reasonable alternative exists. All scheduling communications shall direct individuals who are members of a **Vulnerable Population** or **Highly Vulnerable Populations** to contact the court to identify themselves and receive accommodations. A notice with this information will be posted on each county's website and in a conspicuous location at each court building.
4. Members of a **Vulnerable Population** (at Levels 2 and 3) and **Highly Vulnerable Populations** (at Level 2), who *do not* have serious underlying health conditions, shall be permitted to enter the court building only upon the completion of a *Request for Access Form* (a copy of which is attached), attesting that the person has no serious underlying health condition, is aware of and assumes the risk inherent in gathering with the local population in the court building, has read this Plan, and agrees to comply with all requirements of the Plan. Members of **Highly Vulnerable Populations** admitted under this provision shall wear masks at all times in court buildings.
5. At Levels 2 and 3, members of a **Vulnerable Population** may be required to wear masks at all times in court buildings at the discretion of the county judge, and on days court is in session at the discretion of the judge presiding.
6. At Levels 2 and 3, members of **Highly Vulnerable Populations** who have a serious underlying health condition shall be prohibited from entering court buildings, and shall participate in all court proceedings remotely.
7. At Level 3, all members of **Highly Vulnerable Populations** shall be prohibited from entering court buildings, and shall participate in all court proceedings remotely.
8. Notwithstanding the foregoing, attorneys in a **Vulnerable Population** and **Highly Vulnerable Populations** may enter court buildings and attend court proceedings if they are unable despite diligent efforts to participate remotely. In-person proceedings involving attorneys of record in a **Vulnerable Population** and **Highly Vulnerable Populations** shall be given priority for special settings in order to minimize risks of exposure in common areas.
9. Judges in a **Vulnerable Population** and **Highly Vulnerable Populations** may enter court buildings and attend court proceedings so long as they follow all requirements of this Plan, including face coverings, social distancing, and hygiene at all times that they are in the court building, and minimize their time in common areas of the court building.

### **Social Distancing**

1. All persons not from the same household shall maintain a social distancing radius of at least 6 feet while in court buildings.
2. No more than two individuals not from the same household will be permitted in an elevator. If more than one individual from the same household is in an elevator, no other individuals will be permitted in the elevator.
3. The maximum capacity of each restroom shall be posted and enforced.
4. Breakrooms and private meeting rooms are closed to the public.
5. The maximum number of persons permitted in the audience gallery of each courtroom shall be posted and enforced. Social distancing shall be enforced in the audience gallery. Seating is limited to every other row.
6. The counsel tables, witness stand, judge's bench, and clerk, court reporter, and bailiff seating shall be arranged such that there is at least 6 feet between each area. No one shall approach the bench, and attorneys shall address the Court from the lawyers' tables.
7. Exhibits shall be submitted electronically when possible, to minimize the physical exchange of documents among participants and the judge.

### **Hygiene**

1. Hand sanitizer dispensers shall be placed at the entrance to the building, courtroom, bathrooms, and elevators on each floor. Counties shall ensure that the sanitizer dispensers are filled at all times.
2. Counties shall place tissues and sanitary wipes 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" shall be posted in multiple locations on each floor of the court building.

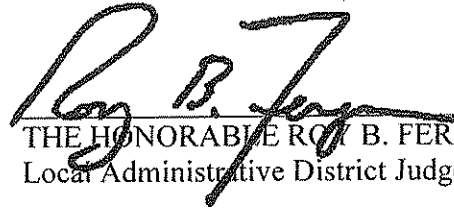
### **Cleaning**

1. Court building cleaning staff will clean the courtroom and the common areas of the court building at least every four hours on days that court is in session.
2. At Levels 2 and 3, court building cleaning staff will disinfect the courtroom gallery at the conclusion of each individual hearing, and at the end of each day the courtroom is used. This includes sanitizing the witness stand between witnesses and the lawyers' tables between hearings.
3. Cleaning staff will use cleaning supplies shown to be effective against the coronavirus. <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>
4. Cleaning staff must be trained on proper cleaning techniques as provided by the CDC Recommended Cleaning and Disinfection, and shall wear appropriate personal protective equipment, which will be provided by the county.
5. If it is discovered that a person with a confirmed case of COVID-19 was in a court building, the building shall be evacuated until fully sanitized.

Violation of this Operating Plan may result in expulsion from the court building, and/or constitute contempt of court, subjecting the violator to a fine of up to \$500 and a jail sentence of up to 180 days in jail.

I have made diligent efforts to confer with all judges of courts with courtrooms in the court buildings covered by this Operating Plan. In developing the Plan, I consulted with the local health authority, regional public health authority, other district judges, county judges, and justices of the peace within the District, as documented and attached to this plan. I will ensure that the judges of courts operating within the court buildings covered by this Operating Plan conduct proceedings consistent with the plan.

Date: 5/26/2020



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THE HONORABLE ROY B. FERGUSON  
Local Administrative District Judge

COVID-19 SCREENING TOOL

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Current Age: \_\_\_\_\_

Time: \_\_\_\_\_

**NOTICE: You MUST complete this form in order to request entry into the court building. Your refusal to do so will result in denial of admittance or expulsion from the building.**

1. **Have you or anyone in your household been diagnosed with a probable or confirmed case of COVID-19 within the prior fourteen days? [CHECK ONE]**     YES     NO

2. **Have you or anyone in your household experienced any of the following symptoms within the prior fourteen days? [CHECK ALL THAT APPLY]**

- |                                      |                                          |                                       |                                                 |
|--------------------------------------|------------------------------------------|---------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Sore Throat | <input type="checkbox"/> Cough           | <input type="checkbox"/> Fever/Chills | <input type="checkbox"/> Shortness of Breath    |
| <input type="checkbox"/> Diarrhea    | <input type="checkbox"/> Nausea/Vomiting | <input type="checkbox"/> Headache     | <input type="checkbox"/> Loss of Taste or Smell |
| <input type="checkbox"/> Myalgias    | <input type="checkbox"/> Muscle Pain     | <input type="checkbox"/> Fatigue      | <input type="checkbox"/> Difficulty Breathing   |

3. **Have you or anyone in your household had close contact with someone suspected of having COVID-19, within the prior fourteen days? [CHECK ONE]**     YES     NO

4. **Have you, anyone in your household, or anyone with which you have had close contact traveled to any of the following in the prior fourteen days?**

- Any city with a population of over 500,000.
- Mexico or Canada
- Internationally outside of North America

5. **Do you have any of the following health conditions:** High blood pressure, chronic lung disease, decreased lung capacity, diabetes, obesity, asthma, compromised immune system (including by chemotherapy for cancer or other conditions requiring such therapy), or receiving oxygen therapy?     YES     NO

“My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_  
\_\_\_\_\_. My address is \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_ County, United States of America. I declare  
under penalty of perjury that the following is true and correct.”

Signed in \_\_\_\_\_ County, Texas, on \_\_\_\_\_ (date).

\_\_\_\_\_

**REQUEST FOR ACCESS FORM – VULNERABLE POPULATIONS**

**CURRENT SECURITY LEVEL:** \_\_\_\_\_

**NOTICE: If you are over 65 or have a serious underlying health condition, you MUST complete this form to request access to the court building. Your refusal to do so will result in denial of admittance or expulsion from the building. Your request may be denied in accordance with the COVID Operating Plan.**

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Current Age:** \_\_\_\_\_

**Time:** \_\_\_\_\_

**Serious Health Conditions** include high blood pressure, chronic lung disease, decreased lung capacity, diabetes, obesity, asthma, compromised immune system (including by chemotherapy for cancer or other conditions requiring such therapy), or receiving oxygen therapy.

1. I understand that I am a member of a Vulnerable Population (age 65-72) or a Highly Vulnerable Population (age 73 and above, or any age person with a Serious Health Condition).
2. I understand that as a member of a vulnerable or highly vulnerable population, I am at heightened risk of serious complication or death due to COVID-19.
3. I understand that some persons infected with COVID-19 may not show any symptoms or even be aware that they are infected and/or contagious.
4. I understand that by entering the courthouse I risk exposure to someone currently infected with COVID-19, and that I may become infected with COVID-19 despite the best efforts of county and courthouse officials and staff to minimize exposure.
5. I understand that there are alternatives to my personal appearance at any court proceeding, and that accommodations will be made for me so that I need not enter the common areas of the building to conduct my business.
6. I have read the COVID-19 Operating Plan and agree to comply with all requirements of the Plan, including face coverings, social distancing, and hygiene.
7. I assume the risks described above, and request entry to the court building. I understand that I can be refused entry to the building, or removed at any time, at the discretion of courthouse security, the county judge, or the judge presiding over any court proceeding.

\_\_\_\_\_  
[YOUR SIGNATURE]