

ORIGINAL



Jury Trial Operating Plan

Effective December 1, 2020

Jury Proceedings Addendum to the COVID-19 Court Operating Plan for the Ellis County Judiciary

*Drafted Pursuant to Mandate by the Texas Supreme Court
& the Office of Court Administration*

This Jury Trial Operating Plan will be referred to as the *Jury Plan*.

The Jury Plan is COVID-19 compliant as mandated by the Texas Supreme Court and the Office of Court Administration. The Jury Plan is effective December 1, 2020. This document represents various interim measures which are subject to revision based upon the issuance of further requirements, mandates, and directives by the Texas Supreme Court, the Office of Court Administration, and other legal authorities. This document may also be modified in the event additional facilities and other resources are made available to the trial court judges by the County Judge and the Ellis County Commissioners Court.

Recognizing the need to help ensure the health and safety of jurors, litigants, attorneys, witnesses, court staff, judges, visitors, and other members of the public entering the buildings which house the District Courts, County Courts at Law, and Justice of the Peace Courts for Ellis County, Texas – all such courts, along with the County Judge and certain departments supporting such courts will implement, in addition to the procedures and protocols in the previously approved COVID-19 Court Operating Plan, the following protective measures for jury trial proceedings:

1. General

- a. All Judges serving in the courts which are enumerated above will comply with the Emergency Orders issued by the Supreme Court of Texas and Court of Criminal Appeals, including conducting in-person jury trial proceedings according to the guidance issued by the Office of Court Administration (OCA).

- b. As mandated, the justice courts will not conduct any in-person jury trial proceedings until the Supreme Court permits such proceedings.
- c. Judges of the District Courts and County Courts at Law will conduct in-person jury proceedings in accordance with the previously approved COVID-19 Court Operating Plan and this Jury Plan, only after this document is submitted and accepted by the Regional Presiding Judge.
- d. Not more than five days before an approved in-person jury proceeding is scheduled to occur, the local administrative district judge or designee will consult with the local public health authority to verify that local health conditions and plan precautions are appropriate for the jury trial to proceed.
- e. Except for criminal cases where confinement in jail or prison is a potential punishment, judges may conduct remote jury trial proceedings if the court follows the requirements of the hearings on objections or motions section below and ensures that all potential and selected petit jurors have access to technology to participate remotely. Judges may conduct remote jury trial proceedings in a criminal case where confinement in jail or prison is a potential punishment only with appropriate waivers and consent obtained on the record from the defendant and the prosecutor.

2. Jury Trial Proceedings Approval Process

- a. Judges wishing to conduct a jury proceeding will follow the procedure detailed below to obtain approval to proceed with the jury proceeding from the local administrative district judge and Regional Presiding Judge:
 - (1) Twenty-one days prior to the start of jury selection, any trial court judge desiring to conduct a jury trial will notify the local administrative district judge by email and attach a concise Trial Court Jury Plan to include the following information:
 - (i) Cause number and style of case;
 - (ii) Type of case;
 - (iii) Names and email addresses of all attorneys involved;
 - (iv) Date for jury selection;
 - (v) Identification of which court facility will be utilized for jury qualification and voir dire, and written authorization from the

County Judge if the Historic Courthouse is used for jury selection purposes¹;

- (vi) Simplified drawing, diagram, or photo depicting how the jury panel members will be seated if a court facility other than the Historic Courthouse is utilized²;
 - (vii) Start date for jury trial;
 - (viii) Identification of which court facility will be utilized for the jury trial on the merits;
 - (ix) Simplified drawing, diagram, or photo depicting how the jury, judge, court reporter, bailiff, attorneys, litigants, witnesses, and members of the public will be seated in accordance with the “Arrangement of Courtroom” as required by this Jury Plan in Section-12 below;
 - (x) Short statement regarding the intended use (if any) of the Cisco WebEx videoconferencing equipment and related computer/electronics during trial proceedings;
 - (xi) Identification of the locations as to where the jury will take breaks and deliberate;
 - (xii) Estimated completion date for the trial; and
 - (xiii) Description of succession plan in the event the presiding judge is unable to complete the trial, such as a commitment to utilize a visiting judge, or a promise of assistance by another local judge to complete the trial.
- (2) The local administrative district judge will promptly review the Trial Court Jury Plan, and upon approval, will email the request to the Regional Presiding Judge for final review and approval. As per the state mandates, the trial court judge may not proceed to trial without the approval of the local administrative district judge and the Regional Presiding Judge.

¹ Presently under this Jury Plan, the only court facility which is approved for Jury Qualification and Voir Dire is the Historic Courthouse – see Section 7.a.(1) and Section 7.a.(2) of this Jury Plan.

² A socially distanced Seating Diagram for the Historic Courthouse is being submitted as a part of this Jury Plan (see Section-12).

- b. The local administrative district judge will, not more than five days before the jury proceeding, consult with the local public health authority to verify that the local health conditions and plan precautions are appropriate for the jury trial to proceed with the following procedure:
 - (1) The local administrative district judge will email the following individuals in order to obtain confirmation that the local health conditions and plan precautions are appropriate for the jury trial to proceed: the Emergency Management Coordinator for Ellis County (Samantha Pickett), the Local Health Authority for Ellis County (Dr. Leigh Nordstrom), and the Ellis County Judge acting in his capacity as the Emergency Management Director for Ellis County (Todd Little).
 - (2) The Emergency Management Coordinator for Ellis County, the Local Health Authority for Ellis County, and the Ellis County Judge acting in his capacity as the Emergency Management Director for Ellis County will each review and approve this Jury Trial Plan.

3. Hearings on Objections or Motions Related to Proceeding

- a. Unless good cause is shown, parties who are scheduled for a jury proceeding are required to make any objections or motions related to proceedings not later than 10-days prior to the trial setting.
- b. Any objections or motions related to proceedings or going forward with a jury proceeding will be heard by the judge presiding over the case not later than 7-days prior to the jury proceeding, or as soon as practicable if the objections or motions are made or filed within 7-days of the jury proceeding.

4. Communication Protocols

- a. Each judge with an approved in-person jury proceeding will require the parties to communicate with the court if any participant in the jury proceeding, including attorneys, parties, attorney support staff, or witnesses have tested positive for COVID-19 within the previous thirty days prior to any portion of the jury proceeding, currently has symptoms of COVID-19, or has had recent known exposure to COVID-19.
- b. If the approved in-person jury proceeding involves an incarcerated participant, the judge will require the sheriff to report any positive COVID-19 test of the incarcerated participant within the previous thirty days prior to any portion of the jury proceeding, any current symptoms of COVID-19, or any recent known exposure to COVID-19. During the trial, to the extent possible, the sheriff will attempt to exercise due diligence in an effort to diminish defendant's exposure to COVID-19 risk factors.

5. Scheduling

- a. A judge who obtains approval for an in-person jury proceeding will schedule no more than 10 cases for that jury trial setting, unless pre-approval for larger dockets is obtained from the Regional Presiding Judge.
- b. Judges should attempt to alert parties who will not be proceeding prior to the day of trial to reduce attendance at the court facility.

6. Summoning Jurors

- a. The Ellis County District Clerk must include with each in-person juror summons, information regarding precautions that the court and the county have taken to protect the health and safety of prospective jurors, and the Jury Service COVID-19 Pre-Screening Questionnaire (see Exhibit-A) that elicits from prospective jurors, information about their exposure or vulnerability to COVID-19.
- b. Judges will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venirepersons.
- c. Excuses or requests to reschedule from in-person prospective jurors who have been potentially exposed, who are symptomatic, and who are vulnerable or live with someone vulnerable to COVID-19 will be liberally granted.

7. Location for Jury Selection, Trial, and Deliberation

- a. The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:
 - (1) Jury Qualification:
 - Ellis County Historic Courthouse, 2nd Floor, Historic 40th Courtroom.
 - (2) Voir Dire:
 - Ellis County Historic Courthouse, 2nd Floor, Historic 40th Courtroom.
 - (3) Trial:
 - Ellis County Courts Building –
 - i. Courtroom – County Court at Law No. 1
 - ii. Courtroom – County Court at Law No. 2
 - iii. Courtroom – 40th District Court
 - iv. Courtroom – 378th District Court
 - v. Courtroom – 443rd District Court
 - vi. Multi-Purpose Room, 1st Floor Near Front Security Desk

(4) Jury Deliberation:

- i. Each of the preceding Courtrooms, the Multi-Purpose Room, or any secure and confidential court facility or location that allows for social distancing and is approved by the local administrative district judge.
- b. General security protocols at the locations for jury proceedings have been reviewed with the appropriate courthouse security personnel and are adequate for the proceedings. With respect to jury selection at the Historic Courthouse, the current open-courthouse policy with five regular points of ingress/egress and no metal detectors will be modified for jury selection. The four regular doors on the main floor will be locked, and the non-emergency point of ingress/egress will be through the basement door, which is handicap accessible. On jury selection days at the Historic Courthouse, the stationary metal detector and/or the hand-held metal detector wands will be used for security purposes.

8. Screening

- a. In addition to the requirements of the previously submitted in-person *COVID-19 Court Operating Plan for the Ellis County Judiciary* effective June 1, 2020 – all court participants and observers attending an in-person jury proceeding will be screened for elevated temperatures and questioned to determine if the individual has recently had symptoms of COVID-19 or been exposed to COVID-19.
- b. All participants in a trial who are incarcerated will be screened by the jail/prison prior to transport to the courtroom and any known exposure, symptoms, or COVID-19 positive test results within the past 30 days will be reported to the judge presiding over the jury trial prior to the transport of the participant to the courtroom.

9. Face Coverings

- a. In addition to the requirements of the previously submitted in-person *COVID-19 Court Operating Plan for the Ellis County Judiciary* effective June 1, 2020 – all persons entering the common areas of a courthouse, including a courtroom or any other location being used to conduct a jury trial, will be required to wear a suitable face mask/facial covering at all times unless the person is an individual that is not recommended to wear a face mask/facial covering by the Centers for Disease Control or the Texas Department of State Health Services, in which case a face shield will be required at all times.
- b. All court participants will be required to wear face masks/facial coverings from jury qualification through the end of trial.

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

10. Social Distancing

- a. Social distancing of all court participants and observers will be maintained at all times during the jury proceeding, including during the trial and deliberation.
- b. Special attention will be given by courts to ensure adequate social distancing and managed exits of individuals during breaks, especially when dismissing large groups of people for a break.

11. Alternate Jurors

- a. Each judge with an approved in-person jury proceeding will be encouraged to consider selecting 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.

12. Arrangement of Courtrooms

- a. The following description details how each of the courtrooms or court facilities will be arranged during the jury proceeding:
 - (1) The Historic Courthouse, which will be used for Jury Qualification and Voir Dire [see Section 7.a.(1) and Section 7.a.(2) above], will be arranged with seating for up to 37 panel members, each with social distancing greater than 6-feet. A simplified diagram is included with this Jury Plan as Exhibit-B. Additionally, the judge, court reporter, bailiff, attorneys, litigants, witnesses, and members of the public will be seated so as to maximize social distancing to a separation and span of greater than 6-feet.
 - (2) The Courtroom for the 40th District Court, located within the Ellis County Courts Building, will be utilized for jury trial and arranged with the jury seated in the gallery area. Even assuming 2 alternate jurors, for a jury comprised of 14-individuals, each person will be socially distanced with a separation and span greater than 6-feet; often 8-feet or greater social distancing. A simplified diagram of the gallery area where the jury will be seated is included with this Jury Plan as Exhibit-C. Additionally, the judge, court reporter, bailiff, attorneys, litigants, and witnesses will be seated so as to maximize social distancing to a separation and span of greater than 6-feet. Members of the public will be permitted to view the jury trial outside the courtroom³ socially distanced, utilizing the following configuration:

³ Potential locations include the Multi-Purpose Room (if vacant), another courtroom in the Courts Building (if vacant), or a quiet area outside the courtroom in which the jury trial is taking place.

Cisco WebEx videoconferencing equipment, a laptop computer, and large-screen smart television monitor.

- (3) Whenever a trial court judge utilizes one of the other courtrooms or court facilities identified above in Section 7.a.(3) of this Jury Plan other than the courtroom for the 40th District Court – the judge will submit for approval a specific Trial Court Jury Plan which contains a courtroom arrangement similar to the description and simplified diagram in the preceding Section 12.a.(2) and meets the additional requirements contained in Section 2.a.(1) above. Note that the various courtroom arrangements, especially those pertaining to the County Courts at Law and the Multi-Purpose Room, may be considerably different than those pertaining to the 40th District Court described in the preceding Section 12.a.(2), partly because of the slightly more spacious facilities and partly because less jurors may be required. Moreover, the County Courts at Law and the Multi-Purpose Room may, due to space availability, include limited seating for members of the public, and there may be no need for viewing outside the courtroom using videoconferencing equipment.
- (4) With respect to juror breaks and jury deliberations in the 40th District Court, a combination of the following will be utilized:
 - (i) A vacant courtroom or the Multi-Purpose Room will be used, but only with the express permission of the judge who presides over the particular court which utilizes the specific courtroom or court facility; or
 - (ii) A location that allows for social distancing and is approved by the local administrative district judge; or
 - (iii) The 40th District Court which will be fully cleared of all persons and personal belongings, except for the jurors involved in the case.

13. Microphone Protection Protocols

- a. Judges will limit, to the degree possible, the shared use of microphones during the jury proceeding.
- b. If a microphone must be shared, judges will limit the passing of the microphone unless the microphone is cleaned between each user.
- c. Disposable microphone covers will be placed on shared microphones and changed between each user.

14. Exhibit/Evidence Management

- a. Judges will 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.
- b. When physical or paper exhibits/evidence is required, judges will reduce the exchange of that exhibit/evidence to the number of persons necessary and will limit passing the exhibit/evidence to the individual members of the jury.
- c. If an exhibit/evidence is required to be transferred from person-to-person, single use gloves will be provided, worn, and discarded immediately after handling the exhibit/evidence.
- d. During jury deliberations, judges will make efforts to provide the jury with access to digital exhibits/evidence that would normally be shared with the jury during deliberation. Where digital exhibits/evidence is not feasible, judges will 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. Single use gloves will be provided to the jurors during deliberations, which can be worn and discarded immediately after inspecting the exhibit/evidence.

15. Witnesses

- a. Judges will inquire whether witnesses to the proceedings have COVID-related issues.
- b. To the degree constitutionally permissible or with the consent of the parties, judges will 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.

16. Food Precautions

- a. Courts that provide food to jurors or other participants during a jury proceeding will provide disposable utensils and individual food portions such as individually boxed meals.

17. Cleaning

- a. In addition to the requirements of the previously submitted in-person *COVID-19 Court Operating Plan for the Ellis County Judiciary*, frequent cleaning protocols in the courtrooms and facilities will be maintained throughout the jury proceeding as appropriate.
- b. Shared spaces such as witness stands, seating in the gallery, and seating during jury qualification and voir dire will be cleaned during transitions of those spaces by the Courthouse and Facilities Maintenance for Ellis County and/or a third-party entity designated by the Ellis County Judge.

- c. Seats for members of the jury panel and selected jurors will be assigned to reduce potential transmission and the need for more frequent cleaning.
- d. With respect to the face shields referenced in Section 9 above, based upon the recommendation of senior local hospital personnel who specialize in contagious diseases, bacteria, and viral agents – face shields will not be sanitized, recycled, and re-used by a second individual, but instead will be discarded.

I have conferred with all Judges of courts with courtrooms within the Ellis County Courts Building regarding this Jury Plan.

In developing this Jury Plan, I consulted with the Local Health Authority for Ellis County (Dr. Leigh Nordstrom), the Emergency Management Coordinator for Ellis County (Samantha Pickett), and the Ellis County Judge (Todd Little).

As the Local Administrative District Judge for Ellis County, I will ensure that the District Judges and County Court at Law Judges who choose to conduct jury proceedings while the state mandates and directives related to COVID-19 are in effect, do so in a manner consistent with the requirements contained in the Jury Plan.

This Jury Trial Operating Plan is effective December 1, 2020.

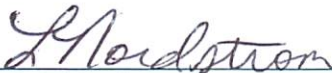


Bob Carroll
Judge, 40th District Court
Local Administrative District Judge
Ellis County, Texas

Approved Jury Trial Operating Plan:



Samantha Pickett
Emergency Management Coordinator for Ellis County, Texas



Dr. Leigh Nordstrom
Local Health Authority for Ellis County, Texas



Hon. Todd Little
In his capacity as Emergency Management Director for Ellis County, Texas

Exhibit-A

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 _____, 2020. Bring this completed questionnaire with you or email it to _____@_____ BEFORE (insert date of jury service, 2020):

1. SYMPTOMS NOW OR BETWEEN (insert date that is 14 days before date of jury service), 2020 AND (insert date of jury selection proceeding), 2020: check any that apply to YOU or A MEMBER OF YOUR HOUSEHOLD

____ Fever (above 100.0) ____ Change in taste or smell ____ Cough ____ Nausea or Vomiting

____ Headache ____ Shortness of Breath/Difficulty Breathing ____ Diarrhea ____ Chills

____ Muscle pain or body aches ____ Sore throat ____ Fatigue ____ Congestion or Runny Nose

____ I certify that NONE of the symptoms above have been experienced by me or a member of my household between (insert date that is 14 days before date of jury service) and (insert date of jury selection, 2020).

IF YOU ARE EXPERIENCING ANY OF THE ABOVE SYMPTOMS, CALL THE DISTRICT CLERK'S OFFICE at () - ____ BEFORE REPORTING ON _____, 2020.

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

____ I or a member of my household has been diagnosed with COVID-19 within the past 4 months;

____ 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 () - ____ BEFORE REPORTING ON _____, 2020.

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 () - ____ BEFORE REPORTING ON _____, 2020.

4. FACE COVERINGS:

Prospective jurors are 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:

Signature

Printed Name

Exhibit-B

Historic Courtroom Seating Chart

Total Chairs: **174**

Seating Available: **37**

Seating Prohibited: **137**

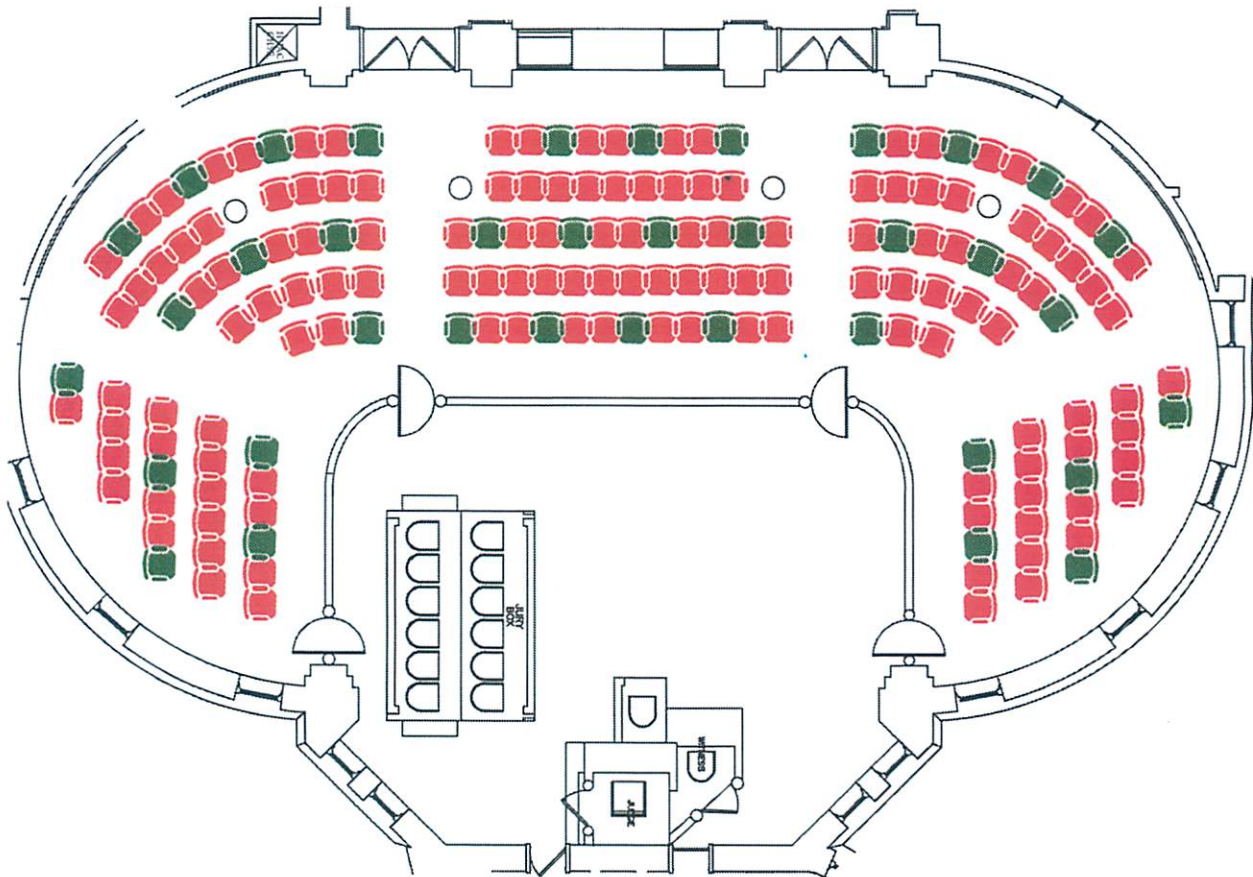


Exhibit-C

40th District Court Seating Chart

Total Seating: **82**

Seating Available: **14**

Seating Prohibited: **68**

