

# **Jury Proceeding Addendum to COVID-19 Operating Plan for the Wood County Judiciary**

*Effective on and after October 1, 2020*

Recognizing the need to ensure the health and safety of jurors, litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of Wood County will implement, in addition to the procedures and protocols in the previously submitted COVID-19 Operating Plan, the following protective measures for jury proceedings:

## **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 jury proceedings according to the guidance issued by the Office of Court Administration.
2. The justice courts will not conduct an in-person jury proceeding until the Supreme Court permits such proceedings.
3. Judges of the district courts, constitutional and statutory county courts, and statutory probate courts will conduct in-person jury proceedings in accordance with the previously approved Operating Plan and this addendum only after this jury proceeding addendum is submitted and accepted by the Regional Presiding Judge.
4. 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 proceeding to proceed.
5. Except for criminal cases where confinement in jail or prison is a potential punishment, judges may conduct remote jury 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 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.

## **Jury Proceeding Approval Process**

1. 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:
  - a. The judge will fill out a form available from the LADJ requesting a jury trial date, providing the style of the case, any statutory deadlines that apply, and the number of venire members requested.
  - b. The LADJ will review the request, visit with the judge if necessary, assign a potential trial date and forward the request to the Regional Presiding Judge for approval.
  - c. Upon receipt of the approval or denial of the request, the LADJ will forward the information to the appropriate court.

2. 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 proceeding to proceed with the following procedure:
  - a. The LADJ will provide a copy of the jury trial schedule to the local health authority with updates as new trials are approved.
  - b. The LADJ will contact the local health authority each Thursday before Monday jury selection.
  - c. The local health authority has been consulted in drafting both plans and will have a copy of the current jury trial plan as well as the Operating Plan for Wood County Courts.
  - d. The LADJ will re-confirm the appropriateness of these plans and make any changes accordingly through the amendment process.
  - e. If the local health authority confirms the conditions and plan precautions are appropriate, the trial will go forward.
  - f. If the local health authority raises any concerns, they will be addressed accordingly by the LADJ prior to the start of the jury selection process.

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

1. Parties who are scheduled for a jury proceeding are encouraged to make any objections or motions related to proceedings at least 10 days prior to the trial setting.
2. Any objections or motions related to proceeding with a jury proceeding 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.

#### **Communication Protocols**

1. 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, has tested positive for COVID-19 within the previous 30 days prior to any portion of the jury proceeding, currently has symptoms of COVID-19, or has had recent known exposure to COVID-19.
2. 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 30 days prior to any portion of the jury proceeding, any current symptoms of COVID-19, or any recent known exposure to COVID-19.

#### **Scheduling**

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

## **Summoning Jurors**

1. The jury clerk must include with in-person juror summonses information regarding precautions that have been taken to protect the health and safety of prospective jurors (see Attachment A)<sup>1</sup> and COVID questionnaires (see Attachment B)<sup>2</sup> that elicit from prospective jurors information about their exposure or vulnerability to COVID-19. The Wood County District Clerk will use the questionnaires and jury letter signed by the LADJ.
2. Judges will consider using juror questionnaires for voir dire to assist in shortening the length of voir dire or the number of venirepersons.
3. 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.

## **Location for Jury Selection, Trial and Deliberation**

1. The following locations have sufficient space to permit adequate social distancing and will be used for in-person jury proceedings:<sup>3</sup>
  - a. Jury Qualification: Carroll Green Civic Center
  - b. Voir Dire: For Petit Jury – Carroll Green Civic Center
  - c. Grand Jury selection – 402<sup>nd</sup> Judicial District Courtroom
  - d. Trial:
    - i. District Court will conduct trial in its courtroom and have designated gallery spacing to be used for the jury.
    - ii. County Court will conduct trial in its courtroom and have designated gallery spacing to be used for the jury.
    - iii. Justice Courts will coordinate trials to be conducted at Justice of the Peace courtrooms with appropriate seating designated for the jury in the gallery.
  - e. Jury Deliberation: Each court will clear the courtroom at the end of the trial to allow the jury the use of the closed courtroom for deliberation purposes.
2. Security protocols at the locations for jury proceedings have been reviewed with the appropriate courthouse security personnel and are adequate for the proceeding.

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<sup>1</sup> Include as Attachment A the information that the court will include with summonses.

<sup>2</sup> Include as Attachment B the COVID questionnaire that the court will include with summonses. A sample COVID questionnaire is available at <https://txcourts.gov/media/1449739/petit-juror-questionnaire-addendum-covid-19-pre-screening.pdf>.

<sup>3</sup> Court 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.

### **Screening**

1. In addition to the requirements of the previously submitted in-person Operating Plan, all court participants and observers attending an in-person jury proceeding will be screened for elevated temperatures and will be questioned to determine if the individual has recently had symptoms of COVID-19 or been exposed to COVID-19.
2. 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.

### **Face Coverings**

1. In addition to the requirements of the previously submitted in-person Operating Plan, 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 face covering at all times unless the person is an individual that is not recommended to wear a mask by the Centers for Disease Control or the Texas Department of State Health Services.
2. All court participants will be required to wear face coverings from jury qualification through the end of trial.
3. Court participants who may need to lower their face mask or shield to speak or for a short period of time will be required to wear a face shield/covering. When speaking, judges will permit a court participant to lower his or her face shield/covering so long as a face shield/covering is worn, and the person speaking is immobile.

### **Social Distancing**

1. Social distancing of all court participants and observers will be maintained at all times during the jury proceeding, including during the trial and deliberation.
2. Special attention will 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.

### **Alternate Jurors**

1. 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.

### **Arrangement of Courtroom**

1. The following description details how each of the courtrooms or facilities will be arranged during the jury proceeding:

### **At the Carroll Green Civic Center**

- a. The Carroll Green Civic Center has alternating rows blocked off with seating arranged so that the venire members maintain six foot distancing. Rows are arranged with one occupant every six feet.
- b. The bailiffs are stationed on either the entrance or exit row at the end towards the stage. There will be monitors at each door to direct individuals to their assigned seats.
- c. The judge and court reporter are positioned on stage and the parties are arranged in tables with six foot distancing on the stage. The parties are arranged at tables with six foot distancing on the stage or in the auditorium.

### **In the Courtrooms**

- a. In each courtroom, the judges have designated seating within the gallery for the jury. They also have a few remaining seats designated for observers. All of the seats are six feet apart.
- b. The courtrooms have jury rooms with the accessibility of separate restrooms for the jurors where they would be allowed to rotate through during breaks in approved capacity limits. Each courtroom has the ability to close the court and remove everyone but jurors from the courtrooms to allow for deliberations.
- c. Each courtroom has six feet distancing for the bench and witness chair to allow the judge and witness who may be testifying to remove his/her mask during trial.
- d. The well of each courtroom has adequate spacing for parties with social distancing to allow one attorney at each table with parties seated either at the end of the table or on the front row behind counsel.
- e. The court reporter(s) will be seated in front of the witness stand or any area of the courtroom that allows for six foot distancing in order to hear adequately.
- f. Bailiffs will be stationed either at the door or at a specified desk. Clerks will have designated seating at the bench which allows for six foot distancing.
- g. On breaks, the courtroom will be cleared of all participants so that jurors can go to the jury room in appropriate numbers or be escorted downstairs for smoke breaks, as necessary.
- h. On breaks, witnesses will be ordered not to congregate in the hallways and to observe capacity limits for the hallways, restrooms and common areas. Witnesses will be encouraged to step outside of the courthouse during breaks.
- i. Witnesses who are not in the courtroom, will be required to wait either in the attorney's office or outside of the courthouse in his/her personal vehicle. The attorney is responsible for contacting each witness approximately 15 minutes prior to their testimony to allow them time to get through screening and to wait out in the assigned hallway to be called into the courtroom.
- j. The courtroom has seats for observers. The observers will have to clear the courtroom on breaks and during deliberation. They will be reminded to observe capacity

- restrictions in hallways, restrooms and common areas. Observers will be encouraged to step outside the courthouse during breaks.
- k. During breaks the court staff will return to their respective offices unless they are finishing a task required for the trial and then they may remain in the courtroom so long as the jury is not deliberating and the bailiff is present.
  - l. During breaks the bailiff or other security staff will be required to monitor the courtroom, hallway and jury room to provide for the safety of the jury and make sure capacity restrictions are met.
  - m. Judges are encouraged to hold breaks at regular intervals to allow for cleaning of the witness stand and to give ample time to allow the jurors to have a restroom break while adhering to capacity requirements.
  - n. During deliberations, all persons but the jury will clear the courtroom. The security cameras will either be disabled or the cameras will be blocked.
  - o. The court staff will retire to their offices with the exception of the bailiff who will guard the door to the courtroom.
  - p. Attorneys will return to their offices with a number provided to the judge so they can be called to return.
  - q. Parties will return to their personal vehicles with a number provided to the attorney who called them so they can be notified to return.
  - r. Witnesses will be excused and allowed to return if they provide a number to be notified.
  - s. At all times the capacity requirements will be enforced in the hallway and courtroom.

### **Microphone Protection Protocols**

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

### **Exhibit/Evidence Management**

1. 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.
2. 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.
3. 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.
4. 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.

### **Witnesses**

1. Judges will inquire whether witnesses to the proceedings have COVID-related issues.
2. 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.

### **Food Precautions**


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

### **Cleaning**

1. In addition to the requirements of the previously submitted in-person Operating Plan, frequent cleaning protocols in the courtrooms and facilities will be maintained throughout the jury proceeding as appropriate.
2. Shared spaces such as witness stands, seating in the gallery, and seating during qualification/voir dire will be cleaned during transitions of those spaces.
3. Seats for members of the jury panel and selected jurors will be assigned to reduce potential transmission and the need for more frequent cleaning.

I have attempted to confer with all judges of courts with courtrooms in the court building regarding the Jury Proceeding Addendum to the Operating Plan. In developing the plan, I consulted with the local health authority and county judge, documentation of which is attached to this plan. I will ensure that the judges of courts with courtrooms in the court building covered by this Operating Plan conduct proceedings consistent with the plan.

Date: 12/7/2020

  
\_\_\_\_\_  
Local Administrative District Judge

\_\_\_\_\_ County, Texas  
 \_\_\_\_\_  
 (Address)  
 \_\_\_\_\_  
 (Address)  
 \_\_\_\_\_  
 (Address)

**GRAND JURY SUMMONS NO.**

**Dear Prospective Grand Juror: You are  
 hereby summoned for grand jury  
 service as set out below:**

**Time:**  
**Date:**  
**Place:**

**Forwarding Service Requested**  
**POSTMASTER**  
**PLEASE DELIVER TO:**

*Your answers are CONFIDENTIAL under Article 19.42, Code of Criminal Procedure, and may be disclosed only to a party to a proceeding if the court, on a showing of good cause, permits it.*

PLEASE TYPE OR PRINT WITH INK ONLY		GRAND JUROR QUESTIONNAIRE			
<input type="checkbox"/> Male	<input type="checkbox"/> Female	Race:	Age:	Date of Birth:	Are you a U.S. Citizen? <input type="checkbox"/> Y <input type="checkbox"/> N (Please see "Note" below.)
Your Name: Home Address:				Please check highest level of education completed: <input type="checkbox"/> No H.S. Diploma or GED <input type="checkbox"/> GED <input type="checkbox"/> H.S. Diploma <input type="checkbox"/> 2yr College <input type="checkbox"/> 4yr College/University <input type="checkbox"/> Post-Graduate <input type="checkbox"/> Other _____	
Mailing Address (if different from home):					
Primary Phone:	Alternate Phone:	County of Residence:			
Your Occupation:				Current Marital Status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced	
Your Employer:		How Long?			
Spouse's Name:		Spouse's Occupation:			
Spouse's Employer:		How Long?		Number of Children: _____ Ranges of Age: from _____ years to _____ years	
Have you ever served on a grand jury? <input type="checkbox"/> Y <input type="checkbox"/> N If yes, in what month(s)/year did you serve? _____		Have you ever served on a criminal jury? <input type="checkbox"/> Y <input type="checkbox"/> N			
I CERTIFY THAT ALL ANSWERS ARE TRUE AND CORRECT. Please sign here: _____					
NOTE: If you state that you are not a U.S. citizen, you may become ineligible to vote and may be required to provide proof of U.S. citizenship to your county's voter registrar.					



**Directions:** You must report for grand jury service unless you are **disqualified** from serving as a grand juror. (See Section I below.)

**Before Reporting for Jury Service:** Please complete BOTH the juror questionnaire and the Grand Jury Service COVID-19 Pre-Screening Questionnaire and bring both questionnaires with you when you report.

**Questions or Special Accommodations:** Please contact the \_\_\_\_\_ clerk's office.

(Clerk)  
(Contact)  
(Information)

### I. Disqualifications from Grand Jury Service:

If you are disqualified from serving as a grand juror, circle the qualification(s) that you do not meet. Sign the form. Mail or take the form to the \_\_\_\_\_ clerk. You do not have to report for grand jury service.

NOTE: If you claim to be disqualified because you are not a resident of this county, you may become ineligible to vote in this county. If you state that you are not a U.S. citizen, you may become ineligible to vote and may be required to provide proof of U.S. citizenship to your county's voter registrar.

### QUALIFICATIONS FOR GRAND JURY SERVICE (Texas Code of Criminal Procedure, Art. 19.08)

To be qualified to serve as a juror you *must*:

1. be at least 18 years of age;
2. be a citizen of the United States;
3. be a resident of this state and the county in which you are to serve as a grand juror;
4. be qualified under the Constitution and laws to vote in the county in which you are to serve as a grand juror. (Note: You do not have to be registered to vote to be qualified to serve as a grand juror.);
5. be of sound mind and good moral character;
6. be able to read and write;
7. not have been convicted of, or be under indictment or other legal accusation for, misdemeanor theft or a felony;
8. not be related within the third degree of consanguinity or second degree of affinity, as determined under Chapter 573, Government Code, to any person selected to serve or serving on the same grand jury;
9. not have served as grand juror in the year before the date on which the term of court for which you have been selected as a grand juror begins; and
10. not be a complainant in any matter to be heard by the grand jury during the term of court for which you have been selected as a grand juror.

I certify that I am disqualified from grand jury service for the reason(s) circled above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

### II. Excuses from Grand Jury Service:

You may be eligible to be excused from grand jury service by the judge. (See the list of excuses below.) If you are eligible to be excused you may still be required to complete the grand juror questionnaire and the Grand Jury Service COVID-19 Pre-Screening Questionnaire and report for grand jury service. Please call the \_\_\_\_\_ clerk's office at \_\_\_\_\_ for further instructions and questions regarding excuses from grand jury service. Note: You may choose to serve even if you can be excused from service.

### EXCUSES FROM GRAND JURY SERVICE (Texas Code of Criminal Procedure, Article 19.25)

1. You are over 70 years of age.
2. You are responsible for the care of a child younger than 18 years of age.
3. You are a student at a public or private high school.
4. You are enrolled and in actual attendance at an institution of higher education.

Note: The court may also excuse you or reschedule your service for any other reason the court determines is reasonable, including a COVID-19 related reason (please review and complete No. 3 on the attached Grand Jury Service COVID-19 Pre-Screening Questionnaire).

**Right to Reemployment:** An employer may not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States. An employee who is discharged, threatened with discharge, intimidated, or coerced in violation of this section is entitled to return to the same employment that the employee held when summoned for jury service if the employee, as soon as practical after release from jury service, gives the employer actual notice that the employee intends to return. (Civil Practice and Remedies Code Section 122.001)

## 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)	_____ Cough	_____ Nausea or Vomiting	_____ Change in taste or smell
_____ Headache	_____ Diarrhea	_____ Chills	_____ Muscle pain or body aches
_____ Sore throat	_____ Fatigue	_____ Congestion or Runny Nose	_____ Shortness of Breath/ Difficulty Breathing

\_\_\_\_\_ 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 30 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 ( ) \_\_\_ - \_\_\_ 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