

Second Amended Denton County Judiciary Minimum Standard Health Protocols

Per the Fortieth Emergency Order from the Texas Supreme Court, and to ensure the health and safety of litigants, attorneys, witnesses, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of **Denton County** will implement the following minimum standard health protocols:

General

1. All judges will comply with the Fortieth Emergency Order from the Texas Supreme Court and these minimum standard health protocols.
2. All judges may continue to use reasonable efforts to conduct proceedings remotely.
3. All judges are permitted to modify and suspend deadlines and procedures as specified in the Fortieth Emergency Order from the Texas Supreme Court, allow or require anyone to participate remotely in a proceeding, conduct proceedings away from the court's usual location with reasonable notice and access to the participants and public, take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19, including requiring compliance with social distancing protocols and face coverings worn over the nose and mouth.
4. The district courts, statutory county and statutory probate courts, constitutional county courts and justice of the peace courts may conduct in-person hearings, both jury and non-jury.

Judge and Court Staff Health

1. Judges and court staff who can perform the essential functions of their job remotely may telework when possible.
2. Judges and court staff monitoring requirements: Judges and court staff shall self-monitor body temperature and signs or symptoms of COVID-19 before reporting to work. If a judge or staff member feels ill, or has any symptoms of COVID-19, he or she shall stay at home. A judge or staff member may also take his or her temperature upon entrance to the courthouse located at 1450 E. McKinney Street, Denton, Texas or at the District Court Administration Offices located on the third floor of that building. Both locations shall be equipped with thermometers for employee use. Judge McCary may designate temperature check locations at the Juvenile Courts Building, and each Justice of the Peace may designate a temperature check location for the respective Justice Court Building.
3. Judges or court staff who feel feverish or have measured temperatures equal to or greater than 100.0° F, or with new or worsening signs or symptoms of COVID-19, such as a cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or having known close contact with a person who is confirmed to have COVID-19 will not be permitted to enter the building and should seek medical advice.

4. Judges and court staff who are not fully vaccinated will be encouraged to wear face coverings where social distancing cannot be achieved. Any judge may also require, in his or her discretion, the wearing of protective masks (or other protective measures) in the courtroom and may require social distancing and appropriate hygiene as recommended by the Office of Court Administration (OCA) Best Practices for All Court Proceedings During COVID-19 Pandemic – May 2021 version, attached hereto.
5. Protective Measures: The Courts should review and consider implementing the Office of Court Administration’s Best Practices for All Court Proceedings During COVID-19 Pandemic – May 2021 version.

Scheduling

1. The following court policies are established to reduce occupancy in the court building:
 - a. Courts shall follow the in-person proceeding schedule attached hereto;
 - b. Judges may require remote hearings for essential and nonessential matters;
 - c. Court Administrators, to the extent possible, shall stagger cases to limit the number of people in the courtroom;
 - d. Each judge should consider the Office of Court Administration (OCA) Best Practices for All Court Proceedings During COVID-19 Pandemic – May 2021 version when scheduling in person hearings. If questions arise regarding these Minimum Health Standard Protocols or the OCA’s Best Practices, the judge should consult with the local health authority.

Vulnerable Populations

1. 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.
2. Each judge may include information on orders setting hearings, docket notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the court to identify themselves as a vulnerable individual and receive accommodations. A notice with this information will be posted on the courts’ websites and in conspicuous locations around the court building (a copy of which is attached).
3. Vulnerable populations who are scheduled for court will be accommodated, if at all possible, by rescheduling the matter or allowing remote access or being excused from jury duty, as applicable.

Social Distancing

The Courts should review and consider implementing the Office of Court Administration’s Best Practices for All Court Proceedings During COVID-19 Pandemic – May 2021 version.

Hygiene

1. Hand sanitizer dispensers have been placed at the entrances to the building, outside of elevators on each floor, outside of each courtroom, and outside of bathrooms.
2. Tissue and trash cans have been placed 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 Services "Stop the Spread of Germs" flyer has been posted in multiple locations on each floor of the court building.

Screening

1. Signs will be posted at the entrances to the court buildings stating: "If you have a fever, cough, shortness of breath, difficulty breathing, or have been in close contact with a person who is confirmed to have COVID-19, DO NOT ENTER the court building." Signs will be in English and Spanish.
2. An infrared thermometer to determine the temperature of the individual will be available for self-screening at the entrance to the courts building located at 1450 E. McKinney Street, Denton, Texas. The use of said thermometer will be encouraged but not required.
3. Each Judge shall establish communication protocols to ensure that no court participants 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.

Face Coverings

1. The Courts should review and consider implementing the Office of Court Administration's Best Practices for All Court Proceedings During COVID-19 Pandemic – May 2021 version.

Jury Proceedings

1. In order to conduct an in-person jury proceeding a court must also:
 - a. to assist with coordination of local resources and to manage capacity issues, obtain prior approval, including a prior approved schedule, for the jury proceeding from the local administrative district judge or presiding judge of the municipal courts, as applicable;
 - b. consider on the record any objection or motion related to continuing with the jury proceeding at least seven days before the jury proceeding or as soon as practicable if the objection or motion is made or filed within seven days of the jury proceeding;
 - c. establish communication protocols to ensure that no court participants 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;

- d. include with the jury summons information on the precautions that have been taken to protect the health and safety of prospective jurors and 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; and
 - e. upon request by a prospective juror, excuse or reschedule any prospective juror who provides information confirming their COVID-19 infection or exposure or their particular vulnerability to COVID-19.
 2. Judges may conduct remote jury proceedings without the consent of the parties—except in jailable criminal cases—as long as the court considers on the record any objection or motion related to proceeding with the remote jury proceeding at least seven days before the proceeding or as soon as practicable if the objection or motion is made or filed within seven days of the jury proceeding and ensures that all potential and selected petit jurors have access to technology to participate remotely.
 - a. 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.
 3. In addition to the Central Jury Assembly Room, located in the Courts Building, 1450 E. McKinney St., 2nd floor, Denton, TX, jury impanelment may be conducted at an alternate county facility; to wit: Emergency Services Building, 3900 Morse Street, 1st floor, Denton, Texas, or a similarly configured location. Said jury panels shall be summonsed on a more frequent basis to allow for smaller gatherings. County and District Court voir dire may be conducted in the Courtroom, Central Jury Assembly Room, Emergency Services Building, or a similarly configured location.

I have attempted to consult with all judges in the county (excluding municipal judges) regarding these minimum standard health protocols. Unless renewed or modified, this Order shall expire September 1, 2021.

Adopted on: 7/30/2021


Local Administrative District Judge



Best Practices for All Court Proceedings During COVID-19 Pandemic (Effective May 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 are encouraged to conduct proceedings remotely where doing so would improve access to justice.
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 are encouraged to conduct proceedings remotely (such as by teleconferencing, videoconferencing, or other means) where doing so would improve access to justice.¹ Courts should also consider conducting hybrid hearings.
- **Judge and Court Staff Health**
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 may wish to consider teleworking for judges and court staff whenever doing so would be beneficial for judge or court staff health or is feasible.
- **Scheduling**
The in-person proceedings schedule adopted by the local administrative district judge or municipal court presiding judge, as applicable, should ensure that unvaccinated persons are able to adequately social distance while in the courtroom and public spaces of the building. It may be necessary to designate certain areas of the courtroom with adequate social distancing for unvaccinated persons.

Judges may wish to limit docket sizes to ensure that adequate social distancing is maintained in

¹ Courts who need technical assistance with remote proceedings may contact the Office of Court Administration at zoomhelp@txcourts.gov.

the courtroom, in the areas around the courtroom, and in the courthouse.

- **Vulnerable Populations**

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

- **Witnesses**

Courts should inquire whether witnesses to proceedings have COVID-related issues. To the degree constitutionally permissible, judges should consider permitting 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 indicates that he/she is unvaccinated.

- **Screening**

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 implement a screening protocol to screen all court participants and observers to determine if the individual has or 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.²

Unvaccinated screeners should be provided appropriate face protection and gloves.

- **Social Distancing**

Courts should consider how to permit social distancing in public common areas, galleries of courtrooms, wells of the courtroom, hallways, elevators, restrooms, or other locations where the unvaccinated public might gather. Fully vaccinated individuals are not required to socially distance.

Special attention should be given to scheduling in buildings with multiple courtrooms, as 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 for unvaccinated individuals.

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 coverings**

Cloth face coverings, at a minimum, should be encouraged of unvaccinated court participants or individuals planning to enter courtrooms or court-related offices while in the courthouse.

² Suggestion for considering lower threshold for jail inmates made by DSHS physicians.

Participants or individuals who are fully vaccinated are not required to wear a face covering.

As the Supreme Court's 38th Emergency Order states, courts may take any reasonable action to avoid exposing court proceedings to the threat of COVID-19. As stated in Attorney General Opinion KP-0322, "judges possess broad inherent authority to control orderly proceedings in their courtrooms, and pursuant to that authority, they can require individuals in the courtroom to wear facial coverings" and "may require any person entering the courthouse in which they preside to wear a facial covering while in the courthouse." Previously-issued executive orders do not alter the Supreme Court's emergency order, the ability of a judge to control his or her courtroom, or judiciary-imposed requirements for those entering a court building who will be attending a court proceeding.

- **Summoning Jurors**

Courts should 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-19.³

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 may wish to use a location for conducting the various phases of a jury proceeding that enables adequate social distancing for unvaccinated persons. Courts should detail how the court will ensure adequate security at any alternative location.⁴

³ See sample COVID-19 questionnaire.

⁴ 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.



STATE DISTRICT COURTS, COUNTY COURTS AT LAW AND STATUTORY PROBATE COURT

DENTON COUNTY, TEXAS

AMENDED IN-PERSON PROCEEDING SCHEDULE FOR THE DISTRICT COURTS, COUNTY COURTS AT LAW AND STATUTORY PROBATE COURT

WHEREAS, the Denton County District Courts, County Courts at Law and Statutory Probate Court strive to ensure the health and safety of litigants, attorneys, witnesses, visitors, court staff, judges, and other individuals entering the buildings housing the courts; and

WHEREAS, in compliance the Thirty-Sixth Emergency Order from the Texas Supreme Court, the judges with courtrooms in Denton County, have adopted the Denton County Judiciary Minimum Standard Health Protocols and;

WHEREAS, the District Courts, County Courts at Law and Statutory Probate Court shall make every effort to stagger in-person proceedings to limit the number of people in the courtroom; and

WHEREAS, the need to maintain flexibility in scheduling in-person proceedings is recognized; and

IT IS THEREFORE RESOLVED, that utilizing the Denton County Minimum Standard Health Protocols, each District Court, County Court at Law and Statutory Probate Court may schedule an in-person proceeding on the following days and times:

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| Monday | 8:00 – 5:00 |
| Tuesday | 8:00 – 5:00 |
| Wednesday | 8:00 – 5:00 |
| Thursday | 8:00 – 5:00 |
| Friday | 8:00 – 5:00 |

Unless renewed or modified, this In-Person Proceeding Schedule shall expire September 1, 2021.