

Supreme Court of Texas

Misc. Docket No. 23-9005

Final General Emergency Order Regarding the COVID-19 State of Disaster

ORDERED that:

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic. This Order is issued pursuant to Section 22.0035(b) of the Texas Government Code.

2. The Fifty-Ninth Emergency Order (Misc. Dkt. No. 22-9120) is renewed as amended.

3. Subject to constitutional limitations and review for abuse of discretion, all courts in Texas may in any criminal case, without a participant's consent:

a. except as this Order provides otherwise, allow or require a participant involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, court reporter, grand juror, or petit juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means; and

b. consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, such as by teleconferencing, videoconferencing, or other means.

4. In conducting criminal proceedings remotely:

a. in district courts, statutory county courts, and constitutional county courts, the court must not require a lawyer, party, or juror to appear remotely for a jury trial, absent the agreement of the parties.

b. in justice and municipal courts, the court must not require a lawyer, party, or juror to appear remotely for a jury trial unless the court has considered on the record or in a written order any objection or motion related to proceeding 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. A timely filed objection may be granted for good cause.

c. a court may not permit or require a petit juror to appear remotely unless the court ensures that all potential and selected petit jurors have access to technology to participate remotely.

5. Subject to constitutional limitations and review for abuse of discretion, all courts in Texas may in any case, civil or criminal, without a participant's consent, conduct proceedings away from the court's usual location with reasonable notice and access to the participants and the public, if conducting proceedings away from the court's usual location will assist in managing court backlog and:

- a. the court serves multiple counties; or
- b. a visiting judge is assigned to the court.

6. The Office of Court Administration should issue, and update from time to time, best practices and guidance on conducting in-person and remote court proceedings under this Order.

7. This Order is effective February 1, 2023, and expires March 1, 2023.

8. This is intended to be the final renewal of this Order. The Fifty-Eighth Emergency Order (Misc. Dkt. No. 22-9119) involving the Texas Eviction Diversion Program may be renewed before its March 1, 2023 expiration date.

9. The Clerk of the Supreme Court is directed to:

- a. post a copy of this Order on www.txcourts.gov;
- b. file a copy of this Order with the Secretary of State; and
- c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

10. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

Dated: January 27, 2023.

JUSTICE DEVINE and JUSTICE BLACKLOCK dissent.



Nathan L. Hecht, Chief Justice