

Jury Proceeding Addendum to COVID-19 Operating Plan for the Brazoria 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 Brazoria 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: As soon as possible, the Judge wishing to conduct a jury proceeding will request approval by emailing Judge Brown (Susan_Brown@Justex.net), her assistant Rebecca Brite (Rebecca_Brite@Justex.net), and the local administrative district judge. In the email, the Judge will include the trial date, cause #, style of the case, and the anticipated days of trial.
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:

The local administrative district judge will, not more than five days before the jury proceeding, contact Dr. Rogers (AnthonyR@brazoria-county.com) by email to verify that the local health conditions and plan precautions are appropriate for the jury proceeding. Once verified, the local administrative district judge will email Dr. Rogers' verification to Judge Brown (Susan_Brown@Justex.net) and her assistant Rebecca Brite (Rebecca_Brite@Justex.net).

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) and COVID questionnaires (see Attachment B) that elicit from prospective jurors information about their exposure or vulnerability to COVID-19.
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:
 - a. Jury Qualification: District Courts - 237 E. Locust Street, Angleton, Texas (Gym); County Courts at Law - 237 E. Locust Street, Angleton, Texas (Gym) **OR** 111 E. Locust Street, Angleton, Texas (Courthouse).
 - b. Voir Dire: District Courts - 237 E. Locust Street, Angleton, Texas (Gym); County Courts at Law - 237 E. Locust Street, Angleton, Texas (Gym) **OR** 111 E. Locust Street, Angleton, Texas (Courthouse).
 - c. Trial: District Courts - 237 E. Locust Street, Angleton, Texas (Gym) **OR** 111 E. Locust Street, Angleton, Texas (Courthouse); County Courts at Law - 237 E. Locust Street, Angleton, Texas (Gym) **OR** 111 E. Locust Street, Angleton, Texas (Courthouse).
 - d. Jury Deliberation: District Courts - 237 E. Locust Street, Angleton, Texas (Gym) **OR** 111 E. Locust Street, Angleton, Texas (Courtrooms in the Courthouse); County Courts at Law - 237 E. Locust Street, Angleton, Texas (Gym) **OR** 111 E. Locust Street, Angleton, Texas (Courtrooms in the Courthouse).
2. Security protocols at the locations for jury proceedings have been reviewed with the appropriate courthouse security personnel and are adequate for the proceeding.

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 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 mask so long as the participant is behind protective glass or a face shield 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

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

Impaneling and Voir Dire

1. For District Courts, Voir Dire will be conducted at a large gym located across the street from the Brazoria County Courthouse located at 237 E. Locust Street, Angleton, Texas. Chairs for the jurors, counsel tables, the clerk, the court reporter, and the Judge are spaced at least 6' apart to permit adequate social distancing. The bailiff will be seated near the exit, 6' away from the nearest juror.
2. For County Courts at Law, Voir Dire will be conducted in the 300th Judicial District Courtroom located in the Brazoria County Courthouse at 111 E. Locust Street, Angleton, Texas. The jurors, counsel tables, the clerk, the court reporter, and the Judge are spaced at least 6' apart to permit adequate social distancing. The bailiff will be seated near the exit, 6' away from the nearest juror.
3. Extra jurors for impaneling will be placed in the Brazoria County Commissioner's Courtroom in the Brazoria County Courthouse located at 111 E. Locust Street, Angleton, Texas. The jurors, counsel tables, the clerk, and the Judge are spaced at least 6' apart to permit adequate social distancing. The bailiff will be seated near the exit, 6' away from the nearest juror.

Trial

1. Trials will be held in each Judge's assigned courtroom located in the Brazoria County Courthouse at 111 E. Locust Street, Angleton, Texas. The jurors, counsel tables, the clerk, the court reporter, witness, and the Judge are spaced at least 6' apart to permit adequate social distancing. Specifically, the jurors will be seated in the jury box and the gallery to permit adequate social distancing. The bailiff will be seated near the exit, 6' away from the nearest juror.

2. If the a number of participants exceeds the space available in the Judge's courtroom, trial will be held at a large gym located across the street from the Brazoria County Courthouse located at 237 E. Locust Street Angleton, Texas. Chairs for the jurors, counsel tables, the clerk, witness, the court reporter, and the Judge are spaced at least 6' apart to permit adequate social distancing.

Jury Deliberation

1. Jury Deliberation will be held in the Judge's courtroom to allow for adequate social distancing.

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. Hand sanitizer will be available for jurors/participants to use after handling exhibits
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

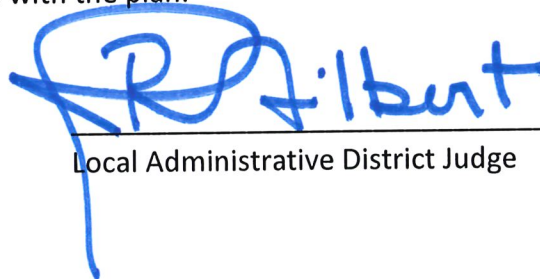
1. Courts that provide food to jurors or other participants during a jury proceeding will ensure individual food portions, such as individually boxed meals, are provided.

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: 10/1/2020

A handwritten signature in blue ink, appearing to read "R. J. Ibert", is written over a horizontal line. A vertical line extends downwards from the end of the signature.

Local Administrative District Judge

From: Anthony Rogers <AnthonyR@brazoria-county.com>

Sent: Tuesday, October 06, 2020 4:16 PM

To: Justin Gilbert <JGilbert@brazoria-county.com>

Subject: RE: Brazoria County - Jury Proceeding Addendum to COVID-19 Operating Plan; and Jury Service COVID-19 Pre Screening Questionnaire

Hi Judge Gilbert,

I approve the Addendum as sent. Looks like you and I will be communicating on a weekly basis going forward, at least for a while. At least we are starting to move forward, and figure out ways to get things done.

A. Scott Rogers,MD

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From: Cathy Hughes <cathyh@brazoria-county.com>

Sent: Friday, October 09, 2020 12:10 PM

To: Justin Gilbert <JGilbert@brazoria-county.com>

Subject: RE: Brazoria County - Jury Proceeding Addendum to COVID-19 Operating Plan; and Jury Service COVID-19 Pre Screening Questionnaire

Judge,

After review by the District Attorney's Office and the Judge, he has approved your plan. Please have someone schedule with our office for use of the Commissioner's Courtroom. We are using that courtroom for Sheriff's sale, Grand Jury, and other meetings scheduled by departments.

Thank you,

Cathy Hughes
Chief of Staff
County Judge's Office

COVID-19 NOTICE

Recognizing the need to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts, the courts of Brazoria County and Brazoria County have implemented an Operating Plan that includes the following protective measures:

1. **Screening**: When an individual enters the court building, a county employee will ask the individual if they are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individual(s) who indicate “yes” to any of these questions will be refused admittance to the court building.
2. **Face mask**: All individuals entering the court building will be required to wear face coverings at all times. Individuals will be encouraged to bring cloth face coverings with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided.
3. **Social Distancing**: All individuals will be required to maintain adequate social distancing of at least 6 feet.
4. **Hand Sanitizer**: Hand sanitizer dispensers have been placed at the entrances to the court building, outside of each courtroom, and outside of bathrooms.
5. **Cleaning**: Court building cleaning staff will clean the common areas of the court building so that common spaces are cleaned on a regular schedule throughout the day.
6. **Vulnerable Population**: 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 part of the vulnerable population. Individuals who are in the vulnerable population may contact the court to identify themselves as a vulnerable individual and receive accommodations.

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