

## SWP UPDATE ON COVID-19

April 13, 2020 - May 14, 2020

### COMPREHENSIVE LIST of COVID-19-RELATED ORDERS AND PROCLAMATIONS

#### GENERAL

##### • Texas state courts are suspending proceedings on a county by county basis.

- In order to facilitate court activities, the Office of Court Administration is providing Judges the ability to stream and host court proceedings via Zoom and YouTube.
- For a list of court and clerk's office closures, partial closures, and delays, visit <https://www.txcourts.gov/programs-services/court-security/emergency-court-preparedness/closures/>.

To access the **March 13, 2020 - April 13, 2020 list** please click the following link, [here](#).

#### May 14, 2020

- The Texas Supreme Court issued its fifteenth emergency order. Emergency Order 15 provides that for eviction proceedings filed from **March 27, 2020, through July 25, 2020**, a sworn petition containing "a description of the facts and grounds for eviction" required by Texas Rule of Civil Procedure 510.3(a)(2) must state that the premises are not subject to the moratorium on evictions imposed by Section 4024 of the CARES Act. Eviction hearings can be held as soon as **May 19**, with orders authorizing evictions allowed **starting May 26**. That does not apply to certain tenants who are protected through the federal CARES Act, including renters in homes covered by federally backed mortgages. Tenants covered under that federal moratorium have protections **through August 23**. Others may be protected through local orders, like those in place in Austin, Dallas and San Marcos.

- The Texas Supreme Court's sixteenth emergency order states that debt collectors can again garnish accounts starting on **May 26, 2020**.

- A state appeals court upheld a lower court's order that allows Texans who lack immunity to the novel coronavirus to qualify for mail-in ballots ahead of the upcoming elections.

- The U.S. Supreme Court denied a request from two inmates in a Texas geriatric prison to reinstate a trial judge's order instructing officials to take steps to protect them from the coronavirus pandemic.

#### May 12, 2020

- Texas Attorney General Ken Paxton's office warned officials in Austin, Dallas and San Antonio to roll back "unlawful" local emergency orders that impose stricter coronavirus restrictions than the state has issued – and hinted that there will be lawsuits if they do not. Local officials shot back that Paxton's letters mischaracterize their restrictions, which they said complied with Abbott's. Paxton took aim telling Dallas County it was wrong to warn law offices not to reopen as essential businesses and Austin that it can't require restaurants to trace contacts of their customers. In Dallas, a dispute between the County Judge and AG Ken Paxton broke out, and the result was confirmation that lawyers in Texas are indeed considered essential, and not necessarily subject to all the limitations of the Governor's order.

- Governor Greg Abbott issued a proclamation on extending his Disaster Declaration for all Texas counties in response to COVID-19. The Disaster Declaration, originally issued on **March 13 and extended on April 12**, provides the state with resources to respond to the COVID-19 pandemic.

- In two recent cases, federal judges in Texas have called into question the constitutionality of Gov. Greg Abbott's COVID-19 orders, saying the orders lacked specifics about important processes, and were sowing confusion among businesses. Houston Judges Lynn Hughes and Vanessa Gilmore did not rule the governor's regulations unconstitutional, but the judges did make a point in their orders—issued in two lawsuits by businesses suing the city of Houston over its enforcement of Abbott's virus orders—to express their thoughts about the constitutional infirmities of Abbott's decrees.

#### May 11, 2020

- Two voting rights advocates have filed a complaint with the Dallas County district attorney, alleging Attorney General Ken Paxton committed voter fraud in each of the state's 254 counties by contradicting a judge's order expanding the availability of mail-in voting during the pandemic. Travis County District Judge Tim Sulak on **April 17** issued a temporary injunction stating that any voter concerned about exposure to the coronavirus can avoid in-person voting and request a mail-in ballot by claiming a disability. Paxton, a Republican who has argued disability claims should be reserved only for those who currently fall under that category, wrote in a filing that same day that Sulak's order was automatically stayed when he filed an appeal that questioned whether the court had jurisdiction to hear the case. Paxton threatened to criminally prosecute local elections officials who use the judge's order to justify an expansion of mail-in voting. Dallas attorney David Coale agreed with Paxton's assessment that the April 17 order was stayed when Paxton appealed because of his plea to the jurisdiction. Texas is one of the few states where voters younger than 65 must have an excuse to cast a ballot by mail.

- Some Texas court data is currently offline after a ransomware attack on the Texas Office of Court Administration, which manages data for courts across the state.

- Dallas county revealed a new color-coded coronavirus recommendations chart to help guide residents on how, and when, they can participate in daily activities. The chart indicates four risk zones – red, orange, yellow and green. Red is the level of guidance Dallas County functions under current shelter in place orders. It translates to STAY HOME, STAY SAFE, only travel for essential needs, and restrict activities and gatherings, enhances protections for high-risk individuals such as the elderly, limits food service, and suggests no personal care services.

- El Paso leaders are asking for a COVID-19 exemption from upcoming orders by Gov. Greg Abbott aimed at reopening more Texas businesses. El Paso County Judge Ricardo Samaniego sent a letter to Abbott requesting the exemption, citing five reasons for slowing down the pace of reopening businesses in the county. The letter states in the county there is a disproportionate impact on minority populations, coronavirus cases are steadily increasing, the county hasn't reached its positive case peak, testing rates are low and the county is part of a multi-regional area. With that in mind, officials are asking "all current restrictions remain in place until El Paso County sees a downward trajectory of positive cases within a 14-day period or a downward trajectory of positive tests as a percent of total tests within a 14-day period," the letter states. The opening of gyms and exercise facilities, manufacturers and office-based employers should be delayed in the county until those markers are met. Additionally, further non-essential business reopenings and capacity expansion in already opened businesses should not be permitted until that downward trajectory is seen, the letter urges. In addition to Samaniego, the letter was signed by county commissioners, members of the El Paso delegation of the Texas Legislature and U.S. Rep. Veronica Escobar, D-El Paso, as well as the mayors of Horizon City, Vinton, San Elizario and Anthony.

- The El Paso City Council voted unanimously to extend a disaster declaration that gives Mayor Dee Margo the power to issue local directives to curb the spread of COVID-19 through **early June**. The council approved extending by an additional **30 days** an emergency ordinance that extended the disaster declaration first issued March 13. That ordinance was set to expire May 13.

- Gov. Greg Abbott directed state agencies to test 100 percent of residents and staff in Texas nursing homes for COVID-19. The directive went to the Texas Health and Human Services Commission, the Texas Division of Emergency Management and the Texas Department of State Health Services. The three were instructed to develop a plan based on the guidance of Vice President Mike Pence and Dr. Deborah Birx.

#### May 8, 2020

- All civil and criminal bench and jury trials in the U.S. District Court for the Western District of Texas are continued **through June 30th**. All grand jury proceedings are also continued through **June 30th**. Individual judges can continue to hold in person hearings, sentencing proceedings, and conferences, but council may seek relief from those matters by appropriate motions. Remote hearings are still encouraged.

#### May 7, 2020

- Governor Greg Abbott modified his executive orders related to COVID-19 to eliminate confinement as a punishment for violating these orders. These modifications are being applied retroactively.

- **Starting May 7**, Houston landlords can register for rent assistance to help those falling behind on rent. Houston city council members approved a \$15 million relief program aimed at helping renters make their payments in the midst of the COVID-19 crisis.

#### May 6, 2020

- The U.S. District Court for the Eastern District of Texas issued an order extending certain statutory deadlines for administrative and civil judicial forfeiture proceedings and actions identical to the order issued by the Southern District of Texas.

#### May 5, 2020

- Governor Abbott issued an Executive Order to expand openings of certain businesses and activities.

- Abbott clarified that dine-in restaurant occupancy limits do not apply to customers seated in outdoor areas of the restaurant

- On **May 8**, barbershops, nail salons, hairdressers, tanning salons, and swimming pools can reopen with some restrictions.

- Gyms and exercise facilities will be allowed to reopen starting **May 18** at 25% capacity with restrictions.

- Abbott said it was still too soon to reopen bars.
- Non-essential manufacturers will be allowed to reopen, effective **May 18**.

- Funerals, burials, memorials and weddings will all be treated the same as church services with limited seating arrangements.

- It is strongly encouraged that at-risk populations to try and watch or participate remotely.

- For the vulnerable populations, providers are recommended to designate an area for them.

- Alternate rows in a church setting and have an area of 6 feet spacing between people.

- Limit seating to household gatherings alone.

- At wedding receptions, the same type of practices should be used in receptions that are used in restaurants: 25% occupancy, no tables of more than six people and 6-foot separation between tables.

- Businesses in office buildings may reopen **May 18** with 25 percent of their total workforce.

- The public is still prohibited from visiting bars, tattoo studios, bowling alleys, amusement parks, water parks and massage parlors, per the executive order.

#### May 4, 2020

- Texas courts could resume nonessential proceedings in person as soon as **June 1**, according to new guidance from the state's Office of Court Administration. Jury trials could resume as soon as this summer, though state officials did not give a firm date. Currently, courts across the state have been directed to conduct all proceedings remotely, and only essential proceedings may be conducted in person if absolutely necessary. Before resuming in-person operations, courts must put together proper safety protocols, including requirements for social distancing and face masks.

#### May 2, 2020

- Harris County Judge Lina Hidalgo signed a new stay-home, work-safe order. Every person in the county shall still minimize in-person contact with people who are not in the same household, and all public or private gatherings of any number of people occurring outside a single household or living unit are strongly discouraged. Non-essential Harris County businesses and others that were not designated to reopen by Gov. Greg Abbott's executive order must remain closed through **May 20**. Hidalgo is also asking residents to report any businesses and/or restaurants which are violating Governor Abbott's order. Any businesses which have reopened and are now operating beyond 25% capacity can be reported.

#### April 29, 2020

- The Texas Supreme Court issued its Thirteenth Emergency Order, which allows those registered for the July Bar Exam to withdraw and register for a future exam and directs the Board of Law Examiners to consider additional changes if the July Bar Exam cannot be held due to COVID-19.

- The Texas Supreme Court issued its Fourteenth Emergency Order, which amends and extends the 10th Emergency Order regarding the collection of consumer debt. The order has delayed service for garnishment writs to collect collection debt under Texas Finance Code Section 392.001(2) until after **May 25, 2020**.

- Bexar County Judge Nelson Wolff extended his Stay Home, Work Safe Order through **May 19, 2020**. The order is consistent with Governor Abbott's executive order and mandates issued by the City of San Antonio. The order for Bexar County says gatherings are still prohibited beyond one's household and social distancing is still required in shared outdoor spaces or stores. People who violate the rule on gatherings can be fined or possibly face jail time. Local residents must also continue wearing face coverings in places that they cannot social distance from other people, like grocery stores or pharmacies.

- Mayor Ron Nirenberg and County Judge Nelson Wolff announced San Antonio's sixth declaration of a public health emergency, which stays-at-home measures and mandatory face coverings. All businesses that are not deemed essential by Gov. Abbott are required to stop operations and close. Those deemed essential must follow the limitations in Abbott's order.

#### April 27, 2020

- Gov. Greg Abbott said that he will let the state's stay-at-home order expire **April 30** as scheduled and allow businesses to begin reopening in phases the next day.

- Retail stores, restaurants, movie theaters and malls may open, but they will only be allowed to operate at 25% capacity.

- Museums and libraries will also be allowed to open at 25% capacity, but hands-on exhibits must remain closed.

- Abbott said a second phase of business reopenings could come as soon as **May 18** – as long as the state sees "two weeks of data to confirm no flare-up of COVID-19." That second phase would allow businesses to expand their occupancy to 50%.

- Abbott's new order supersedes all local orders.

- This order overrules any local government that wants to impose a fine or penalty for not wearing a mask – something the latest statewide rules encourage but do not mandate.

- Abbott stressed that his order "gives permission to reopen, not a requirement," and businesses can stay shuttered if they would like.

- Abbott is holding off on reopening certain businesses, including barbershops, hair salons, bars and gyms.

- Abbott established a different standard for rural counties with little coronavirus presence. Counties with five or fewer cases can effectively skip to the second phase and reopen businesses at 50% capacity.

- Abbott said his latest rules allow churches to "expand their capacity even more" as long as they follow social distancing practices.

- Abbott will allow outdoor sports as long as they are limited to four participants – allowing for sports like golf or tennis – and social distancing is also respected.

- All licensed health care professionals may return to work, with restrictions. Hospitals must keep 15% of their capacity for COVID-19 patients.

- The Supreme Court of Texas issued its Twelfth Emergency Order regarding the COVID-19 state of disaster. The order clarifies and amends the 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, and 11th Emergency Orders.

- Subject only to constitutional limitations, all courts in Texas may in any case, civil or criminal—and must to avoid risk to court staff, parties, attorneys, jurors, and the public—without a participant's consent:

- Modify or suspend any and all deadlines and procedures for a stated period ending **no later than 30 days after the Governor's state of disaster has been lifted;**

- Allow or require anyone involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, court reporter, or grand juror, but not including a petit juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means;

- 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;

- Conduct proceedings away from the court's usual location with reasonable notice and access to the participants and the public;

- Require every participant in a proceeding to alert the court if the participant has, or knows of another participant who has, COVID-19 or flu-like symptoms, or a fever, cough or sneezing;

- Take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.

- Courts must not conduct in-person proceedings contrary to guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions. Courts should use all reasonable efforts to conduct proceedings remotely.

- Any deadline for the filing or service of any civil case that falls on a day between March 13, 2020, and June 1, 2020, is **extended until July 15, 2020**. This does not include deadlines for perfecting appeal or for other appellate proceedings, requests for relief from which should be directed to the court involved and should be generously granted.

- In determining a person's right to possession of and access to a child under a court-ordered possession schedule in a Suit Affecting the Parent-Child Relationship, the existing trial court order shall control in all instances. The original published school schedule shall also control, and possession and access shall not be affected by the school's closure that arises from the pandemic.

- In any action for eviction to recover possession of residential property
  - No trial, hearing, or other proceeding may be conducted, and all deadlines are tolled, until after **May 18, 2020**.

- All deadlines, whether prescribed by statute, rule, or order, that expired or would have expired between March 13, 2020, and June 1, 2020, are **extended until July 15, 2020**:
  - in attorney professional disciplinary and disability proceedings; and
  - relating to the issuance or renewal of certifications, licenses, or registrations issued by the Judicial Branch Certification Commission, or for fulfilling mandatory continuing education.

- This order expires **June 1, 2020**.

#### April 25, 2020

- The CDC has added six new symptoms of COVID-19, including:

- Chills
- Repeated shaking with chills
- Muscle pain
- Headache
- Sorethroat
- New loss of taste or smell

- It had been previously reported that the symptoms, which range from mild to severe, were fever, cough and shortness of breath or difficulty breathing.

#### April 23, 2020

- The Texas Supreme Court ruled in favor of Gov. Greg Abbott's order restricting jail release during the coronavirus pandemic.

- Gov. Greg Abbott said he is not ready to mandate masks in Texas.

- The Galveston City Council voted to reopen beaches for only three hours each morning from 6 a.m. to 9 a.m. for pedestrian exercise only, **effective Monday, April 27, 2020**.

- Dallas County issued an amended order regarding long-term care facilities. The order is in effect until **May 15, 2020**, or until it is rescinded, superseded, or amended pursuant to applicable law. The Order makes the following change:
  - Currently, LTCF that have confirmed cases of coronavirus cannot accept new patients unless certain conditions are met. The revised Order allows LTCFs to accept a new patient if that patient is being transferred from a facility closed by the State.
  - Revises social distancing guidelines.

- Thousands of struggling San Antonio families who qualify will be able to get help with paying bills after the City Council approved a \$25 million COVID-19 Emergency Housing Assistance Program.

#### April 22, 2020

- Harris County Judge Lina Hidalgo issued an order requiring residents ages 10 and over to wear some sort of protective face covering when in public for **30 days, effective April 27**.

- The Civil Division of Harris County District Courts has adopted this First Amended Alternate Schedule:
  - Submission Dockets will proceed as scheduled.
  - Telephonic and Video Hearings will proceed as scheduled.

- All previously set, non-essential in-person, oral (non-telephonic) hearings and dockets are cancelled. Please contact the Court to reschedule your oral hearing for a later date or alternative method, unless the Court has already contacted you. Courts will consider conducting an oral (non-telephonic) hearing if: (1) all parties agree that such a hearing is necessary; (2) the parties file an agreed motion requesting an oral hearing; and (3) the motion sets forth a compelling reason supporting the request and explaining why no other means is adequate to resolve the issue for which the parties seek an oral hearing.

- All Essential Court Matters (temporary restraining orders, temporary injunctions, Chapter 33 and Chapter 81) will proceed as scheduled. Contact the specific Court regarding the details of when and where the hearing will proceed. If a party believes their hearing needs to be classified as an Essential Matter, please contact the specific Court.

- All tax court proceedings are cancelled.

- This First Amended Alternate Schedule shall be in place until **June 1, 2020** or until the Board of District Judges – Civil Division amends or suspends this schedule. If any Court wishes to opt out of this First Amended Alternate Schedule, the Court Administrator shall post those specific Courts' procedures to Justex.net.

- The U.S. District Court for the Northern District of Texas issued Special Order No. 13-11. This order extends continuances under Special Order Nos. 13-5 and 13-6 **through May 31, 2020**, except as otherwise provided in the order. All jury trials have been continued until at least **May 31, 2020**.

- The U.S. District Court for the Eastern District of Texas issued General Order 20-09, which extends General Orders 20-05, 20-06, and 20-07 **until May 31, 2020**. The Grand Jury for 2020, District shall be authorized to convene and meet for one day in Tyler, Texas on **May 20, 2020**; however, unless subsequently authorized, other proceedings of the Grand Jury shall be continued during the application and effect of this general order. Jury trials are continued **through May 31, 2020**, and the General Order regarding the CARES act including the use of video and telephone conference for various criminal events during the COVID-19 emergency is extended through **May 31** as well.

- A Texas state court judge charted a new path for trials during the coronavirus pandemic when he held a one-day bench trial through videoconferencing service Zoom, overcoming technical difficulties to hear a dispute over roughly \$96,000 in attorney fees stemming from an insurance case. Harris County Judge Beau Miller made the move to hold the trial online after the Texas Supreme Court issued a pair of emergency orders mandating that all hearings be conducted remotely for the time being. Judge Miller noted that more than 2,000 viewers had watched portions of the trial throughout the day.

- Coronavirus-related abortion restrictions have lifted in Texas, now that the governor's order suspending non-essential medical procedures has eased.

- The Texas Workforce Commission advised self-employed, contract and gig workers who have lost work due to the COVID-19 pandemic to apply for Pandemic Unemployment Assistance using Unemployment Benefits Services.

#### April 21, 2020

- All jury trials in Hidalgo County are cancelled until **June 1, 2020**.

#### April 20, 2020

- The Fifth Circuit backtracked its ruling on medication abortion in a 2-1 opinion, arguing that Texas has a right to ban medication termination because "the constitutional right to abortion does not include the right to the abortion method of the woman's (or the physician's) choice."

#### April 18, 2020

- All Southern District of Texas courthouses remain closed to the public. The complete closure of the Houston courthouse has been **extended until Monday, April 27** (see Special Order H-2020-12). Despite the physical closures, The United States District Court for the Southern District of Texas remains open for official business. The court's Electronic Case Filing (ECF) system is not affected by the courthouse closures, and hearings are being conducted remotely by video and telephone conferencing.

#### April 17, 2020

- Many of Texas' biggest urban cities and counties, including Dallas County, San Antonio, Travis County/Austin, Laredo, and Hidalgo, have issued orders requiring that people wear face coverings in public.

- Gov. Greg Abbott announced that a team topped by state elected officials and four doctors will begin the likely slow process of restarting the Texas economy. Abbott said his executive order will start the process to re-fire the economy and open businesses. Retailers that can open with to-go capabilities will be allowed to do so next week. Prohibitions on elective medical procedures will be lifted so doctors can get back to business. State parks will also reopen, but with bans on large crowds. Schools will remain closed across Texas. The "strike force" tasked with restarting the Texas economy will be topped by state elected leaders, along with a cabal of business owners. Leading the strikeforce will be Lt. Gov. Dan Patrick, House Speaker Dennis Bonnen, Attorney General Ken Paxton and Comptroller Glenn Hegar. They will be advised by several health and business experts, including Houston's Jim "Mattress Mack" McIngvale and Tilman Feritta. The team will return in 10 days with more details on next steps. That strikeforce will be working over the next 10 days to develop more plans to slowly open the economy while keeping the integrity of social distancing and slowing the spread of COVID-19.

#### April 16, 2020

- President Trump indicated that he will begin allowing states with less exposure than others to start opening up again, perhaps as early as within the next two weeks.

#### April 15, 2020

- Harris County District Courts have suspended jury service **through May 31** due to the coronavirus pandemic of limitations in civil cases and take other actions, as needed, to avoid the coronavirus threat.

To view all our updates, please visit our COVID-19 Resource Center at [www.sheehyware.com/announcements/](http://www.sheehyware.com/announcements/)

Should you need specific/additional information about a county or court not listed above, please contact the author, Meggie Parks at [mparks@sheehyware.com](mailto:mparks@sheehyware.com)