

**EXTENSION OF
FIRST AMENDMENT TO ORDER NO. 17
BY THE COUNTY JUDGE OF EL PASO, TEXAS**

DATE ORDER ISSUED: July 29, 2021

WHEREAS, on May 18, 2021, Governor Abbott issued Executive Order No. 36 (“GA-36”) which barred governmental entities, including a county, city, school district, public health authority, and governmental official from requiring any person to wear a face covering or to mandate that another person wear a face covering; and

WHEREAS, on May 21, 2021, in response to Governor Abbott’s restrictions on county and government officials, I issued County Order No. 17 which calls on each El Pasoan to save lives and avoid setback by wearing a face covering and maintaining social distancing; and

WHEREAS, on May 26, 2021, the Texas Supreme Court issued Emergency Order No. 38 (“SC-38”), which authorized the chief justice of the court of appeals and the local administrative district judge to adopt minimum standard health protocols in order to resume in-person court-proceedings; and

WHEREAS, on June 1, 2021, Judge Linda Chew, local administrative district judge, issued the 2021 COVID-19 Minimum Health Standards Protocols for the El Paso County, Texas Judiciary; and

WHEREAS, on June 2, 2021, I issued the First Amendment to Order No. 17 (the “First Amendment”) to recognize and allow compliance with the Minimum Health Standards Protocols adopted by the local administrative judge; and

WHEREAS, the First Amendment is scheduled to terminate on August 1, 2021; and

WHEREAS, on July 19, 2021, the Texas Supreme Court issued Emergency Order No. 40 (“SC-40”) which authorized the local administrative judge to readopt local plans and minimum standard health protocols; and

WHEREAS, on July 29, 2021, Judge Chew readopted and amended the 2021 COVID-19 Minimum Health Standards Protocols for the El Paso County, Texas Judiciary; and

WHEREAS, I hereby extend my First Amendment to County Order No. 17 to allow for continued compliance with the Minimum Health Standards Protocols adopted by the local administrative judge; and

WHEREAS, since the adoption of County Order No. 17, El Paso has once more begun to see an uptick in COVID-19 cases, and the highly transmissible Delta variant has become the predominant COVID-19 strain in the United States; and

WHEREAS, the CDC notes that COVID-19 vaccines are highly effective against hospitalization and death for a variety of COVID-19 strains; however, data suggests lower effectiveness against Beta, Gamma, and Delta variants, and cite an on-going risk for COVID-19 break through infections even among fully vaccinated people; and

WHEREAS, on August 2, 2021 El Paso's three largest public school districts join other area schools in resuming in-person learning, and

WHEREAS, children under the age of 12 remain ineligible to receive the COVID-19 vaccine; and

WHEREAS, this week, the CDC said that schools are an area with high risk of transmission and recommends that everyone in K to 12 schools, including teachers, staff, students and visitors, wear a mask indoors; and

WHEREAS, in addition to the CDC guidance for all individuals to wear masks indoors in schools, the Texas State Teachers Association is also calling on Governor Abbott to "withdraw his prohibition on mask mandates and allow individual school districts to require mask use in their facilities if local officials believe masks will help protect the health of their communities as schools reopen for the fall semester"; and

WHEREAS, local officials in El Paso have expressed their belief that masks will help protect the health of the El Paso community as schools reopen for the fall semester. The El Paso Department of Public Health, the Mayor of the City of El Paso, and I, among other local officials, have all issued orders strongly encouraging the use of face masks to protect the health of the El Paso community. Most recently, the El Paso Department of Public Health issued an order on July 19, 2021, whereby it strongly recommends, for a safe return to school, that unvaccinated individuals continue to wear face masks and that no student be discouraged from wearing a face mask; and

WHEREAS, the statement from the Texas State Teachers Association also provides that "[e]ducators are eager to return to the classroom, but the pandemic is still dangerous. With COVID-19 cases increasing again and many people still unvaccinated, the American Academy of Pediatrics has recommended that everyone older than 2 wear a mask when they go back to school. Children younger than 12 have not yet been approved for the COVID vaccine"; and

WHEREAS, the Texas State Teachers Association statement concludes by saying "[i]f Gov. Abbott really cares about the health and safety of Texas students, educators and their communities, he will give local school officials and health experts the option of requiring masks in their schools"; and

WHEREAS, I stand in solidarity and support the urgent requests from the Texas State Teachers Association, local El Paso leaders, and the CDC to make a plea to Governor Abbott to revise his order to allow local school districts to have an option to require mask use in their facilities to protect vulnerable students, educators, staff and the community; and

WHEREAS, additionally, despite the recent national spike in COVID-19 cases, Dr. Rochelle Walensky, the CDC Director, gave Americans reason to rally when she said that we can halt the chain of transmission if we unify together, if we get people vaccinated who are not yet vaccinated, and if we mask in the interim; and

WHEREAS, because El Pasoans stand ready to join the national effort to curb the recent increase in COVID-19, and to prevent El Paso from falling into an area with “substantial or high transmission,” I continue to call on all El Pasoans to heed Order No. 17 and wear face coverings when inside a commercial entity or other building or a space open to the public and maintain social distancing.

NOW THEREFORE, I, COUNTY JUDGE FOR EL PASO COUNTY, TEXAS, PURSUANT TO THE AUTHORITY VESTED BY TEXAS GOVERNMENT CODE CHAPTER 418, HEREBY FIND AND ORDER:

1. County Judge Order. No. 17, which urges all El Pasoans to continue to wear a face covering and maintain social distancing, as amended, shall remain in full force and effect unless superseded by a conflicting state or federal law or order.
2. The First Amendment to Order No. 17 shall incorporate by reference the 2021 COVID-19 Minimum Health Standards Protocols for the El Paso County, Texas Judiciary, as readopted and amended by the local administrative judge on July 29, 2021, and attached hereto as Exhibit A.
3. The First Amendment to Order No. 17 shall remain in effect through October 1, 2021, unless amended, extended or terminated prior to such date.

ORDERED THIS 29 of July, 2021.

COUNTY OF EL PASO, TEXAS



Ricardo A. Samaniego,
El Paso County Judge

EXHIBIT A

2021 COVID-19 Minimum Health Standards Protocols for the El Paso County, Texas Judiciary July 29, 2021

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 El Paso County will implement the following protective measures at the courthouse:

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 proceedings according to the guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.
2. All individuals entering the courthouse will be required to wear face coverings in common areas at all times unless otherwise requested by a judge, a law enforcement officer, justice of the peace or other court officer. Common areas at the courthouse include lobbies, hallways, elevators, public bathrooms and other areas. They do not include offices or office suites that are not generally used by the public.
3. Face coverings are required in courtrooms and court chambers unless the judge grants permission to remove them.
4. All judges will continue to use reasonable efforts to conduct proceedings remotely.
5. The Local Administrative Judge will maintain regular communication with the local health authority and County Judge and adjust this operating plan as necessary with conditions in the county.
6. The El Paso Courts are committed to maintaining open courtrooms but recognize that there are various ways of providing public access to court proceedings. Given the reduced capacity of courtrooms and the need to comply with health and safety requirements, at times only trial participants can be seated in the courtroom. At other times a limited number of seats may be available in the courtroom, or in an additional courtroom available for spectators. Public access to proceedings may also be provided via live stream on the court YouTube channel.
7. Judges may, in their discretion, exceed these Minimum Health Standards Protocols.

Judge and Court Staff Health

1. Judges and court staff may continue to perform the essential functions of their job remotely.
2. Judge and Court Staff Monitoring Requirements: employees will inform supervisors or their judge if they manifest symptoms of COVID-19 or another illness or if they have had contact with a person with confirmed COVID-19 or traveled such that self-quarantine is required or warranted. A judge shall inform the Local Administrative Judge.
3. Judges or court staff who feel feverish or have measured temperatures equal to or greater than 100°F, or with new or worsening signs or symptoms of COVID-19 such as 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 should not enter the building and should seek medical advice.

4. Judges and court staff in the courthouse should continue to practice social distancing.
5. Protective Measures: judges and court staff should continue to work remotely when feasible and in accordance with rotation schedules to continue the operation of the courts.

Scheduling

1. Jail inmate and probation plea videoconferencing dockets will continue as shown on Exhibit A. Judges may, when necessary, schedule in-person proceedings during the times allotted. These guidelines for the scheduling of court hearings are established to diminish the spread of COVID-19 and comply with social distancing recommendations by reducing the number of individuals who need to be in the courthouse at any given time.
2. **In-Person Proceedings.** In-person proceedings may be held subject to the following limitations:
 - a. **Courts shall only be allowed to conduct in-person hearings on their assigned day.** The assigned day for in-person hearings for each court is set out on the Courthouse Schedule for In Person Hearings attached as Exhibit B.
 - b. Attorneys are encouraged to provide court coordinators (via email) with a list of parties, witnesses and support staff who will attend each in-person hearing prior to the hearing. Attorneys are also strongly encouraged to discuss these rules with their clients and their families.
 - c. Social distancing may be required in courtrooms and capacity limitations are posted. Since space is limited, non-essential individuals may not be able to enter the courtroom.
 - d. An in-person proceeding may not be held if any of the participants is (1) symptomatic, (2) still in isolation, (3) residing in a household with another person who is positive for COVID-19, or (4) awaiting test results for COVID-19.
 - e. A court must require every participant in an in-person proceeding to alert the court if the participant has, or knows of another participant who has: (i) COVID-19 or a 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, or diarrhea; or (ii) recently been in contact with a person who is confirmed to have COVID-19 or exhibiting the symptoms described above.
 - f. Upon request and good cause shown by a court participant other than a juror— including but not limited to a party, an attorney, a witness, or a court reporter—a court must permit the participant to participate remotely in any proceeding, subject to constitutional limitations.
 - g. A court will notify courthouse security when people will be entering the courthouse for an in-person hearing or other essential matter.
 - h. Courts must provide for an open court and make accommodation for the public.

3. Courts and attorneys are strongly encouraged to protect vulnerable individuals and those who live with or take care of vulnerable individuals. Deposition testimony or video testimony is strongly encouraged for vulnerable individuals.
4. Jury trials may be scheduled with the approval of the Local Administrative Judge. Jury trials will follow the requirements of the Jury Trial Procedures adopted by the Courts on July 29, 2021.

Vulnerable Populations

1. Individuals who are over the age of 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 will include information on orders setting hearings, dockets 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.
3. Vulnerable populations who are scheduled for court will be accommodated by setting the proceeding to minimize contact with other populations potentially at a lower risk and more likely to be asymptomatic.

Screening

1. When individuals attempt to enter the court building, courthouse security officers will admit participants scheduled for that day.
2. Signs are posted asking those who feel feverish, have a cough, shortness of breath or other COVID-like symptoms not to enter the courthouse.
3. Inmates being transported from the jail to the court building will be screened for symptoms of COVID-19. Inmates with symptoms will not be transported to the court building.

Social Distancing

All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet. No more than four (4) individuals who are NOT from the same household will be permitted in an elevator in the parking garage or the main courthouse elevator bank. If more than four (4) individuals from the same household are in an elevator, no other individuals will be allowed in the elevator.

Gallery

1. The maximum number of persons permitted in each courtroom must be determined and posted. The maximum capacity of the courtroom will be monitored and enforced by court staff.
2. The gallery of the courtroom must be marked to identify appropriate social distancing in the seating. Seating is limited to every other row.

Well

In each courtroom, the counsel tables, witness stand, judge's bench, and clerk, court reporter, and bailiff seating have been arranged in such a way so that there is social distancing of at least six (6) feet between each space.

Handling of Evidence

Judges should direct participants to minimize direct contact with physical evidence and documents and use a projection system to present admitted exhibits. Courts should offer gloves and/or sanitizer to anyone handling evidence.

Cleaning

1. Courthouse staff will clean the common areas of the court building so that common spaces are cleaned at least every four (4) hours.
2. Restrooms will be cleaned and restocked according to an established schedule.
3. Court staff have been provided cleaning supplies shown to be effective with this coronavirus.

Jail Magistrate Court

The Jail Magistrate Court is housed within the jail and subject to infectious disease protocols implemented by the Sheriff. Hearings will continue to be conducted remotely when possible, and requirements for face coverings and social distancing will continue.

I have attempted to confer with all judges of the county, district, probate, justice of the peace, and magistrate courts in El Paso County regarding these Minimum Health Standards Protocols. In developing the plan, I consulted with the local health authority and County Judge. I will ensure that the judges of courts with courtrooms in the court building covered by this Minimum Health Standards Protocols conduct proceedings consistent with the plan and will monitor pandemic conditions and regularly consult with the El Paso Department of Public Health and county officials. If necessary to protect the health of the public, court officers, judges, or county staff, I will revise, rescind and republish these protocols.

Date: July 29, 2021



Judge Linda Yee Chew
Local Administrative District Judge

EXHIBIT A

	Monday		Tuesday		Wednesday		Thursday		Friday	
	Jail	Plea Center	Jail	Plea Center	Jail	Plea Center	Jail	Plea Center	Jail	Plea Center
8AM - 10AM	243rd	MISD	409th	MISD	384th	MISD	346th	MISD	171st	MISD
10AM - 12PM	MISD	243rd	MISD	409th	MISD	384th	MISD	346th	MISD	41st
1PM - 3PM	DCR1	MISD	41st	210th /MISD	120th	MISD	205th	34th /MISD	168th	MISD
3PM - 5PM	Family	DCR1	210th	171st	384th Comp	120th	34th	205th	384th Comp	168th

EXHIBIT B

Courthouse Schedule for
In-Person Hearings:

COURTS	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
3rd Floor					
JUSTICE OF THE PEACE #3	X				X
4th Floor					
CRIMINAL DISTRICT COURT #1	X				X
PROBATE COURT #2	X				
COUNTY CRIM. CRT. AT LAW #3		X		X	
409TH DISTRICT COURT		X	X		
448TH DISTRICT COURT			X	X	
6th Floor					
120TH DISTRICT COURT	X	X			
168TH DISTRICT COURT	X				X
171ST DISTRICT COURT			X	X	
327TH DIST COURT & TAX COURT			X		X
TITLE IV-D ONE COURT				X	
TITLE IV-D TWO COURT		X			
7th Floor					
346TH DISTRICT COURT		X		X	
COUNTY CRIM COURT AT LAW #1			X		X
COUNTY CRIM COURT AT LAW #2	X		X		
COUNTY CRIM COURT AT LAW #4		X		X	
8th Floor					
COUNTY COURT AT LAW #1			X	X	
COUNTY COURT AT LAW #2		X		X	
COUNTY COURT AT LAW #4	X		X		
COUNTY COURT AT LAW #5		X			X
COUNTY COURT AT LAW #7	X				X
9th Floor					
34TH DISTRICT COURT	X				X
243RD DISTRICT COURT		X		X	
384TH DISTRICT COURT			X	X	
388TH DISTRICT COURT	X		X		
ASSOC FAMILY COURT #1		X			X
JURY DUTY COURT					
10th Floor					
41ST DISTRICT COURT		X		X	
205TH DISTRICT COURT			X	X	
210TH DISTRICT COURT		X	X		
COUNTY COURT AT LAW #3	X				X
PROTECTIVE ORDER COURT	X				X
11th Floor					
65TH DISTRICT COURT		X			X
JUVENILE COURT			X		
383RD DISTRICT COURT	X			X	
COUNTY COURT #6 & TAX COURT		X		X	
ASSOC FAMILY COURT #2	X		X		
ASSOC FAMILY COURT #4		X			X
12th Floor					
PROBATE COURT #1		X			
EIGHTH COURT OF APPEALS					
TOTAL COURTS	14	16	14	14	13