

**FIRST RECERTIFIED COVID-19 OPERATING PLAN**  
**FOR THE MONTGOMERY COUNTY JUDICIARY**

In order to balance the need to protect the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the courts with the necessity that parties and members of the public are able to exercise their fundamental right to access and use the court system, the following measures are hereby implemented for the courts of Montgomery County:

**General**

1. All judges should comply with the Emergency Orders issued by the Supreme Court of Texas and/or Court of Criminal Appeals, as applicable.
2. As long as may be permitted by the Supreme Court of Texas and/or Court of Criminal Appeals, as applicable, all judges should conduct proceedings remotely unless Constitutional limitations require in-person proceedings and/or the judge has determined that an in-person proceeding is necessary. Factors for each judge to consider when determining when an in-person proceeding is necessary include, but are not necessarily limited to, (a) the inability of parties/attorneys to participate remotely, (b) the nature and/or significance of the proceeding, (c) the possible outcomes resulting from the proceeding, and (d) a determination by the judge that the credibility of the evidence from an in-person proceeding would be significantly greater than from a remote proceeding weighed against the COVID risk of an in-person proceeding and/or the potential harm of delaying said proceeding.
3. The local administrative district judge will maintain regular communication with the local health authority and county judge and adjust this operating plan as necessary with conditions in Montgomery County.
4. Judges should begin setting non-essential in-person proceedings no sooner than June 1, 2020.

**Judge and Court Staff Health**

1. Judges 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 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.
2. 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 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 immediately inform his/her presiding judge, should not enter the building and should seek medical advice.

3. Judges and court staff will be provided face coverings, and are encouraged to practice social distancing and appropriate hygiene recommendations at all times. Until such time as Executive Order No. GA-29 is modified, amended, rescinded or superseded, judges and court staff (unless excepted by Executive Order No. GA-29) will be required to wear a face covering over their nose and mouth unless working alone in his/her private office.

4. Judges and court staff are encouraged to clean and disinfect frequently touched objects and surfaces in their courtroom(s) and offices.

### **Scheduling**

1. The following district courts (9<sup>th</sup>, 221<sup>st</sup>, 359<sup>th</sup> and 435<sup>th</sup>) should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.

2. The following county courts at law (CCL1, CCL2, CCL 4 and CCL5) should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.

3. The following district courts and county court at law (284<sup>th</sup>, 410<sup>th</sup>, 418<sup>th</sup> and CCL3) and any courts utilizing the overflow courtrooms in the main courthouse should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.

4. The Ninth Court of Appeals, the Title IV-D court and any courts utilizing the overflow courtroom or the jury assembly room in the Keeshan building should coordinate with each other regarding the scheduling of in-person proceedings in order to reduce the number of people in the building where these courts are located at one time.

### **Vulnerable Populations**

1. Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, heart conditions, liver disease, kidney 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 should 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 discuss appropriate accommodations. A notice with this information should be posted on each court's website and will also be placed in conspicuous locations in and around the court buildings (a copy of which is attached hereto as Exhibit "A").

3. Any court in which a member of the vulnerable population is scheduled to appear in-person should make accommodations for such person that could include limiting the appearance of such individual, scheduling such appearance at a time when no other matters are being heard in order to minimize the number of people in the vicinity of such person, providing such person with a face mask, tissue, access to hand sanitizer, etc.

### **Social Distancing**

1. All persons not from the same household who enter any court building will be required to maintain adequate social distancing of at least 6 feet.

2. No more than two individuals at one time will be permitted in an elevator and will be required to maintain adequate social distancing of at least 6 feet.

3. Each public restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted near each restroom door.

### *Gallery*

4. The judge of each court will determine the maximum number of persons permitted in the gallery of each courtroom and should post such information outside and within said courtroom. The maximum capacity of the courtroom will be monitored and enforced by court staff.

5. The judge of each court will ensure that appropriate social distancing for the seating area within the gallery of the courtroom is monitored and enforced by court staff.

### *Well*

6. The judge of each court will ensure that appropriate social distancing for the counsel tables, witness stand, judge's bench, clerk, court reporter and bailiff is monitored and enforced by court staff.

### **Hygiene**

1. Hand sanitizer dispensers have been placed at the entrances to each building, outside of the elevators on each floor of each building, outside of public bathrooms in each building, near all vending machines, outside of each courtroom, and within each courtroom.

2. The judge of each court will ensure that tissues have been placed inside the courtroom, at counsel tables, at the witness stand, and on the judge's bench.

3. The Department of State Health Service's "Stop the Spread of Germs Flyer" has been posted in multiple locations on each floor of the court buildings.

## **Screening**

1. When an individual attempts to enter a court building, he/she will be instructed to disclose to county personnel if he/she is feeling feverish; has a cough, shortness of breath, or difficulty breathing; or has been in close contact with a person who is confirmed to have COVID-19. Individuals making such a disclosure, subject to the next paragraph, will be refused admittance to the court building and will be directed to contact the applicable court regarding his/her situation.
2. Every individual attempting to enter a court building will have his/her temperature taken by county personnel. Individuals whose temperature equals or exceeds 100.0°F will be refused admittance to the court building and will be directed to contact the applicable court regarding his/her situation.
3. Inmates to be transported from the jail to any court building will be screened for symptoms of COVID-19 and will have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 99.6°F will not be transported to the court building, and the Sheriff's Department shall contact the applicable court regarding each inmate who was not transported.
4. Staff who are screening individuals attempting to enter a court building will be provided personal protective equipment, including face masks, gloves, tissue and hand sanitizer.

## **Face Coverings**

1. All individuals entering a court will be offered a free, disposable face mask if they do not already have their own face covering.
2. Until such time as Executive Order No. GA-29 is modified, amended, rescinded or superseded, all participants (judges, court staff, attorneys, parties, witnesses, prospective jurors, jurors, alternate jurors, etc.)(unless excepted by Executive Order No. GA-29) will be required to wear a face covering over their nose and mouth when inside a court.
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 and/or remain immobile and appropriately socially distanced. When speaking, the judge of each court will permit a court participant to lower his/her mask so long as a face shield is worn and the person speaking is immobile and appropriately socially distanced.

## **Cleaning**

1. Court building cleaning staff will clean the common areas of each court building so that common spaces are regularly disinfected during working hours of each business day.
2. The judge of each court will ensure that frequently touched objects and surfaces within the courtroom are regularly disinfected during working hours of each business day.

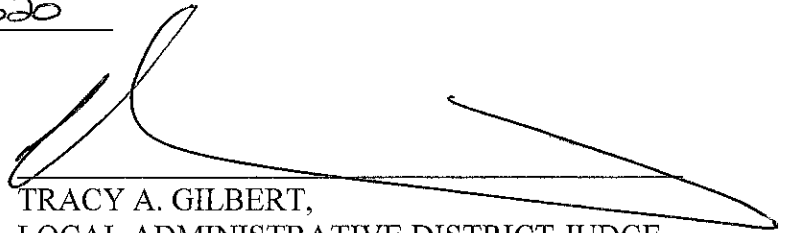
3. Court building cleaning staff and court staff have been provided cleaning supplies shown to be effective with this coronavirus.

4. Court building cleaning staff and court staff will be provided with appropriate cleaning supplies and personal protective equipment, such as face masks, tissue and hand sanitizer.

**Other**

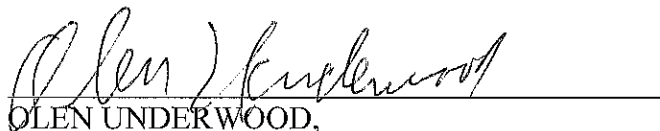
This First Recertified Operating Plan has been created based upon the facts, circumstances and current guidance related to COVID-19. I have conferred with all judges of courts with courtrooms in the court buildings regarding this First Recertified Operating Plan and/or its predecessor. In developing this plan and/or its predecessor, I have consulted with, and received the approval of, the County Judge and the local health authority, documentation of which is attached to this plan as Exhibits "B," "C" and "D," respectively. I will encourage that the judges of courts with courtrooms in the court buildings covered by this First Recertified Operating Plan conduct proceedings consistent with this plan.

SIGNED on December 22, 2020



TRACY A. GILBERT,  
LOCAL ADMINISTRATIVE DISTRICT JUDGE  
MONTGOMERY COUNTY, TEXAS

SUBMISSION ACKNOWLEDGED ON THE 22 DAY OF DECEMBER, 2020:



OLEN UNDERWOOD,  
PRESIDING JUDGE FOR THE SECOND  
ADMINISTRATIVE JUDICIAL REGION OF TEXAS

# Vulnerable Populations

Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, heart conditions, liver disease, kidney 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.

Any individual who considers himself/herself to be a member of such vulnerable populations should contact the applicable court and identify himself/herself as a vulnerable individual and discuss appropriate accommodations.



501 N. Thompson, Suite 401  
Conroe, TX 77301  
E-Mail: [cojudge@mctx.org](mailto:cojudge@mctx.org)

**MARK J. KEOUGH**  
COUNTY JUDGE  
MONTGOMERY COUNTY

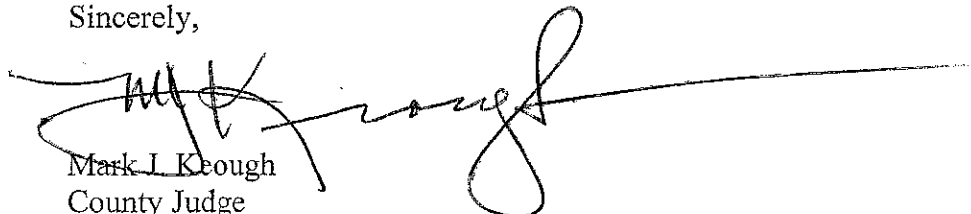
Conroe: (936) 539-7812  
Houston: (281) 364-4285  
Fax: (936) 760-6919

May 26, 2020

To Whom It May Concern:

I am the County Judge of Montgomery County, Texas I have met with Tracy A. Gilbert, Local Administrative Judge for the District Courts of Montgomery County, Texas, regarding the COVID-19 Operating Plan for the Montgomery County Judiciary ("the Operating Plan"). After consulting with Judge Gilbert, I do hereby approve of the Operating Plan.

Sincerely,



Mark J. Keough  
County Judge

EXHIBIT "B"



Date: May 26, 2020

To Whom It May Concern:

I am the Chief Operating Officer for the Montgomery County Hospital District, which oversees the Public Health District for Montgomery County. I have met with Tracy A. Gilbert, Local Administrative Judge for the District Courts of Montgomery County, Texas, regarding the COVID-19 Operating Plan for the Montgomery County Judiciary ("the Operating Plan"). After consulting with Judge Gilbert, I do hereby approve of the Operating Plan.

Sincerely,

Melissa Miller

EXHIBIT "C"





**Public Health**  
Prevent. Promote. Protect.

**Montgomery County**  
Public Health District

December 22, 2020

To Whom It May Concern:

I am the Chief Operating Officer for the Montgomery County Hospital District, which oversees the Public Health District for Montgomery County. I have met with Tracy A. Gilbert, Local Administrative District Judge for Montgomery County, Texas, regarding the First Recertified COVID-19 Operating Plan for the Montgomery County Judiciary (“the First Recertified Operating Plan”), and its predecessor, and the First Recertified COVID-19 Operating Plan for Conducting Jury Trials for the Montgomery County Judiciary (“the First Recertified Jury Plan”), and its predecessor. Modifications have been made to the prior operating plans as has been requested by Dr. Charles Sims, Local Health Authority and Medical Director of the Montgomery County Public Health District Clinic.

Given local COVID conditions, I do hereby certify that the First Recertified Operating Plan and the First Recertified Jury Plan provide sufficient health and safety protocols to permit in-person proceedings and jury proceedings. Additionally, I do hereby approve of the First Recertified Operating Plan and the First Recertified Jury Plan.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Miller". The ink is dark and the signature is fluid and legible.

Melissa Miller