

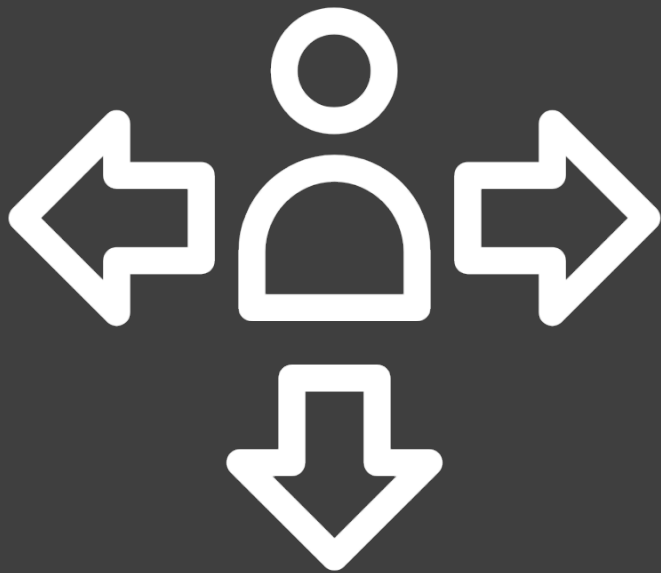
COVID and the Courts

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Texas Office of Court Administration

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OCA MISSION
To Provide
Resources and Information for
the Efficient Administration of
the Judicial Branch of Texas.

Texas Judicial Council

- Policy-making body for the state judiciary.
- Created by statute in 1929.
- The Council studies methods to simplify judicial procedures, expedite court business, and better administer justice.
- It examines the work accomplished by the courts and submits recommendations for improvement of the system to the Legislature, the Governor and the Supreme Court.
- Composed of 16 ex-officio and six appointed members.
- Chaired by the Chief Justice of the Supreme Court with the Presiding Judge of the Court of Criminal Appeals as Vice-Chair.



Emergency Orders

- On March 13, Texas Supreme Court and Texas Court of Criminal Appeals used emergency powers under Section 22.0035(b), Texas Government Code, to issue first COVID-19 Emergency Order
 - Order permitted all courts in all cases, without a participant's consent, to modify or suspend deadlines, allow or require remote participation by anyone involved in a hearing or proceeding (except jurors), conduct proceedings away from the court's usual location, and permitted courts to extend the statute of limitations
- 27 Emergency Orders issued during pandemic
- 4 still in effect related to:
 - Extending Statute of Limitations/Prohibiting Certain Trials
 - Related to CDC Moratorium on Evictions
 - Extending Payment of Bar Dues through October 31, 2020
 - Creating Texas Eviction Diversion Program



Judiciary's Response to COVID-19

- March 12 – OCA recommends suspending to 4/1 – pushed to 6/1
- March 13 – Emergency Order #1 Issued - Remote Hearings Authorized
- March 24 – Courts start using Zoom licenses
- May 4 – Guidance for In-Person Hearings issued
- May 8 – First fully virtual jury trial held
- May 27 – In Person Jury trials prohibited through 8/1 – pushed to 10/1 unless permission by OCA
- June 18 – First In-Person jury trial
- August 28 – OCA report on jury trials issued
- Sept 18 – Emergency Order #26 Issued – Jury Trials Permitted on 10/1 for district/county courts with certain criteria and virtual trials only for justice/municipal courts
- Sept 25 – Emergency Order #27 creates the Texas Eviction Diversion Program



Zoom Stats

- Since March 2020
 - Registered Judicial Users: 1,921
 - Court Participants: 1.9 Million
 - Remote Hearings: 650,000
 - Meeting Hours: 1.5 Million
 - YouTube Channels: 1,197



Texas Bar Survey Results

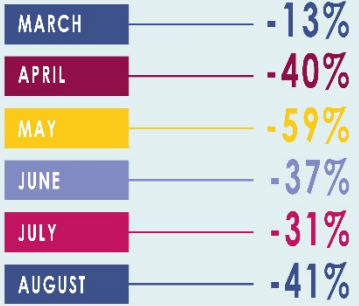
In a survey of more than 3000 Texas attorneys conducted in June 2020, attorneys reported positive feedback on remote hearings:

- **94%** had no issues communicating with their client during hearings
- **93%** had positive or neutral impression of remote hearings
- **85%** would recommend remote hearings to colleagues or clients
- **44%** feel remote hearings are worse than in-person hearings, but **73%** say they are effective
- **43%** open to conducting some portion of a jury trial remotely. Jury qualification, witness testimony, and voir dire were the top answers.

DROP IN COURT
FILINGS & DISPOSITIONS
DUE TO THE

COVID-19 PANDEMIC 2019-2020

NEW CASES FILED MARCH-AUGUST 2020



Appellate Courts



Trial Courts

GREATEST DROPS BETWEEN MARCH — AUGUST, 2019 AND 2020



Landlord/Tenant

66%



Municipal Civil

48%



Class C Traffic

47%



Small Claims

40%

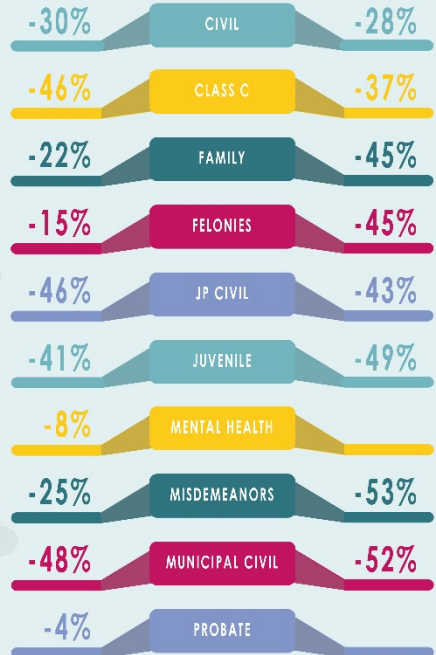


Juvenile

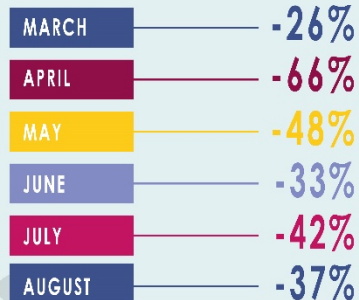
41%

CASES FILED

DISPOSITIONS

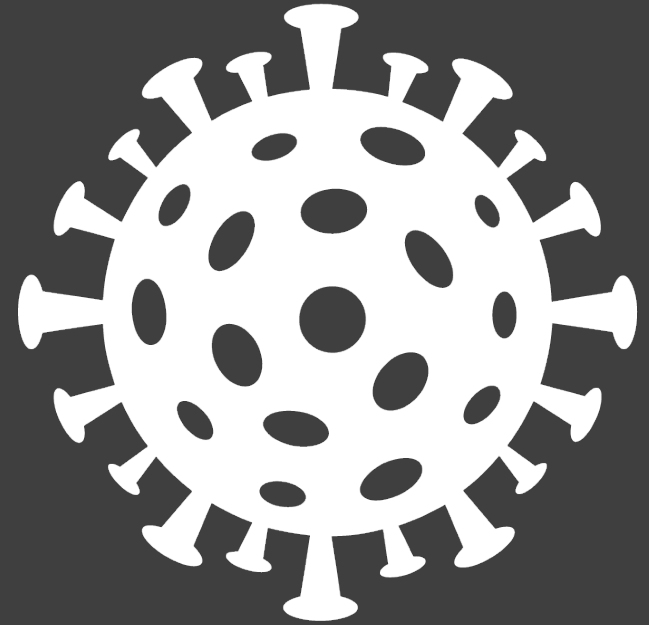


NEW CASES FILED MARCH-AUGUST 2020



Municipal reports completion for 2020: March-91%, April-90%, May-90%, June-89%, July-88%, August-86%.

JP reports completion for 2020: March-91%, April-91%, May-89%, June-88%, July-87%, August-84%.



Ransomware Attack

- Attack on May 8, 2020 before working hours
- Netwalker Ransomware - impacted all devices connected to the network
- 142 of 167 (85 percent) of all servers destroyed
- 45% of workstation computers directly impacted
- Appellate Courts Case Management System disabled and related technology systems did not permit the courts to receive appellate records through existing systems
- Attack did not impact cloud-based technology solutions - Office365, eFiling or re:SearchTx
- 4 months to restore full functionality of the network, with much of the functionality returning in the first six weeks
- Used the Opportunity to upgrade all systems and harden security





Jury Trials

- Pre COVID-19: Averaging 186 Jury Trials a Week
- SCOTX Emergency Order prohibited in person jury trials until October 1
- Experimental trials allowed on a limited basis if approved by OCA and Regional Presiding Judges from June 1 – October 1
- 97 requests to hold a jury trial were received
 - 34 civil
 - 63 criminal
- 45 cases were tried by a jury to verdict (2 were acquitted by the jury)
 - 20 civil
 - 25 criminal
- 2 cases resulted in mistrial due to COVID issue
 - Both criminal
- 40 Grand Juries Empaneled



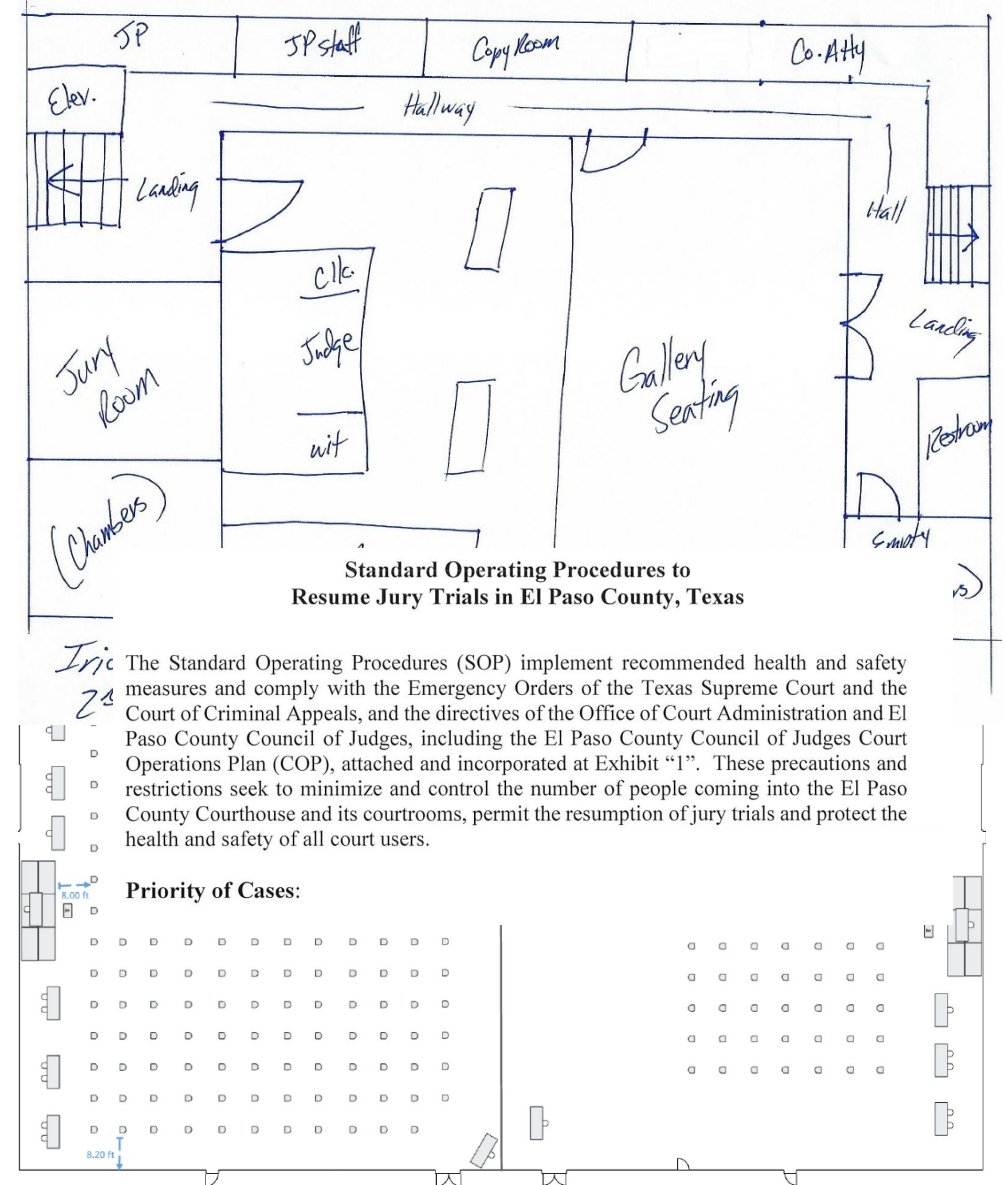
**JURY TRIALS DURING
THE COVID-19 PANDEMIC**

Jury Trial Guidance – Plan Requirements

- Summons
- Locations
- Screening
- Face Coverings
- Social Distancing
- Alternates
- Courtroom arrangement
- Microphones
- Exhibits/evidence
- Vulnerable witnesses
- Food
- Cleaning



- In-person juries limited to district/county courts between 10/1-12/1
- Motions/objections heard on record
- Virtual jury trials permitted
- Waiver/consent required in jailable criminal cases
- County plans required by LADJ
- Approval of trials by LADJ/RPJ
- Consult with local health dept before trial



What We've Learned

- Every hearing, every type of case
- Virtual jury trials can work
- Increased participation
- Judicial Efficiency
- Increased Access to Justice
 - Pro Bono
 - Interpreters
 - Court Reporters
- Increased need for technical staff
- Time required to assist litigants



Legal Challenges to Trials

- Right to speedy trial
- Right to confrontation
- Public trial requirements
- Parties at risk for COVID
- Online testimony



Texas Eviction Diversion Program

- Created by SCOTX in the 27th Emergency Order 9/25/20
- 19 Counties participating in pilot phase with funding provided by Governor's Office through Texas Department of Housing and Community Affairs
- Aims to reduce evictions by enabling landlords and tenants to agree upon a resolution to non-payment of rent issues
 - 75,000 evictions likely coming
 - 17.3% of renting Texans (889,135) households are behind on rent (U.S. Census Bureau Data 9/2-9/14)
 - 29 Referrals to program in first week



STATE OF TEXAS EVICTION DIVERSION PROGRAM



The Texas Eviction Diversion Program (TEDP) helps Texas tenants stay in their homes and provides landlords an alternative to eviction. The TEDP may provide up to six months of rental assistance for eligible tenants who are behind on their rent due to the COVID-19 pandemic and have been sued for eviction. Both the tenant and the landlord must agree to participate and meet the requirements in the chart below. This temporary program is a unique partnership between the Supreme Court of Texas, Texas Office of Court Administration, and the Texas Department of Housing and Community Affairs (TDHCA).

- Assistance can be used to pay the full contracted rent that is past due (up to five months), and the remainder may be used to pay for subsequent months of assistance (up to a total of six months).
- The TEDP uses a special court process that allows courts to put eviction lawsuits on hold and divert them to the TEDP. Under the TEDP, lump sum payments are provided to landlords for rental arrears in exchange for allowing tenants to remain in their homes and forgiving late fees. Diverted cases will be dismissed and made confidential from public disclosure.

LANDLORD / UNIT	TENANT / HOUSEHOLD
Eligibility Requirements: <ul style="list-style-type: none"> • Assistance for rent no older than April 2020 • Rent for the household assisted may not exceed the TDHCA maximum limits (limits available by zip code at http://www.tdhca.state.tx.us/TEDP.htm) • Must have a bank account and accept direct deposit • Units that are already receiving project-based assistance or are public housing units are INELIGIBLE • Units owned by a unit of government may be ineligible 	Eligibility Requirements: <ul style="list-style-type: none"> • Household income at or below 200% of poverty or 80% of Area Median Income* • Household has been financially affected by the COVID-19 pandemic • Tenants are INELIGIBLE if they are receiving tenant-based voucher assistance, are in a unit receiving project-based assistance, or are in public housing
Documents Needed: <ul style="list-style-type: none"> • Copy of the executed lease with the tenant, or if no written lease, required certification proving tenancy • Documentation of Missed Payments (ledger, etc.) • IRS W-9 • Landlord TEDP form completed • Landlord TEDP certification completed 	Documents Needed: <ul style="list-style-type: none"> • Personal ID • If no written lease, evidence of unit tenancy • Income: evidence of eligibility under other qualified program** OR income evidence for past 30 days • Tenant TEDP form completed • Tenant TEDP certification completed
You Will Be Required to Certify that You: <ul style="list-style-type: none"> • Will waive late fees, penalties, and not pass court costs to the tenant • Have not received assistance from another program for the same months of rent for this client and will not apply in the future for the covered months • Will release the tenant from payment liability for this time period, waive all claims raised in the eviction case, and not evict the tenant for the period covered by TEDP • Will reimburse the TEDP within 10 business days if you receive rent payment for this same time period • If no written lease, will certify the lease term, rent amount, and be able to provide proof of tenancy 	You Will Be Required to Certify that: <ul style="list-style-type: none"> • Your household has been economically impacted by the COVID-19 pandemic • You have not received rental assistance for the same months of rent and will not seek such assistance in the future for the covered months • You have not previously received rental assistance funded with CDBG CARES funds that, together with this assistance, will exceed 6 months in total • If no written lease, must certify lease term, rent amount, and ability to provide proof of tenancy

Who Can Help Me Access the Program?	
COURT	PROGRAM
Go to: www.txcourts.gov/eviction-diversion/ Call: 855-270-7655 (Texas Legal Service Ctr.)	Go to: http://www.tdhca.state.tx.us/TEDP.htm Call: 800-525-0657 or 512-475-3800 (pick option 4)

* TEDP is only available in select areas of the state initially. During that time eligibility is based on a household income below 200% of poverty.

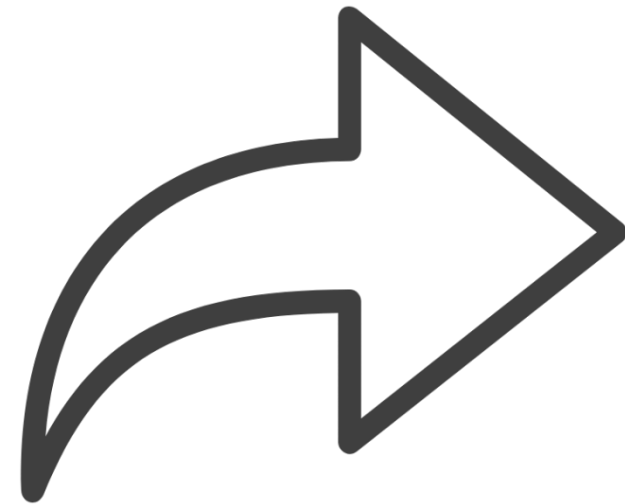
Household Size	1 person	2 people	3 people	4 people	5 people	6 people	7 people	8 people
200% Poverty	\$25,520	\$34,480	\$43,440	\$52,400	\$61,360	\$70,320	\$79,280	\$88,240

For households with more than 8 persons, add \$8,960 for each additional person.

** You are considered eligible, and need no other documentation, if you have evidence that you: 1) are currently receiving assistance under SNAP, SSI, LIHEAP, or Medicaid; OR 2) if you are living in a qualifying rent-restricted property and have evidence of an income certification from that property dated on or after March 31, 2020, and within 12 months of the application for assistance, and self-certify that your income remains below the limit. In some circumstances the TEDP administrator may allow self-certification of income, but the tenant must still be able to demonstrate evidence upon request.

What's Next?

- Texas Judicial Council Resolution
 - Asked the legislature to remove any barriers to continuing remote online court proceedings outside of a disaster declaration
- More Virtual Jury Trials (Webb, Bexar, Dallas, Collin, Houston)
- Continue to Monitor the Pandemic



Questions and Resources

www.txcourts.gov

- Emergency Orders
- Zoom Guidance
- County Operating Plans
- Court YouTube Channels

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