



As a free service to the members of the Family Law Section of the State Bar of Texas, please find an **Order on Motion for Use of Emergency Procedures**, which will become Form 8-82 in the Family Law Practice Manual (“the Formbook”) (<http://texasbarbooks.net/books/texas-family-law-practice-manual/>). Among other features, this order contains a model of detailed procedures for remote proceedings.

Your Family Law Section is also providing a **Motion for Use of Emergency Procedures**, which will become Form 8-81 in the Formbook. You may use this form to request different types of relief from the courts during a state of emergency affecting the county in which a case is pending.

Both forms have been reviewed and edited by the Section’s Formbook Committee (<https://sbotfam.org/the-family-law-section/section-committees/>) and by Sue Mills, Project Publications Attorney with TexasBarBooks. We sincerely hope these forms will assist you and the courts you practice before.

Christopher Nickelson
Chair, Family Law Section

Form 8-82

Include the following notice if a minor is named in the caption or if the motion contains other unredacted sensitive data. See § 6 of the Introduction in volume 1 of this manual concerning protection of sensitive data in filed documents.

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

[Caption. See § 3 of the Introduction in volume 1 of this manual.]

Order on Motion for Use of Emergency Procedures

On [date] the Court considered the Motion for Use of Emergency Procedures of [name of movant]. [Include if applicable: The Court finds that the parties have agreed to the motion as evidenced by the signatures of their attorneys [include if applicable: and the signature of the [Guardian Ad Litem/Attorney Ad Litem/Amicus Attorney] appearing below.]

1. *Motion [Granted/Denied]*

Select one of the following.

The motion is GRANTED as follows:

Or

The motion is GRANTED IN PART and DENIED IN PART as follows:

Or

The motion is DENIED.

If the motion is denied, continue with the date of the order and the judge's signature. If the motion is granted or granted in part, continue with the following as applicable.

2. *Modified Deadlines*

IT IS ORDERED that the following deadlines are modified:

a. The deadline for **[deadline’s description]** is **[[date]/[description of how to calculate the date, for example, 60 days before date of final hearing]]**.

3. *Suspended Deadlines*

IT IS ORDERED that the following deadlines are suspended:

a. The deadline for **[deadline’s description]**.

4. *Modified Procedures*

IT IS ORDERED that the following procedures are modified:

a. **[Description of modified procedure]**.

5. *Suspended Procedures*

IT IS ORDERED that the following procedures are suspended:

a. **[Description of suspended procedure]**.

6. *Remote Participation in Proceedings*

IT IS ORDERED that anyone involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, or court reporter, but not including a juror—**[may/shall]** participate in the proceeding remotely by teleconferencing or videoconferencing. For court proceedings, IT IS ORDERED that the parties, attorneys, witnesses, and any other persons attending proceedings remotely shall comply with following procedures:

The following language is an example.
Consult the local rules of the court when
drafting.

a. Notification of Information for Remote Proceeding

When the court proceeding is scheduled, the Court will e-mail the parties (through their attorneys if represented) the information needed to attend the proceeding by Zoom or by telephone. Each attorney shall communicate this information to the attorney’s clients and witnesses, including any witnesses the attorney subpoenaed for the proceeding, and shall provide each such person with a copy of this order. Each self-represented party shall communicate this information to the party’s witnesses, including any witnesses the party subpoenaed for the proceeding, and shall provide each such person with a copy of this order. To comply with the open courts provisions of the Texas Constitution, the Court will create a public link **[through the Court’s YouTube channel]** where members of the public can watch the proceedings live and will

publicize that link on the [Court/district clerk]’s website, complete with the cause number of this suit.

b. Use of Real Names

In all communications with the Court and during the court proceedings, including when joining a Zoom meeting or conference call, each party, attorney, witness, or other person attending the proceeding shall use that person’s real name when identifying himself or herself.

c. If Translator Needed

A party or attorney acting on a party’s behalf shall contact the court coordinator as soon as possible after the court proceeding is scheduled if the party knows a translator will be needed.

d. Necessary Hardware and Software

If the Court is holding the proceeding through Zoom, at least forty-eight hours before the proceeding, each party, attorney, witness, or other person attending the proceeding shall create a Zoom account at <https://zoom.us/home>. The person shall create the account using the person’s real name and work e-mail address. For each attorney, that e-mail address shall be the same as the one described in rule 21(f)(2) of the Texas Rules of Civil Procedure. At least forty-eight hours before the proceeding, each person shall download and install the Zoom app on the device (for example, computer, tablet, smart phone) the person will use to communicate with the Court during the proceeding. The device must have functional speakers, video camera, and microphone and must have an Internet connection. If a person, including a witness, knows he or she cannot attend the proceeding by video, that person or, if represented, the person’s attorney shall contact the court coordinator as soon as possible before the proceeding. Each attorney shall show good cause for failure to appear by video at the proceeding.

e. Submission of Exhibits to Court Coordinator and Parties

To be potentially admissible into evidence, all exhibits, except rebuttal exhibits, must be e-mailed to the court coordinator and all parties not later than 2:00 P.M. the day before the court proceeding in the manner required in subsection f. below. If the day of the proceeding is a Monday or court holiday, the deadline will be 2:00 P.M. on the weekday that is not a court holiday and that immediately precedes the day of the proceeding. The subject line of the e-mail shall state this suit’s full cause number and state the name of the party, as well as the date of the court proceeding, for example, “Cause No. 12345; Petitioner’s Exhibits; May 8, 2020.”

f. Format of Exhibits

Each exhibit shall be in PDF format, unless it is an **[include if applicable: image file or] audio or video recording file**. The title of each exhibit file shall state the name of the exhibit, for example, “Petitioner Ex. 1.” **[Include if applicable: Each image file shall be either in PDF format or JPG format.]** A party wanting to offer any audio recordings or video recordings shall upload the duly labeled recordings files to a folder in **[Dropbox/[name of cloud storage service acceptable to the court]]** and include a link to the folder in the party’s exhibit e-mail. All audio

recordings and video recordings shall be in MP4 format. A party wanting to offer any exhibits that contain any unredacted “personal identifying information” or “sensitive personal information,” as those terms are defined in section 521.002 of the Texas Business & Commerce Code, shall upload the duly labeled files to a password-protected folder in [Dropbox/[**name of cloud storage service acceptable to the court**]] with a link to the folder in the e-mail [**include if applicable**: or each exhibit shall be password-protected with the same password]. The party offering those exhibits shall not include the password in the e-mail but shall communicate the password to the court coordinator and each other party by telephone or text message by the deadline to provide the exhibits. Unless critical to an issue in the case, a party may redact personal identifying information and sensitive personal information from an exhibit before submitting it.

g. Exhibits with Rebuttal or Unanticipated Evidence

During a proceeding, with the permission of the Court, a party may offer an exhibit with rebuttal evidence or an exhibit with evidence that the party could not have reasonably anticipated or submitted prior to the proceeding through the Chat/File feature in Zoom or by e-mail to the Court and all parties if the proceeding is by telephone only.

h. Documents Local Rules Require for Family Law Proceedings

In family law cases, not later than 2:00 P.M. the day before the court proceeding as defined above in subsections e. and f., each party shall e-mail the court coordinator and the other parties with all documents required by this Court’s local rules for family law proceedings, for example, financial information statement, pay statements, and tax returns. The titles of these files shall name the party and the documents (for example, Petitioner’s Financial Information Sheet). A party may redact personal identifying information and sensitive personal information from these documents before submitting them.

i. Submission of Relevant Orders, Pleadings, and Other Documents

The parties shall confer before the court proceeding and at least forty-eight hours before the proceeding shall e-mail to the court coordinator, copying each other party, an electronic copy of all orders, pleadings, returns of citations, and other documents filed with the district clerk that are relevant to the proceeding. If the documents are too voluminous to attach or organize in an e-mail, the parties shall upload the documents to a folder in [Dropbox/[**name of cloud storage service acceptable to the court**]] and include a link to the folder in the e-mail. Each document shall be in PDF format with a file name that reflects the title of the document.

j. Submission of Late Responses and Replies

Each party shall e-mail to the court coordinator and each other party any responses or replies the party e-filed with the district clerk less than forty-eight hours before the court proceeding. E-mailing such a document with the court coordinator is not a substitute for e-filing the document with the district clerk. No party shall include the judge or court coordinator as a service contact when e-filing a document.

k. Submission of Case Law, Statutes, Regulations, and Similar Documents

If a party wants the Court to consider any case law, statute, regulation, or similar document, the party shall e-mail the document to the court coordinator and the other parties the day before the court proceeding.

l. Failure to Comply with Procedures

Failure to comply with the procedures in this order for submitting proposed exhibits, information required by this Court's local rules, responses and replies, or supporting statutes, case law, regulations, or similar documents without good cause may result, as applicable, in the exclusion of the exhibits, the Court's not considering the documents, or other sanction as provided by the Court's local rules or inherent powers.

m. Opening in Zoom App

If the Court is holding the proceeding through Zoom, before the proceeding begins, when a person attempts join the Zoom meeting from the Zoom webpage, the webpage will ask whether to open the Zoom app. Each person shall instruct Zoom to open in the Zoom app and allow it to install the program and not rely on the web browser. In this way, the attorneys and parties will have the means to communicate confidentially in private breakout rooms unavailable on the plug-in version of Zoom.

n. Dress Codes

If the Court is holding the proceeding through Zoom and unless the Court orders otherwise for that proceeding, attorneys shall dress in the same business attire as if the proceeding were held in the courtroom. Parties and witnesses shall dress in the manner they would if they were attending court in person, unless required for health reasons not to do so. Each attorney shall ensure that the attorney's clients and witnesses are aware of and comply with this dress code. If the Court is holding the proceeding only by telephone, these dress codes will not apply.

o. Joining Proceeding by Zoom Before Its Scheduled Start

The parties, attorneys, witnesses, and all other persons attending the proceedings shall join the proceeding by Zoom by clicking on the Zoom link sent by the Court or by joining the conference call number sent by the Court at least five minutes before the proceeding is scheduled to begin.

p. Court Bringing Parties, Attorneys, and Witnesses into Virtual Courtroom

If the Court is holding the proceeding through Zoom, when each person joins the meeting, the person will appear in a virtual waiting room with all other parties, attorneys, and witnesses. There may be several cases set on the docket at the same time. When this case is called, the Court will bring the attorneys and clients into the virtual courtroom, in turn. When the Court brings the attorneys and clients into the virtual courtroom, their videos will automatically

be on and their audios muted until the proceeding begins. If the Court is holding the proceeding through Zoom, the attorneys shall appear on video at all times during the proceeding, except when the Court recesses the proceeding.

q. Requirements for Witnesses to Be Able to Testify Remotely

When taking the oath to testify and when testifying, each witness shall appear on video unless the witness is in the presence of a notary public, identified to the Court, who can verify the identity of the witness, in which case the witness may testify through Zoom only on audio or may testify in a proceeding conducted solely by telephone. Otherwise, all other potential witnesses who are not on video through Zoom may not testify.

r. Witnesses Treated as Though in a Physical Courtroom

Unless permitted by the Court or as provided below, a witness may not have access to any electronic information or physical notes while testifying, just as if the witness were on the witness stand in the courtroom. Except during a recess in the proceeding, no person shall communicate, verbally or nonverbally, with a witness through any method except the audio-visual or audio means shared with all the participants in the proceeding who are present in the virtual courtroom. If “the Rule” (rule 267 of the Texas Rules of Civil Procedure and rule 614 of the Texas Rules of Evidence) is invoked, no one may communicate in any manner, including by telephone, text message, or e-mail, with any witness placed under the Rule, except as permitted by the Rule and then only during a recess in the proceeding. While placed under the Rule, witnesses are prohibited from observing the proceeding through the Court’s YouTube channel and from communicating with anyone who is observing the proceeding through the Court’s YouTube channel.

s. Muting Microphones and Telephones

All persons participating in the proceedings except the judge, the witness, and the questioning attorney or questioning self-represented party shall keep their Zoom microphone or telephone, as applicable, on mute unless speaking. The Court recognizes that there may be a slight delay in an attorney or party unmuting their microphone or telephone to make an objection. If attending the proceeding by telephone, a participant shall not put the telephone on hold at any time during the proceeding.

t. Communications between Attorneys and Clients during Proceedings

If the Court is holding the proceeding through Zoom, the attorneys may communicate with their clients using the private chat feature, hitting the “CHAT” button and, at the bottom of the chat window, pulling down the recipient arrow and selecting the client’s name. Attorneys shall not privately communicate with their clients while the clients are testifying, including through text message, e-mail, or the Zoom chat function. All communications between an attorney and a testifying client shall be through Zoom or by telephone, as applicable, in a manner that all participants can hear and that a record may be made.

u. Recesses

The Court may recess the proceeding for breaks or to allow attorneys to confer with their clients. If an attorney wishes to confer with a client, the attorney shall make that request to the Court, identifying the client by name. The Court will send those video streams into a confidential side-room to confer for a period set by the Court. In a similar manner, attorneys or self-represented parties may ask the Court to confer privately with one another. An attorney or self-represented party may ask the Court to allow them to confer privately with a witness.

v. NO RECORDING OF COURT PROCEEDING

UNDER PENALTY OF CONTEMPT OF COURT, NO PERSON, OTHER THAN THE COURT REPORTER, MAY RECORD A COURT PROCEEDING. THIS PROHIBITION APPLIES TO MEMBERS OF THE PUBLIC WATCHING THE PROCEEDINGS ON THE COURT'S YOUTUBE CHANNEL AND TO PERSONS WITH THE ABILITY TO RECORD THE ZOOM MEETING. The court reporter's record shall be the only record of the court proceeding.

w. Orders Apply to Agents

No party, attorney, or witness may circumvent the terms of this order by having another person perform a task prohibited for that party, attorney, or witness. For example, if an attorney is prohibited from communicating with a witness during a proceeding, the attorney's legal assistant or other agent of the attorney may not communicate with that witness during the proceeding.

7. *Depositions by Remote Electronic Means*

IT IS ORDERED that if a party takes an oral deposition by a remote electronic means in which the deponent appears live on video to a person authorized to administer oaths in the jurisdiction in which the witness is located, the person may administer the oath to the deponent, notwithstanding the requirements of rule 199.1(b) of the Texas Rules of Civil Procedure. A party using Zoom may record an oral deposition by other than stenographic means using Zoom's record function, if the party complies with rule 199.1 as modified by this order.

8. *Sworn Statements [and Unsworn Declarations] as Evidence*

IT IS ORDERED that sworn statements [**include if applicable:** and unsworn declarations] made out of court will be considered as evidence. [**Include if applicable:** Specifically, the Court will consider as evidence an [affidavit/unsworn declaration] from [**name of witness**] as evidence in [a/the] [**description of proceeding**].] Unless waived by each party, IT IS ORDERED that each out-of-court sworn statement [**include if applicable:** and unsworn declaration] to be submitted as evidence must be served on each party not less than [**number**] days before the proceeding in which it is to be considered as evidence. Unless waived by each party, IT IS FURTHER ORDERED that each out-of-court sworn statement [**include if applicable:** or unsworn declaration] offered as rebuttal evidence must be served on each party not less than [**number**] days before the proceeding in which it is to be considered as rebuttal evidence.

9. *Remote Interview of Children*

The Court finds that, pursuant to section 153.009 of the Texas Family Code, [[Movant/Respondent] has/Movant and Respondent have] asked the Court to confer with [name[s] of child[ren]], the [child[ren]] who [is/are] the subject of this suit, to determine [the/each] child's wishes as to [conservatorship/possession/access/who shall have the exclusive right to determine the child's primary residence/[describe other issue]]. The request to confer is GRANTED. IT IS ORDERED that the following procedures shall apply to the Court's interview with the [child[ren]]:

a. The Court shall confer with [the/each] child using Zoom. The Court will notify the parties [**include if applicable:** and the [attorney ad litem/amicus attorney/guardian ad litem] for the child[ren]] by e-mail of a Zoom meeting, in which the Court will confer with [the child/each child separately]. The party in possession of the child[ren] at the time of the conference shall ensure [the/each] child is available at the time of the Zoom meeting and has possession of a device (for example, computer, tablet, smart phone) the child will use to communicate with the Court during the conference. The device must have functional speakers, video camera, and microphone and must have an Internet connection. The device must have the Zoom program or app loaded on it before the time of the Zoom meeting. If the party in possession knows he or she cannot meet those requirements, that party or, if represented, the party's attorney shall contact the court coordinator as soon as possible before the conference.

b. When the Court begins the Zoom meeting, the party in possession of the child or an adult designated by the party shall join the meeting, identify himself or herself to the Court, and then leave the room. While the Court is conferring with [the/each] child, no person may be present in the same room as the child, and no person, when outside of that room, may be so close to the room that the person can hear the voice of the child or the Court. With the exception of the Court's court reporter, no person, including the child, may record any statements of the child or the Court made during the interview. Besides the child, only the court reporter or another member of the Court's staff may join the Zoom meeting, except the Court may permit the attorney for a party, the amicus attorney, the guardian ad litem for the child, or the attorney ad litem for the child to join the meeting.

10. *Proceedings at an Alternative Location*

IT IS ORDERED that the Court will conduct the following proceedings in this suit away from the Court's usual location:

a. On [date], the Court will hold the [description of proceeding] at [address].

The Court finds that [the/each] alternative location offers reasonable access to the participants and the public. The Court will be responsible for providing reasonable notice to the public.

11. *Notification to Parties of Illness*

IT IS ORDERED that unless a court proceeding is being conducted entirely remotely, with each participant separate from each other participant and no notary public present with a witness to enable the witness to testify solely by telephone, each participant in a proceeding, including any court hearing, jury trial, arbitration hearing, deposition, conference of the parties,

conference with the Court, mediation, or collaborative law team meeting, shall alert all parties before the proceeding if the participant has, or knows of another participant who has, COVID-19 or flu-like symptoms, such as a fever, cough, shortness of breath, or other symptoms reported by the Centers for Disease Control and Prevention at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.

12. Notification to Court of Illness

IT IS ORDERED that unless a court proceeding is being conducted entirely remotely, with each participant separate from each other participant and no notary public present with a witness to enable the witness to testify solely by telephone, each participant in a court hearing, jury trial, or conference with the Court shall alert the Court before the proceeding if the participant has, or knows of another participant who has, COVID-19 or flu-like symptoms, such as a fever, cough, shortness of breath, or other symptoms reported by the Centers for Disease Control and Prevention at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.

13. Other Orders

The Court makes the following additional orders that are necessary and equitable for proceedings in this suit [**include if applicable:** and for the safety and welfare of the child[ren]]: [**additional orders**].

14. Court and Court Coordinator's Contact Information

The Court's e-mail address is [**e-mail address**]. The court coordinator's e-mail address and telephone number are [**e-mail address**] and [**telephone number**].

15. Duration of Order

This order shall continue in force until the earlier of [[**date**]/thirty days after the state of disaster in this county is lifted] or further order of this Court, including the signing of a final judgment.

SIGNED on _____.

JUDGE PRESIDING

APPROVED AS TO [FORM ONLY/BOTH FORM AND SUBSTANCE]:

[Name]
Attorney for Movant
State Bar No.:
[E-mail address]
[Address]
[Telephone]
[Fax]

[Name]
Attorney for Respondent
State Bar No.:
[E-mail address]
[Address]
[Telephone]
[Fax]

Include the following if applicable.

[Name]
[Guardian Ad Litem/Attorney Ad Litem/
Amicus Attorney]
State Bar No.: **[if applicable]**
[E-mail address]
[Address]
[Telephone]
[Fax]