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STANDING ORDER RELATING TO REMOTE PARTICIPATION IN GRAND JURY PROCEEDINGS

Pursuant to the *Twenty-Second Emergency Order Regarding the COVID-19 State of Disaster*, issued by the Supreme Court of Texas on August 6, 2020, which is attached hereto as **Appendix A** and incorporated herein by reference, each of the undersigned Judges of the District Courts of Travis County, Texas, hereby makes the following orders in relation to any and all proceedings conducted, during the pendency of this Order, by any grand jury over which that particular Court presides:

1. **Authorization of remote participation.** Subject to the restrictions set forth below, all persons who are authorized, under Texas Code of Criminal Procedure article 20.011 (captioned "Who May be Present in Grand Jury Room"), to be present in a grand jury room during grand jury proceedings are authorized, by this Order, to participate remotely in grand jury proceedings through the use of secure videoconference technology, regardless of whether other participants are physically located in a grand jury room. Each such person is authorized to participate remotely in grand jury proceedings to the same extent that the person is entitled, under Texas law, to participate when physically present in a grand jury room during grand jury proceedings.

2. **Deliberations limited to grand jurors.** Notwithstanding any other provision of this Order, no person other than a grand juror is authorized, by this Order, to use videoconference technology to observe or participate in any deliberations of the grand jury.

3. **Recording prohibited.** Except as provided in Paragraph 7 below, no person, including a grand juror, is authorized by this Order to record any proceedings of the grand jury.

4. **Grand jurors, bailiffs, and prosecutors.** The following persons are authorized, but not required, to participate remotely in the grand jury proceedings via secure videoconference technology, regardless of the person's physical location at the time of such participation:
   a. Grand jurors,
   b. Grand jury bailiffs, and
   c. Attorneys representing the State.

   If participating remotely in the grand jury proceedings, each grand juror must comply with the guidelines set forth in the document that is attached hereto as **Appendix B** and incorporated herein by reference.

5. **Witnesses.** Any witnesses, while being examined before the grand jury or when necessary to assist the attorney representing the State in examining other witnesses or presenting evidence to the grand jury, may provide such testimony and/or assistance via secure videoconference technology but only while the witness is physically located at one of the following secure, remote locations:
   a. Any room, previously designated for use by grand juries, in the Blackwell-Thurman Criminal Justice Complex, 509 West 11th Street, Austin, Texas;

Filed In The District Court
of Travis County, Texas
on 9-18-2020
at 3:44 P.M.
Velva L. Price, District Clerk

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b. Any room, previously designated for use by grand juries, in the Travis County Administration Building, 700 Lavaca Street, Austin, Texas; or
c. Any room in the District Attorney's Office, located at the Ronald Earle Building, 416 West 11th Street, Austin, Texas.

Except for peace officers whose testimony is presented to the grand jury in accordance with Texas Code of Criminal Procedure article 20.151 (captioned "Certain Testimony by Video Teleconferencing"), no witness is authorized, by this Order, to testify before the grand jury while physically located anywhere other than one of the secure locations specified above.

6. **Interpreters.** If it is necessary for an interpreter to participate in the proceedings of the grand jury, the interpreter may do so only via secure videoconference technology and only while the interpreter is physically located at one of the secure, remote locations specified in Paragraph 5 above.

7. **Court reporters.** When participating in the proceedings of the grand jury, a stenographer or person operating an electronic recording device, as provided by Texas Code of Criminal Procedure article 20.012 (captioned "Recording of Certain Testimony"), may do so only via secure videoconference technology and only from the same secure, remote location as the witness whose testimony is being recorded.

This Order shall apply to the proceedings of any and all grand juries of each District Court throughout the period beginning upon the execution of this Order by the Presiding Judge of that Court and ending at 12:00 midnight on Sunday, July 4, 2021, unless this Order is amended, terminated, or extended by further order of the Presiding Judge of that Court.

IT IS SO ORDERED.

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Clifford Brown
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9/18/2020 | 9:00 AM CDT

Presiding Judge, 147th District Court
Travis County, Texas

Date

DocuSigned by:
David Wahlberg
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9/15/2020 | 7:01 PM CDT

Presiding Judge, 167th District Court
Travis County, Texas

Date

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9/15/2020 | 4:06 PM CDT

Presiding Judge, 299th District Court
Travis County, Texas

Date

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Chantal Eldridge
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Presiding Judge, 331st District Court
Travis County, Texas

Date

DocuSigned by:
Brenda P. Kennedy
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on behalf of Judge Julie Kocurek, 390th District Court

9/17/2020 | 5:41 PM CDT

Presiding Judge, 390th District Court
Travis County, Texas

Date

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Brenda P. Kennedy
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9/15/2020 | 10:32 PM CDT

Presiding Judge, 403rd District Court
Travis County, Texas

Date

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Tamara Medles
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Presiding Judge, 427th District Court
Travis County, Texas

Date

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Presiding Judge, 450th District Court
Travis County, Texas

Date

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Presiding Judge, 460th District Court
Travis County, Texas

9/16/2020 | 1:17 PM CDT

Date

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Appendix A

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9095

TWENTY-SECOND EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

ORDERED that:

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic. This Order is issued pursuant to Section 22.0035(b) of the Texas Government Code.

2. The Eighteenth Emergency Order Regarding the COVID-19 State of Disaster (Misc. Dkt. No. 20-9080) issued June 29, 2020, paragraphs 3-10 and 12-13, is renewed as amended.

3. 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:

a. except as provided in paragraph (b), modify or suspend any and all deadlines and procedures, whether prescribed by statute, rule, or order, for a stated period ending no later than September 30, 2020;

b. in all proceedings under Subtitle E, Title 5 of the Family Code:

(i) extend the initial dismissal date as calculated under Section 263.401(a) only as provided by Section 263.401(b) or (b-1);

(ii) for any case previously retained on the court's docket pursuant to Section 263.401(b) or (b-1), or for any case whose dismissal date was previously modified under an Emergency Order of this Court related to COVID-19, extend the dismissal for an additional period not to exceed 180 days from the date of this

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Order:

c. 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, grand juror, or petit juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means;

d. 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;

e. conduct proceedings away from the court's usual location with reasonable notice and access to the participants and the public;

f. require every participant in a proceeding to alert the court if the participant has, or knows of another participant who has: (i) COVID-19 or flu-like symptoms, or a fever, chills, repeated shaking with chills, cough, shortness of breath or difficulty breathing, muscle pain, headache, sore throat, loss of taste or smell, diarrhea; or (ii) been in close contact with a person who is confirmed to have COVID-19;

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

4. Courts must not conduct in-person proceedings contrary to the *Guidance for All Court Proceedings During COVID-19 Pandemic* ("Guidance") issued by the Office of Court Administration, which may be updated from time to time, regarding social distancing, maximum group size, and other restrictions and precautions. Prior to holding any in-person proceedings, a court must submit an operating plan that is consistent with the requirements set forth in the Guidance. Courts must continue to use all reasonable efforts to conduct proceedings remotely.

5. Existing grand juries may meet remotely or in-person as long as adequate social distancing and other restrictions and precautions are taken to ensure the health and safety of court staff, parties, attorneys, jurors, and the public. Courts should consider extending the term of a grand jury under Section 24.0125 of the Texas Government Code and reassembling discharged grand juries under Article 19.41 of the Texas Code of Criminal Procedure.

6. A court must not hold a jury proceeding, including jury selection or a jury trial, prior to October 1, except as authorized by this Order.

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7. The Office of Court Administration, in coordination with the Regional Presiding Judges and the local administrative judges, should assist trial courts in conducting a limited number of jury proceedings prior to October 1, whether in-person or remote proceedings involving grand and petit jurors, and, no later than August 28, must submit a report to the Court outlining its observations regarding those jury proceedings and making recommendations regarding procedures for jury proceedings.

8. A jury trial conducted as part of the limited number of jury trials permitted prior to October 1 must:

a. be at the request of the judge presiding over the case;

b. ensure adequate social distancing and other restrictions and precautions are taken to ensure the health and safety of court staff, parties, attorneys, jurors, and the public;

c. take all reasonable steps to protect the parties' constitutional and statutory rights;

d. require the admonishment of petit jurors as appropriate to ensure that proper attention is given by each juror and that outside influence is removed; and

e. permit the Office of Court Administration to observe the processes used during the proceeding in order for the Office of Court Administration to prepare its report to the Court and to develop best practices for other courts' use.

9. Except for non-binding proceedings, a court may not permit or require a petit juror to appear remotely unless the court ensures that all potential and selected petit jurors have access to technology to participate remotely.

10. Pursuant to Sections 74.046 and 74.047 of the Texas Government Code, the Regional Presiding Judges are assigned the following duties:

a. ensure that all courts in each region are operating in full compliance with the Court's Orders and the Guidance issued by the Office of Court Administration;

b. ensure that all trial court judges in each region, including justices of the peace and municipal court judges, do not conduct in-person proceedings inconsistent with the Court's Orders and the latest Guidance issued by the Office of Court Administration;

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c. report to the office of the Chief Justice of the Supreme Court any proceedings that are being conducted in the regions—and the court in which the proceedings are being conducted—that are inconsistent with the Court's Orders and the Guidance issued by the Office of Court Administration; and

d. assist each region's local governments and courts to ensure that courts have the ability to conduct court business.

11. 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. Possession of and access to a child shall not be affected by any shelter-in-place order or other order restricting movement issued by a governmental entity that arises from the pandemic. 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. Nothing herein prevents parties from altering a possession schedule by agreement if allowed by their court order(s), or courts from modifying their orders on an emergency basis or otherwise.

12. An evidentiary panel in an attorney professional disciplinary or disability proceeding may—and must to avoid risk to panel members, parties, attorneys, and the public—without a participant's consent:

a. conduct the proceeding remotely, such as by teleconferencing, videoconferencing, or other means;

b. allow or require anyone involved in the proceeding—including but not limited to a party, attorney, witness, court reporter—to participate remotely, such as by teleconferencing, videoconferencing, or other means; and

c. consider as evidence sworn statements or sworn testimony given remotely, such as by teleconferencing, videoconferencing, or other means.

13. This Order is effective immediately and expires September 30, 2020, except as otherwise stated herein, unless extended by the Chief Justice of the Supreme Court.

14. The Clerk of the Supreme Court is directed to:

a. post a copy of this Order on www.txcourts.gov;

b. file a copy of this Order with the Secretary of State; and

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c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

15. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

Dated: August 6, 2020

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Nathan L. Hecht, Chief Justice

Paul W. Green, Justice

Eva M. Guzman, Justice

Debra H. Lehrmann, Justice

Jeffrey S. Boyd, Justice

John P. Devine, Justice

James D. Blacklock, Justice

J. Brett Busby, Justice

Jane N. Bland, Justice

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APPENDIX B
TRAVIS COUNTY VIRTUAL GRAND JURY GUIDELINES (2020)

For purposes of your grand jury service, Travis County has issued you a Chromebook and headphones for your use during the virtual grand jury proceedings. Please use the Chromebooks provided to you during each grand jury session and not any other device that you or your employer may own. County-issued equipment remains the property of Travis County and may be used only to conduct business related to your grand jury service. These items must be returned at the conclusion of your service.

Your Chromebook has been assigned a unique email account. This account is to be used only for grand jury business, and the account may be accessed only through your assigned Chromebook. You must not use any other computer equipment to access that email account.

The oath you gave when you were sworn in as a grand juror still applies, as do all of the instructions that were previously given to you by this Court.

In accordance with your oath to maintain secrecy, you must do all of the following during each grand jury proceeding:

You must place yourself within your residence behind a closed door in a room where no unauthorized person is present, either physically or virtually, and where no unauthorized person is likely to overhear you participate in deliberations. If you are alone in your residence, you may be anywhere within your residence, so long as no unauthorized person is present.

You must use headphones for the entirety of the grand jury proceedings even if you will be alone in your residence, as this will improve the sound quality for all participating members in the virtual grand jury room. You may use the headphones provided to you, or you may use your own headphones or ear buds.

You must not record, simulcast or broadcast these proceedings.

You must stay within the view of your Chromebook's camera for the entirety of the proceedings except during scheduled break times.

You must not have another Chromebook window open unless that window contains a document, video, schedule, or something else provided to you to facilitate the grand jury session.

If you take any notes during a grand jury session, all of those notes must be stored in a secure location within your residence. You must store these notes in such a way as to maintain grand jury secrecy. Should you choose to do so, you may use your Chromebook to take notes, but you must

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delete those notes once the case or cases addressed in the notes have been voted on by the grand jury. At the conclusion of your grand jury service, you must give all remaining notes, along with the equipment, to the District Attorney's Office.

Grand jurors are the only people who are allowed to be present in the virtual grand jury room during the grand jury's deliberations. You must not use the chat feature of the videoconferencing platform during your deliberations on any case or to share any opinions with any member of the grand jury about a case. This will ensure that only grand jurors are privy to deliberations.

During your grand jury sessions, you also must not use your Chromebook, or any cell phone or other device, to conduct research or to communicate with anyone other than the grand jury bailiff.

In addition to the above instructions regarding grand jury secrecy, you are also instructed that:

The grand jury is not authorized to act unless a quorum is present. If a technology issue with any equipment, or with the videoconferencing platform, causes a quorum not to exist, the grand jury bailiff will instruct the attorney to stop the presentation until it can be determined whether a quorum can be restored. If a quorum cannot be restored within a reasonable time, the grand jury will recess its proceedings for the day and all cases will be rescheduled for a later date in front of the same grand jury.

If a technology issue with any equipment, or with the videoconferencing platform, causes one or more grand jurors to be absent during part of any grand jury proceeding, but if a quorum still exists, the proceeding may continue. However, you must not vote on any case where you did not hear the entirety of the presentation. The grand jury bailiff will assist in monitoring the quorum during case presentations and can inform any grand juror of any case wherein it appeared that a grand juror missed some or all of the attorney's presentation. You may also self-report this information to the foreperson prior to beginning deliberations.

If during a virtual grand jury proceeding, an unauthorized person physically enters the same room or space where a grand juror, the bailiff, or the presenting attorney is located, the individual affected, the bailiff, or anyone else who notices the unauthorized person's presence is required to announce to all people present in the virtual grand jury room that the proceeding must stop immediately. The grand jury session may only resume only after secrecy has been restored at the affected person's location.

Before beginning your deliberations on any case, the foreperson or other grand juror designated as the virtual host must move the prosecutor and the bailiff from the virtual grand jury room to the virtual waiting room. Once the prosecutor and grand jury bailiff are in the virtual waiting room, the foreperson shall inquire of the grand jury whether during the attorney's presentation any grand juror experienced a prolonged connectivity issue or if any grand juror has a concern with grand jury secrecy. You are required to report any such issues or concerns.

If a grand juror experienced a prolonged connectivity issue, the foreperson may instruct the grand juror not to deliberate on any case where the grand juror did not hear the entirety of the presentation, or the foreperson may admit the presenting attorney and grand jury bailiff back into

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the virtual grand jury room to provide the affected grand juror with the information necessary to deliberate on the affected case. If the foreperson instructs the grand juror not to deliberate on a case and the quorum is lost as to that case, then the case must be passed and rescheduled for a later date before the same grand jury.

If a grand juror has a concern with grand jury secrecy, then the foreperson will admit the presenting attorney and grand jury bailiff back into the grand jury room to discuss with the attorney any such concern. If the concern cannot be resolved, the foreperson may ask for the Intake Chief or the Assistant Director of the Trial Division to come to the virtual grand jury room. If needed, either the foreperson, the Intake Chief or the Assistant Director of the Trial Division may ask the grand jury to pass on a case so that a grand juror's concern may be brought to the attention of the presiding judge of the grand jury.

Only after the foreperson makes this inquiry, may you begin your deliberations. If the grand jury wishes to ask the presenting attorney a question, or wishes to inform the prosecutor and bailiff that the grand jury's deliberations have been completed, the foreperson or virtual host will move the presenting attorney and bailiff back into the virtual grand jury room in order to do so. The foreperson shall conduct deliberations in such a way so as to ensure that the grand jury's decision was based on a quorum of participating grand jurors.

At the conclusion of each grand jury session, the bailiff will send the foreperson a DocuSign envelope containing all of the indictments and no-bills from that day's session. Once the DocuSign envelope has been successfully opened, the bailiff must be moved into the virtual waiting room to wait while the indictments and no-bills are being signed by the foreperson. After the last document is signed, the bailiff and an employee from the Travis County District Clerk's office will be admitted into the virtual grand jury room to witness the foreperson presenting the indictments electronically by sending the DocuSign envelope to the District Clerk. The indictments and no-bills from the session will then been transferred electronically through DocuSign to the District Clerk's office for processing. Along with the indictments, the foreperson will also send to the District Clerk an unsworn declaration certifying the grand jury's compliance with these guidelines.

The grand jury bailiff will also send through DocuSign a master list for the grand jury secretary to complete. The secretary will record all actions on all cases presented during that day's grand jury session. The master list will continue to be maintained by the District Attorney's office.

In the event that you would like to speak to the Court, please notify the grand jury bailiff, who will arrange for the judge to address the grand jury during a subsequently scheduled grand jury session.

If at any time you have questions or concerns regarding the virtual grand jury process, please speak with the grand jury bailiff.

At the beginning of each grand jury session, the grand jury bailiff will provide to you a brief oral synopsis of these guidelines as a reminder to you of these requirements and their importance.

Thank you for your continued service to the citizens of Travis County.