



## **Grand Jury Impanelment Procedure (Pre-Approved Template for Empanelment after June 1, 2020)**

In its [22nd Emergency Order regarding the COVID-19 State of Disaster](#), the Supreme Court of Texas has prohibited courts from holding a jury proceeding, including jury selection, prior to October 1, but has directed the Office of Court Administration, in coordination with the regional presiding judge and the local administrative judges, to assist trial courts in conducting a limited number of jury proceedings prior to October 1. The procedure below can be used by courts in empaneling new grand juries between June 1 and October 1. If the procedure below is not followed, a court is still subject to the prohibition and must coordinate requests and proposals for grand jury impanelment proceedings with the local administrative judge, regional presiding judge, and the Office of Court Administration.

1. The district judge in whose court an existing grand jury sits should evaluate whether the existing grand jury should have their term extended under Section 24.0125 of the Texas Government Code or a previously discharged grand jury should be reassembled under Article 19.41 of the Texas Code of Criminal Procedure. If a district judge finds that the existing grand jury should not be extended nor should a previously discharged grand jury be reassembled, the district judge should consider impaneling a new grand jury under this procedure.
2. The district judge in whose court the grand jury is being impaneled must request the use of this procedure.
3. The county where the impanelment would occur must have on file with OCA an operating plan for all court proceedings during COVID-19 pandemic and must follow the precautions in that plan as applicable.
4. The district judge should explore whether qualification and impanelment can occur remotely for potential grand jurors that have access to technology (with technology either provided at a location or hybrid in-person/technology for those who do not have access to technology). If remote technology is used to impanel the grand jury:
  - a. The district judge should include in the summonses questions to determine if a potential grand juror has access to technology and a private place to meet.
  - b. The district judge should ensure that potential grand jurors who do not have access to technology can appear at a location where the technology is provided for them, or in the alternative, appear in person.
5. Summonses for potential grand jurors should include:
  - a. additional screening questions and instructions for potential grand jurors that might permit a judge to consider hardship or for cause challenges in advance of someone appearing;
  - b. additional screening questions about symptoms of or exposure to someone with COVID-19;
  - c. information about how a person who has symptoms of COVID-19, who has been exposed to someone who is confirmed to have or has symptoms of COVID-19,

- who is in a vulnerable population, or who is the primary caretaker of someone in a vulnerable population can request (in advance of the proceeding) to reschedule or be excused, as appropriate, from the grand jury proceeding; and
- d. information about precautions that will be taken to protect the health of the prospective grand jurors, including whether or not masks will be required or encouraged but not required.
6. District judges are encouraged to remove the language from the summons that discusses the penalty for failure to answer the summons.
  7. The district judge should determine a method for rescheduling or excusing, as appropriate, without the need for the person to appear if possible, potential grand jurors who have symptoms of COVID-19, have been exposed to someone confirmed to have or who has symptoms of COVID-19, is in a vulnerable population, or is the primary caretaker of someone in a vulnerable population.
  8. Special attention should be given to protecting the judge, clerk staff, and court staff who may have interaction with potential grand jurors.
  9. A space large enough to accommodate the adequate social distancing of at least 6 feet for potential grand jurors, judge, and any clerk and court staff who are present must be used.
    - a. Spaces in the room should be appropriately marked for social distancing.
    - b. Other common spaces such as restrooms and hallways should be evaluated to ensure adequate social distancing.
    - c. Special attention should be paid to entrances and exits from the space.
    - d. If a space large enough cannot be found in the county seat, the district judge should contact the regional presiding judge to designate an alternate location under Section 24.033(b) of the Texas Government Code.
  10. The same or more stringent measures developed in the operating plan on file with OCA should be used:
    - a. to screen potential grand jurors and other participants who appear;
    - b. for face covering measures for all individuals in or around the room during grand jury impanelment.
  11. The district judge agrees to provide to the Office of Court Administration the information requested on the “COVID-19 Grand Jury Impanelment Report Form” within 5 business days of the date of impanelment.

A district judge wishing to use this template procedure to impanel a grand jury should notify by email the regional presiding judge of the district judge’s intent to do so.