

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Criminal Justice Committee Recommendations on Bail

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, since the founding of our great state, Texans have recognized that individuals' liberty should not be withheld except in carefully limited circumstances; and

WHEREAS, the United States Supreme Court has found that bail should not be used as "a device for keeping persons in jail upon mere accusation until it is found convenient to give them trial;"¹ and

WHEREAS, the percentage of individuals being held in Texas jails awaiting trial has increased from 32 percent to 75 percent of the total population since 1994; and

WHEREAS, the annual cost to local governments for housing inmates pretrial amounts to almost \$1 billion; and

WHEREAS, individuals who are held in jails awaiting trial are more likely to be convicted, sentenced to longer terms of incarcerations, and pay more in court costs than individuals released from jail; and

WHEREAS, low-risk individuals who are held in jails awaiting trial for two to three days are significantly more likely to commit new crimes before trial than individuals who are quickly released from jail; and

WHEREAS, low-risk individuals who are held in jails awaiting trial between eight and fourteen days are significantly more likely to commit new crimes within two years after completion of their cases than individuals who are quickly released from jail; and

WHEREAS, a 2017 study *Liberty and Justice: Pretrial Practices* in Texas commissioned by the Council showed that validated risk assessment can successfully predict failure to appear and new criminal activity; and

¹ Stack v. Boyle, 342 U.S. 1, 7-8 (1952)

WHEREAS, pretrial bail detention decisions made without objective information tend to produce decisions that may reflect racial disparities in the bail decision; and

WHEREAS, pretrial bail decisions have negative impacts on individuals' ability to retain employment, financial and residential stability, and support of dependent children; and

WHEREAS, Texas' current system of pretrial decision-making by magistrates:

1. Is primarily void of evidence-based pretrial risk assessment with which to determine the defendant's flight risk or risk to public safety;
2. Addresses ensuring that the defendant will appear and answer the accusation brought against him/her most often through a monetary condition of release;
3. Prohibits managing the risks of pretrial misconduct through the denial of bail. For all defendants charged with a crime, with certain few exceptions, the Texas Constitution requires a bail to be set or the defendant released;
4. Is primarily dependent upon a defendant's ability to post money bail, which, in turn, is dependent upon his/her financial resources;
5. Results in detention of poor defendants who present low risks of flight or danger to the community;
6. Results in release of more affluent defendants who present severe risks of flight or danger to the community;
7. Attempts to mitigate risk of flight or danger to the community through nonmonetary conditions of release, such as interlock devices on vehicles and "no contact" conditions, or through the setting of a high amount of monetary bail;
8. Is dependent upon the defendant's compliance with nonmonetary conditions to protect the public; and
9. Is ineffective in ensuring the defendant's compliance with nonmonetary conditions due to a lack of supervision in place to monitor the defendant's compliance with nonmonetary conditions; and

WHEREAS, in June 2015 this Council formed the Criminal Justice Committee to "assess the impact of pretrial criminal justice statutes and policies in Texas to determine if there are ways in which Texas courts can enhance public safety and social outcomes when making pretrial confinement decisions, and identify judicial policies or initiatives that could be enacted to further those goals;" and

WHEREAS, the Council has proposed similar improvements to the pretrial decision-making process as these in 2017 and 2019, proposals that have passed one house of the legislature but not the other in each session; and

WHEREAS, the United States Court of Appeals for the Fifth Circuit held in *O'Donnell v. Harris County* (892 F.3d 147) that Harris County's bail-setting procedures—similar to those used in other jurisdictions—were inadequate to protect detainees' Due Process rights and violated indigent arrestees' rights to equal protection; and

WHEREAS, the United States Court of Appeals for the Fifth Circuit stated in *O'Donnell* that “we also agree that the changes proposed by the State would provide a more adequate remedy” and that “should these provisions become law, the need for the court’s intervention must be revisited;”² and

WHEREAS, several counties across the state have made varying policy decisions on pretrial release as a result of local decisions or federal court orders, and the state could benefit from a single legislative framework for those policy decisions; and

WHEREAS, the Council continues to believe that legislative changes will result in meaningful change in enhancing public safety and social outcomes when making pretrial confinement decisions;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

1. Require defendants arrested for jailable misdemeanors and felonies to be assessed using a validated pretrial risk assessment prior to appearance before a magistrate under Article 15.17, Code of Criminal Procedure;
2. Amend the Texas Constitution bail provision and related bail statutes to provide for a presumption of pretrial release through personal bond, leaving discretion with judges to utilize all existing forms of bail;
3. Amend the Texas Constitution and enact related statutes to provide that defendants charged with a violent crime and posing a high flight risk and/or high risk to community safety may be held in jail without bail pending trial after certain findings are made by a magistrate and a detention hearing is held;
4. Provide funding to ensure that pretrial supervision is available to defendants released on a pretrial release bond so that those defendants are adequately supervised;
5. Provide funding to ensure that magistrates making pretrial release decisions are adequately trained on evidence-based pretrial decision-making and appropriate supervision levels;
6. Ensure that data on pretrial release decisions is collected and maintained for further review;
7. Expressly authorize the Court of Criminal Appeals to adopt any necessary rules to implement the provisions enacted by the Legislature pursuant to these recommendations; and
8. Provide for a sufficient transition period to implement the provisions of these recommendations.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

² See Footnote 5 of *O'Donnell* opinion. The changes referenced in the opinion refer to the proposed legislation enacting the Council’s recommendations.

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Civil Justice Committee Recommendations

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Civil Justice Committee was charged with studying the landscape of the Texas civil justice system and recommending any necessary reforms to improve access to justice in Texas courts; and

WHEREAS, the COVID-19 pandemic has reshaped the business of civil justice in the way of limited in-person proceedings and the widespread use of remote trials; and

WHEREAS, pre-pandemic court data reveal a civil justice system with year-over-year increases in case filings and backlogs, which will undoubtedly be exacerbated by the COVID-19 pandemic; and

WHEREAS, pre-pandemic court data also reveal debt cases comprise an increasing percentage of new civil case filings; and

WHEREAS, data presented to the Civil Justice Committee suggests that most debt cases are filed by only a handful of plaintiffs and law firms, that most debt claim defendant are unrepresented, and that with vast majority of judgments are for plaintiffs in the form of default judgments; and

WHEREAS, many post-judgment challenges await judgment debtors, who can be both unrepresented and unaware of the protections available to them; and

WHEREAS, data show that civil case filings continue to increase and that case clearance rates continue to fall short of 100% across courts; and

WHEREAS, online dispute resolution provides a cost-efficient, time-efficient, and convenient method of civil dispute resolution; and

WHEREAS, during the 86th Legislative Session the Legislature simplified and consolidated criminal court costs to lessen the local burden of administering the criminal court costs system and to remedy constitutional issues embedded in the system; and

WHEREAS, the civil filing fee system in Texas is complex, can be difficult to administer, and caselaw suggests that some current uses of civil filing fees might be unconstitutional; and

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges:

1. The Texas Supreme Court or the Texas Judicial Council to adopt rules that make the process of understanding and engaging in a debt claim lawsuit more accessible by requiring courts to send debt claim defendants a plain language post-service letter and answer packet that explains the legal process and provides a sample answer form with available defenses under the law.
2. The Texas Judicial Council to direct the Office of Court Administration to create a model plain language post-service letter packet that courts can use to send to debt claim defendants.
3. The Texas Supreme Court or the Texas Judicial Council to adopt rules that improve access to justice for unrepresented defendants by requiring a court, prior to issuing a default judgment in a debt claim case, to send a debt claim defendant a plain language notice explaining what a default judgment is and its implications. The notice should include a statement indicating when the default judgment will be entered and the need the answer the lawsuit to protect the defendant's rights, and include a general answer form with instructions.
4. The Texas Judicial Council to direct the Office of Court Administration to create a model plain language debt claim default judgment notice packet that courts can use to send to a debt claim defendant prior to issuing a default judgment in a debt claim case.
5. The Texas Supreme Court to adopt a rule requiring a debt claim plaintiff to submit documentary proof, and not merely sworn statements, to substantiate the debt, the amount owed, and the right to collect it.
6. The Texas Supreme Court to adopt a rule requiring a debt claim plaintiff to demonstrate compliance with Finance Code §392.307, which prohibits a debt buyer from suing to collect a time-barred debt, and Finance Code §392.101, which requires third-party debt collectors to be bonded.
7. The Texas Supreme Court to amend TRCP 663a to provide judgment debtors information on exemptions and the ability to file a notice of exemption or a motion to dissolve a writ of garnishment. The service timeline found in the first sentence of TRCP 663a should also be amended to replace "as soon as practicable following the service of the writ" with "within three days following the service of the writ."
8. The Texas Supreme Court to amend TRCP 664a to require modification of a writ of garnishment to exclude any funds found exempt after notice and a hearing. Rule 664a should also be amended to permit judgment debtors to file a notice of exemption or a motion to dissolve a writ of garnishment and continue to obtain a hearing within 10 days. Rule 664a should also be amended to treat an exemption claim as raising a rebuttable presumption that the exemption claims are valid. The rule should provide

- that, unless the judgment creditor requests a hearing within three days, the exemption claims are deemed valid. The rule should provide that if judgment creditor does request a hearing, the judgment debtor would have the burden of proving he or she was entitled to raise the exemption and what amount of the frozen funds were exempt. The Texas Supreme Court should also draft a simple notice of exemption claim form for use by unrepresented defendants.
9. The Texas Supreme Court to adopt rules governing the issuance of turnover orders, appointment of turnover receivers, and the mechanisms for challenging turnover receivers.
 10. The Legislature to modernize wage exemption language in statute to establish a minimum cash exemption to ensure that families can cover basic living expenditures while still allocating remaining funds to repay debt.
 11. The Texas Judicial Council to adopt a rule implementing the Texas Online Dispute Resolution Policy Framework to govern the use of court-sponsored online dispute resolution.
 12. The Office of Court Administration to implement a low-cost or free online dispute resolution platform throughout the state so that parties in civil matters may access the judicial system.
 13. The Legislature to simplify and consolidate the civil court filing fee system in a way that remedies potential constitutional issues in the current system. This reform should be revenue-neutral for both the state and local government to the extent it can be.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

STATE OF TEXAS

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Ensuring Adequate Court Funding

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Texas Constitution divides the powers of the government of the State of Texas into three distinct departments—the Legislative, Executive and Judicial Departments; and

WHEREAS, the Judiciary, having neither the “sword nor the purse,”¹ relies upon the legislative and executive branches to provide sufficient funding to carry out its constitutional and statutory purposes; and

WHEREAS, a strong judiciary able to uphold the rule of law is critical to attracting business growth and maintaining a prosperous state; and

WHEREAS, delayed justice costs Texas businesses and citizens money, while effective and efficient courts save taxpayers money; and

WHEREAS, the total state appropriations to the Judiciary represented 0.38% of the total state budget in the 2020-21 biennium; and

WHEREAS, the Judiciary has used technology and other administrative measures to increase efficiency and make significant technological improvements; and


WHEREAS, ensuring that an adequate level of funding is provided to the Judiciary is essential to promoting access to the courts for Texans to resolve their disputes and protect the citizenry from abuse of their individual rights; and

WHEREAS, the Judiciary must continue to utilize funding to improve the way it administers justice to better meet the needs of citizens and employers in Texas through innovation, education and technological advances;

¹ Hamilton, Alexander. “Federalist #78.” *The Federalist*. (New York: Fine Creative Media)

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges the Legislature and County Commissioners Courts to provide adequate funding to:

- (1) Support and restore core services to the judicial branch, as outlined in the legislative appropriations requests for the state-funded courts and judicial branch agencies;
- (2) Provide COVID-19 protections in Texas courtrooms and courthouses;
- (3) Provide sufficient judicial education to the over 3,300 judges of this state;
- (4) Ensure access to justice is available to individuals seeking justice through continued funding for basic civil legal services and increased funding for basic civil legal services for veterans and their families; and
- (5) Ensure appropriate constitutional protection through criminal indigent defense services.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

STATE OF TEXAS

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TEXAS JUDICIAL COUNCIL

Supporting Adequate Funding for Civil Legal Aid in Texas

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Texas Judicial Council embraces the principles that our nation promises justice for all, not just for those who can afford to pay for it; and

WHEREAS, the most recent U.S. Census survey reports that nearly 5.2 million Texans qualify for civil legal aid and a University of Texas at San Antonio study from 2015 found that only 10% of the civil legal needs of low-income Texans were being met; and

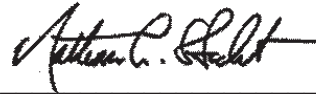
WHEREAS, low-income Texans are often the most vulnerable in our communities, including veterans, the elderly, persons with disabilities and mental health needs, and survivors of domestic abuse, sexual assault and human trafficking; and for many disadvantaged Texans access to legal help might be all that stands between them and homelessness, health, safety, and income to provide food on their table and shelter for their children; and

WHEREAS, due to the COVID-19 pandemic, the essential legal needs of Texans have exponentially grown with more than three million Texans having applied for jobless assistance since the beginning of the pandemic, and unemployment by a family member having a significant effect on the stability of a family; and

WHEREAS, civil legal aid can help with newly confronted issues, such as eviction/foreclosure, domestic violence (including child and elder abuse), health and public benefits, utility shut-offs, repossessions, and other consumer-related issues; and

WHEREAS, Texas ranks 47th in access to legal aid lawyers, with approximately one legal aid lawyer for every 8,000 Texans who qualify for legal aid services. A lack of adequate funding to meet the legal need results in thousands of Texans being denied critical, life-changing legal representation, which is even more a matter of life, death, health, and safety during the current pandemic.

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council supports the Supreme Court of Texas' appropriations request for basic civil legal services funding from the Texas Legislature and supports the Texas Access to Justice Commission and Foundation proposals for additional funding for basic civil legal services.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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Improving Civic Education

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, improving civic education has long been a priority of the Council; and

WHEREAS, numerous statistics have identified a need to strengthen and improve civic education in our schools, especially a deeper understanding of the purpose and role of the 3rd branch of government; and

WHEREAS, civic education equips young people with the knowledge, skills, and attitudes needed to be active, responsible citizens in a democracy; and

WHEREAS, while students in Texas are required to take both U.S. and Texas history and a semester of U.S. Government to advance their civic knowledge, there remains an insufficient focus on civic skills, attitudes, and behaviors that are critical to a sustained and responsible civic engagement; and

WHEREAS, the Judicial Council is happy to partner with various stakeholders including the Texas Civic Education Coalition to advance civic education in our state; and

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council recommends that the legislature adopt the recommendations of the Texas Civic Education Coalition and Council that make changes to civic education in Texas for grades K-12 with the following components:

1. Define the elements of a comprehensive civic education that research shows results in informed and responsible civic engagement:
 - a. **Civic knowledge** - an understanding of the history and heritage of our civic life; the structure, functions, and processes of our civic institutions at all levels; founding-era documents; geography and economics that affect public policy; and the role of the citizen.
 - b. **Civic skills** - the abilities necessary to participate as active and responsible citizens in a democracy; training on how to effectively engage in the civic life and civic institutions of their community, state and nation; how to analyze text and

determine the reliability of sources; how to formulate and articulate reasoned positions; how to actively listen and engage in civil discourse; and collaboration and community organizing skills.

- c. **Civic attitudes** – appreciation of the importance and responsibility to participate in civic life; commitment to our nation and system of government; appreciation for the rule of law, free speech, and civil discourse; civic self-efficacy and understanding of perspectives that differ from one’s own.
 - d. **Civic behaviors** - practicing civic habits, including voting, engaging in deliberative discussions, volunteering, attending public meetings and participating in other civic activities related to civic life through meaningful experiential opportunities or classroom simulations.
2. Recognizing the foundational civic knowledge requirements already existing in Texas educational standards but emphasizing the need for additional K-12 instruction on civic skills as well as appropriate civic attitudes in addition to just civic facts;
 3. Mandating a student-led but curriculum-based, non-partisan civics practicum or project in the 8th grade and once in high school to effectively demonstrate understanding of crucial civic behaviors;
 4. Requiring the Board of Education, during the already scheduled 2023 revision cycle, to revise or enhance the current social studies teaching standards (Texas Essential Knowledge and Skills) to provide for all four civic education domains described above and to specifically include these civic education domains where possible in existing history standards;
 5. Instructing the TEA to infuse civics education into other disciplines by providing content rich, non-fiction civics texts in English Language Arts testing where reading and writing prompts are used and in approved ELA reading lists;
 6. Requiring social studies teachers to have 25% of their teacher continuing education hours mandated every 5 years by the Education Code be specifically on effective teaching of media literacy, simulations of democratic processes, civic practicums, and guided classroom discussions of current events.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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Improving Training and Community Engagement

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, events like the 2016 Beyond the Bench; Law, Justice, and Communities and the 2019 Public Engagement Pilot Project were widely successful in bringing diverse communities together to learn about and make recommendations on improvements to the court system; and

WHEREAS, the Texas Court of Criminal Appeals is responsible for adopting rules and programs related to judicial education; and

WHEREAS, training centers responsible for judicial education have been required to offer implicit bias training for Texas judges since 2001; and

WHEREAS, there is currently no requirement that Texas judges obtain implicit bias training hours; and

WHEREAS, in light of recent national events, the Council wishes to continue the judiciary's dedication to continuously working to improve public trust and confidence; and

WHEREAS, the Texas Judiciary has a strong history of commitment to public engagement and efforts to increase trust and confidence in the Third Branch; and

WHEREAS, the Council recognizes efforts to improve public trust and confidence require planning and education;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council recommends:

1. The Texas Court of Criminal Appeals should require judges to obtain additional training on implicit bias; and
2. The Judicial Council should create an advisory committee of the Council to assist the Council in its focus on judicial training, community engagements, and developing judicial summits.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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In Support of Appropriating All Funds Collected for Improving Indigent Defense

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Texas Indigent Defense Commission (TIDC) is a permanent standing committee of the Texas Judicial Council, created under Chapter 79, Texas Government Code; and

WHEREAS, TIDC is charged with promoting compliance by counties with the requirements of state law related to indigent defense pursuant to the *Fair Defense Act of 2001*; and

WHEREAS, the right to counsel is also guaranteed in the U.S. and Texas Constitutions; and

WHEREAS, the TIDC funding has directly led to improved compliance and innovations that enhance access to quality indigent defense representation; and

WHEREAS, numerous challenges remain in the Texas indigent defense system despite significant progress; and

WHEREAS, the Texas Indigent Defense Commission is funded exclusively from the Fair Defense Account, a General Revenue-dedicated fund of the State of Texas; and

WHEREAS, the court costs and fees that fund the Fair Defense Account are collected specifically for the purpose of improving indigent defense; and

WHEREAS, TIDC has historically been provided with spending authority for all inflows into the Fair Defense Account; and

WHEREAS, to meet its mission more effectively, TIDC needs access to these funds to improve oversight, accountability, access, quality, and transparency in the delivery of indigent defense in Texas; and

WHEREAS, the 86th Legislature provided an additional \$5 million for mental health defender programs but limited the use of the funds to existing public defender offices;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council recommends that the Texas Legislature:

- 1) Restore TIDC's estimated appropriation authority to the Texas Fair Defense Account so that fees collected for the purpose of improving indigent defense can be used for that purpose; and
- 2) Allow the funds allocated for mental health defender programs to be accessed by any public defender office or managed assigned counsel program in the state.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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Diverting Youth in Class C Misdemeanor Matters

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and


WHEREAS, felony, class A, and class B criminal offenses committed by youth are handled as civil matters in the juvenile courts; and

WHEREAS, in recent years the Legislature has enacted legislation designed to limit youth exposure to the criminal justice system through decriminalization of failure to attend school and through the creation of a special civil process to address truancy; and

WHEREAS, while these changes to the law have significantly reduced the number of non-traffic, Class C/fine-only cases filed against juveniles in justice and municipal courts, the volume of these cases remains high; and

WHEREAS, these remaining Class C/fine-only charges against juveniles are handled as criminal matters in justice and municipal courts, and the handling of these cases in this manner carries with it a variety of potential consequences, including the lack of appointed counsel, the imposition of legal financial obligations that might be difficult to satisfy, and the prospect of a criminal record;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature amend current law to allow for the diversion of youth charged with non-traffic Class C/fine only offenses from the criminal justice system.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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Recommendations from the Judicial Commission on Mental Health

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, one of the Council's recommendations in 2016 was the creation of a Judicial Commission on Mental Health (JCMH); and

WHEREAS, the Commission was created jointly in a historic hearing and joint order by the Texas Supreme Court and Texas Court of Criminal Appeals in January of 2018; and

WHEREAS, in the fall of 2019, the Courts convened two JCMH task forces, composed of stakeholders in the courts and mental health providers that intersect with the courts, to study and make recommendations to improve or refine laws and rules relating to mental health and intellectual and developmental disabilities; and

WHEREAS, the first task force was directed to examine current mental health statutes and procedures as the Legislature directed in Senate Bill 362¹ and the second task force was created to focus on legislative research to recommend potential legislative changes to the Council; and

WHEREAS, the Committee believes additional reforms to the ways that courts and the justice system interact with individuals with a mental health condition or an intellectual or developmental disability would benefit those individuals; and

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges the Legislature to enact the recommendations from the Texas Judicial Commission on Mental Health concerning the following areas:

1. Defendant with Lack of Capacity in Justice and Municipal Courts;
2. Acceptance of a Plea in Justice and Municipal Courts;
3. Time Periods for Competency Orders;
4. Jail-Based Competency Restoration Pilot Program and County Programs;

¹ See Act of May 15, 2019, 86th Leg., R.S. ch.582 Sec.26 (S.B. 362). "directed the Supreme Court of Texas to adopt rules to streamline and promote efficiency in court processes under Chapter 573 of the Texas Health and Safety Code (emergency detention) and to implement measures relating to mental health and intellectual and developmental disabilities to create consistency and access to the judicial branch."

5. Deadlines for Competency Evaluations and Timelines in Jail Based Competency Restoration Programs;
6. Good Time Credit for Defendants Released to Outpatient Competency Restoration Programs;
7. Possibility of a Step Down from Court-Ordered Inpatient to Outpatient Mental Health Services under 46B.105;
8. Expert Qualifications in Competency/Insanity Evaluations;
9. Oath and Promise to Appear for Persons with a Mental Illness or intellectual and developmental disability;
10. 16.22 Interview for a Defendant No Longer in Custody;
11. Psychiatric Stabilization in Jail;
12. Clarification of Officer's Duties Upon Presenting a Person for Emergency Mental Health Services;
13. Expansion of the Types of Professionals Who May Make an Electronic Application for Emergency Detention Warrant;
14. Seizure of Firearms in Possession of Person Taken into Custody by Warrant for Emergency Detention; and
15. Authorization for Blood Draws to Monitor Blood Levels of Psychoactive Medications Involuntarily Administered to Patients in Accordance with Lawful Orders.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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Removing Barriers to Holding Online Court Proceedings

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, Texas saw its first diagnosed case of COVID-19 on March 4, 2020, and no one could have predicted the destruction and disruption the pandemic would cause our communities; and

WHEREAS, the Texas Judiciary had activated its response plan weeks before the first COVID-19 diagnosis in Texas and began taking actions, including preparing to hold court online; and

WHEREAS, on March 13, hours after Governor Abbott issued a disaster declaration and public health emergency declaration for the state, the Texas Supreme Court, joined by the Court of Criminal Appeals, issued the First Emergency Order Regarding the COVID-19 State of Disaster to allow or require remote participation in a court hearing or proceeding;¹ and

WHEREAS, Texas judges quickly adapted to the technology holding an estimated 500,000 remote hearings in every case type and type of proceeding, including bench and jury trials, with 1.5 million participants, lasting more than 1.1 million hours during the 7-month period between March and September 2020; and

WHEREAS, Texas courts led the nation in online innovations during the pandemic—the first state to have its nine-member Supreme Court host remote oral arguments, the first state to hold a virtual non-binding civil jury trial in May 2020, and the first state to hold a virtual criminal jury trial in August 2020; and

WHEREAS, many judges have praised the increase in access to justice by holding court online with judges reporting greater participation from litigants due to the efficiency and ease of attending, cost savings, and 85% of surveyed Texas attorneys reporting they would recommend remote hearings to colleagues or clients;² and

¹ Texas Govt. Code Section 22.0035(b).

² Remote/In-Person Proceedings Survey, Texas Office of Court Administration, June 2020.

WHEREAS, while remote hearings will never fully replace in-person proceedings, the progress made during the pandemic in access to justice, accessibility, and efficiency should continue.

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council recommends that the legislature remove any barriers to continuing remote online court proceedings and court innovations developed as a result of the COVID-19 pandemic.



Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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Delay of Establishment of Protective Order Registry

WHEREAS, the Texas Legislature enacted Senate Bill 325 (Act of May 1, 2019, 86th Legislature, Regular Session) which requires the Office of Court Administration to create a protective order registry by June 1, 2020, that will provide law enforcement and the public access to protective orders and will provide law enforcement access to protective order applications; and

WHEREAS, the COVID-19 pandemic caused a delay in the completion of the protective order registry due to interruptions to regular workflow and delays in obtaining the records necessary for the development of the protective order registry; and

WHEREAS, the Office of Court Administration requested an extension to the protective order registry implementation date due to delays resulting from the COVID-19 pandemic;

WHEREAS, Senate Bill 325 authorizes the Texas Judicial Council to delay the establishment of the protective order registry for up to 90 days; and

WHEREAS, an electronic vote delaying the establishment of the protective order registry for 90 days was requested of the Texas Judicial Council on August 25 and unanimously approved.

NOW, THEREFORE, BE IT RESOLVED that the members of the Texas Judicial Council approve the Office of Court Administration's request to extend the date to establish the protective order registry for 90 days to September 1, 2020.



Honorable Nathan L. Hecht
Chief Justice, Supreme Court of Texas
Chairman, Texas Judicial Council