



May 2020, Number 86-10

Coronavirus, Judiciary and Jurisprudence

Texas Supreme Court orders in response to pandemic address court procedures, deadlines

[May 6](#) — In response to the ongoing COVID-19 pandemic, the Texas Supreme Court since mid-March has issued several emergency orders affecting the operations of the judiciary and civil matters such as evictions and consumer debt collection.

Government Code [sec. 22.0035\(b\)](#) empowers the Supreme Court to suspend or modify for up to 90 days the conduct of a court proceeding affected by a disaster, after which an emergency order may be renewed by the chief justice. [SB 40](#) by Zaffirini, enacted in 2019 by the 86th Legislature, extended the duration of emergency orders by the Supreme Court from 30 days to 90 days. The bill also specified that the chief justice of the Supreme Court, rather than the court as a whole, may renew an emergency order. [HB 2637](#) by Calanni, which died in the House Calendars Committee during the regular legislative session in 2019, would have extended emergency orders issued by the Texas Supreme Court until terminated by a subsequent order of the court.

Recent emergency orders. The orders related to COVID-19 issued by the Supreme Court address remote judicial proceedings, evictions, the collection of consumer debt, suits affecting the parent-child relationship, and various rules and deadlines for civil and criminal cases.

Remote court proceedings. On March 13, the Supreme Court issued an order requiring all courts in Texas to take certain actions to avoid risk to court staff, parties, attorneys, jurors, and the public, including modifying or suspending deadlines or procedures for up to 30 days after the current disaster declaration ends. The order also permits courts to allow or require remote participation in judicial proceedings, conduct proceedings away from the court's usual location, and require every participant in a judicial proceeding to alert the court of any COVID-19 or flu-like symptoms or a fever, cough, or sneezing. The order also allows

courts to consider as evidence sworn statements made outside of court or sworn testimony made remotely and to take any reasonable actions to prevent exposure to the novel coronavirus.

A subsequent [order](#) allowed courts to conduct proceedings outside the county of venue and away from the court's usual location with reasonable notice and access to participants and the public. Courts may not conduct in-person proceedings contrary to social distancing, maximum group size, and other requirements issued by the Office of Court Administration and should use all reasonable efforts to conduct remote proceedings.

Evictions. On March 19, a Supreme Court order suspended ongoing proceedings for the recovery of residential property under [Property Code ch. 24](#) and Rule 510 of the Texas Rules of Civil Procedure. A subsequent [order](#) extended the suspension of these eviction proceedings until May 18, 2020, and specified that court-issued writs of possession requiring evicted tenants to vacate a property may not be executed until after May 25, 2020. Under the order, new eviction filings may be accepted but the time period for a defendant to appear in court is suspended, and citations may not be issued or served until after May 18, 2020. Evictions may proceed during the disaster only if the landlord files a sworn complaint and a court determines that the actions of the tenant or tenant's household members or guests pose an imminent threat of physical harm or criminal activity and signs an order listing procedures for the eviction case to proceed.

Collection of consumer debt. An [order](#) addressing collection of consumer debt suspended the issuance of writs of garnishment until after May 25, 2020, and encouraged courts to quickly adjudicate agreements between parties to a garnished account. The order also specified that a court-appointed receiver may not

(continued on page 2)

freeze accounts at a [financial institution](#) that has a branch or office in Texas before May 18, 2020. Cases concerning the collection of consumer debt may proceed during the disaster only if a court determines that the actions of a defendant pose an imminent threat of absconding with or fraudulently concealing funds.

Civil statutes of limitations. The Supreme Court extended to July 15, 2020, any deadline for the filing or service of a civil case falling between March 13 and June 1, 2020. This order does not apply to deadlines in appellate proceedings but encourages appellate courts to grant relief from these deadlines.

Suits affecting the parent-child relationship. The court [specified](#) that possession of and access to a child under a court-ordered possession schedule is not affected by a shelter-in-place order or other governmental order restricting movement during the COVID-19 pandemic nor by a school closure due to the pandemic. Parents still may agree to alter possession schedules if allowed by court order, and courts may modify these orders on an emergency basis.

Other orders. The court [extended](#) until July 15, 2020, all deadlines between March 13 and June 1, 2020, related to attorney professional disciplinary and disability proceedings. Deadlines from this time frame for the issuance and renewal of certifications, licenses, and registrations issued by the Judicial

Branch Certification Commission, including continuing education deadlines, also were extended.

— Andrew McNair

UPDATE: On May 14, the Supreme Court issued two new orders on eviction proceedings and consumer debt collection. The court's 15th [order](#) states that eviction proceedings may resume on May 19, 2020 and deadlines are no longer extended and that warnings may be posted and writs of possession may be executed beginning May 26, 2020. The order also specifies that for eviction proceedings filed from March 27 through July 25, 2020, the sworn petition required under the Texas Rules of Civil Procedure describing the grounds for eviction must state that the premises are not subject to the moratorium on evictions in [sec. 4024](#) of the federal CARES Act.

The 16th [order](#) states that certain actions to collect consumer debt may resume and requires courts and debt receivers to release or refund any stimulus payments affected by garnishment or turnover. Receivers and creditors also must send a notice to debtors stating that their stimulus payments may be protected by a court stay during the ongoing disaster and that they have a right to request a court hearing. The order states that court hearings to determine what funds are attributable to a stimulus payment may be requested by individual debtors or receivers and must occur within two business days of the request.