



As a free service to the members of the Family Law Section of the State Bar of Texas, please find a **Motion for Use of Emergency Procedures**, which will become Form 8-81 in the Family Law Practice Manual (“the Formbook”) (<http://texasbarbooks.net/books/texas-family-law-practice-manual/>). 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.

Your Family Law Section is also providing an **Order on Motion for Use of Emergency Procedures**, which will become Form 8-82 in the Formbook. Among other features, that order contains a model of detailed procedures for remote proceedings.

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 8-81

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.]

Motion for Use of Emergency Procedures

This Motion for Use of Emergency Procedures is brought by [name of movant], [party designation].

1. The contact information for the parties is:

a. Movant, [name of movant], is [represented by [name of movant’s attorney]/self-represented]. Movant’s e-mail address is [e-mail address] and telephone number is [telephone number]. Movant is the [party designation] in this suit.

b. Respondent, [name of respondent], is [represented by [name of respondent’s attorney]/self-represented]. Respondent’s e-mail address is [e-mail address] and telephone number is [telephone number]. Respondent is the [party designation] in this suit. [Include if respondent is pro se: Respondent [has/has not] filed pleadings or otherwise made an appearance in the suit.]

Repeat for each party, guardian ad litem, attorney ad litem, and amicus attorney.

2. The parties have agreed to this motion and will submit an agreed order to the Court for approval.

Or

2. The parties have not agreed to this motion.

3. Pursuant to [the Supreme Court’s First Emergency Order Regarding the COVID-19 State of Disaster (Misc. Docket No. 20-007) and Third Emergency Order Regarding the

COVID-19 State of Disaster (Misc. Docket No. 20-008)/[**describe order permitting emergency procedures**] and subject to constitutional limitations, Movant requests the following procedures apply for a stated period ending no later than thirty days after the state of disaster in this county is lifted:

Include as applicable.

a. The Court modify the deadline for [**deadline’s description**]. The deadline currently is [**current deadline**]. The Court should modify this deadline to [**proposed deadline**] because [**reasons supporting modification of deadline**].

b. The Court suspend the deadline for [**deadline’s description**]. The deadline currently is [**current deadline**]. The Court should suspend this deadline because [**reasons supporting suspension of deadline**].

c. The Court modify the [**description of procedure to be modified**]. The Court should modify this procedure as follows: [**description of proposed modified procedure**]. The Court should modify this procedure as requested because [**reasons supporting modification of procedure**].

d. The Court suspend the [**description of procedure to be modified**]. The Court should suspend this procedure because [**reasons supporting suspension of procedure**].

e. The Court [allow/require] 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—to participate remotely, such as by teleconferencing, videoconferencing, or other means. [**Include if applicable**: The Court specifically should allow such persons to participate by [**state specific means to participate remotely**]]. For each proceeding, the Court should specify:

- (1) Which means of remote participation are permitted;
- (2) Who is responsible for setting up the means for each person to participate remotely;
- (3) How the public can access the proceedings, if the proceedings are required to be open to the public;
- (4) If the parties must provide the Court with an electronic copy of all orders, pleadings, returns of citations, and other documents filed with the district clerk that are relevant to the hearing or conference, the address to which the parties must e-mail those documents, either as attachments to the e-mail or accessible through an e-mailed link to a cloud storage service, and the deadline for e-mailing the documents;
- (5) The address to which each party must e-mail the party’s exhibits to the Court before a hearing or conference, either as attachments to the e-mail or accessible

through an e-mailed link to a cloud storage service specified by the Court, the format(s) the Court requires the exhibits to be in (for example, PDF), the manner in which the subject line of the e-mail is to be presented, the deadline for e-mailing the exhibits, and whether the party must copy on this e-mail all other parties who have filed pleadings or otherwise made an appearance in the suit;

(6) The other documents (for example, financial information statement, pay statements, tax returns with redacted Social Security numbers) the Court requires each party to e-mail to the Court before the hearing or conference, either as attachments to the e-mail or accessible through an e-mailed link to a cloud storage service specified by the Court, the format(s) the Court requires the documents to be in, the deadline for e-mailing the documents, and whether the party must copy on this e-mail all other parties who have filed pleadings or otherwise made an appearance in the suit;

(7) If a party wants the Court to consider certain statutory or case law, the format(s) the Court requires the documents to be in, the deadline for e-mailing the documents, and whether the party must copy on this e-mail all other parties who have filed pleadings or otherwise made an appearance in the suit; and

(8) The consequences to a party if the party fails to comply with subsections (4), (5), (6), and (7).

f. The Court consider as evidence sworn statements [**include if applicable:** and unsworn declarations] made out of court. [**Include if applicable:** The Court specifically should consider as evidence an [affidavit/unsworn declaration] from [**name of witness**] as evidence in a hearing to [**description of hearing**]]. Unless waived by each party, the Court should require each out-of-court sworn statement [**include if applicable:** and unsworn declaration] to be served on each party not less than [**number**] days before the hearing in which it is to be considered as evidence. Unless waived by each party, the Court should require an out-of-court sworn statement [**include if applicable:** or unsworn declaration] offered as rebuttal evidence to be served on each party not less than [**number**] days before the hearing in which it is to be considered as rebuttal evidence.

g. In lieu of the Court's interviewing the child[ren] who are the subject of this suit in chambers as provided in Texas Family Code section 153.009, the Court interview the child[ren] by remote means, specifying which remote means, including, if applicable, the remote means by which the other persons section 153.009 permits or requires to be present during the interview will participate, and specifying who is responsible for setting up the means for each such person to participate remotely.

h. The Court, after reasonable notice and access to the participants and the public, conduct proceedings away from the court's usual location. [**Include if applicable:** The Court specifically should conduct proceedings at [**location**].]

i. The Court require every 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, to 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>.

j. The Court require every participant in a court hearing, jury trial, or conference with the Court to 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>.

k. The Court make all other and further orders that are deemed necessary and equitable for proceedings in this suit [**include if applicable:** and for the safety and welfare of the child[ren]].

4. To assist the Court, the following documents relevant to this motion are attached: [titles of each document].

[Name of movant] prays that the Court grant this Motion for Use of Emergency Procedures.

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

Include if all parties who have filed pleadings or otherwise made an appearance do not agree to the motion.

Certificate of Conference

I certify that a reasonable effort has been made to resolve the issues addressed in this motion without the necessity of court intervention and has failed.

[Name]
Attorney for [name of movant]

Notice of Hearing

The above motion is set for hearing by [telephone/other remote means] on _____ at _____ .M..

SIGNED on _____.

Judge or Clerk

Continue

Certificate of Service

I certify that a true copy of this [document/[**title of document**]] was served in accordance with rule 21a of the Texas Rules of Civil Procedure on the following on [**date**]:

[**Name of attorney of record or party to be served**] by [electronic filing manager/e-mail at [**e-mail address**]/fax at [**fax number**]/personal delivery at [**address**]/commercial delivery service at [**address**]/certified mail at [**address**]/first-class mail at [**address**]]. [**Repeat for each attorney of record or party to be served.**]

[**Name**]

Attorney for [**name of movant**]

Attach the documents referred above.