

ALL CASES BROUGHT) IN THE DISTRICT COURT
BY THE) OF THE 321ST DISTRICT
DEPARTMENT OF FAMILY AND)
PROTECTIVE SERVICES) SMITH COUNTY, TEXAS

EMERGENCY ORDER NUMBER ONE

WHEREAS, the ongoing crisis related to the unabated spread of the COVID-19 virus (“coronavirus”) has resulted in a Federal Emergency Declaration by the President of the United States;

WHEREAS, said health crisis has also caused Governor Gregg Abbot to issue an Emergency Disaster Declaration for the entirety of the State of Texas;

WHEREAS, as a result of said public health crisis, the Smith County Commissioners’ Court has issued a “Declaration of Local Disaster,” as of March 16, 2020, and as well, Judge Nathaniel Moran has issued a “Stay at Home” Order, effective March 28, 2020; and,

WHEREAS, the Texas Supreme Court has issued several Emergency Orders directing the District Courts to adjust the operation of their courts and the conducting of hearings in an effort to minimize the risk of exposure to parties, attorneys, witnesses and providers, then, in response, I, as Presiding Judge of the 321st District Court of Smith County, hereby issue the following Emergency Order which shall be applicable to all cases brought by the Department of Family and Protective Services (“DFPS” or “the Department”). These orders shall remain in effect only as long as the Governor’s Disaster Declaration shall remain in effect or until further order of this Court, which ever shall occur first.

THEREFORE, THE COURT ORDERS AS FOLLOWS:

1. SUPERVISED VISITATION/POSSESSION: In the case of all instances where the Department is ordered to provide such, the Department shall be relieved of any such obligation to employ its personnel to supervise any possession or visitation by a parent. If this should result in a parent losing all possession or access to a child, then the Department shall facilitate the parent having regular and frequent virtual or electronic access to the child which shall occur no less than three times per week. The Department shall also investigate – to the extent available – the employment of an approved substitute supervisor which may include an agency or business which provides supervision services. In-person supervision of a parent’s visitation by an individual over the age of 60 or anyone who is immune-compromised shall be suspended immediately; the Department shall investigate a substitute supervisor and provide virtual visitation as outlined above in this instance. This order shall not affect possession or visitation by a parent which is unsupervised.
2. VIRTUAL OR ELECTRONIC VISITATION: This obligation of the Department to provide virtual visitation to parents deprived of possession as a result of this order may be provided through any videoconferencing platform such as APPLE FACETIME, SKYPE, ZOOM, MICROSOFT TEAMS or any other videoconferencing platform. While the Department shall not be required to subsidize costs related to the providing of virtual visitation, it shall investigate any public monies that may be available to a parent in undertaking virtual visitation. While videoconferencing is the first priority, telephonic access by the parent may be made available as a last resort. Virtual visitation may also be used to supplement a parent’s in-person

visitation/possession. Telephonic access which is already provided for a parent according to their existing visitation plan shall not change, except to be supplemented with virtual visitation if in-person visits are lost.

3. PARENT SERVICE PLANS: Parents shall continue compliance with their existing service plans to the extent service providers continue to provide services. The Department shall facilitate the parent obtaining services in a virtual format from all providers to minimize the risk of exposure to a parent. If a provider suspends all services due to the health crisis, then – rather than delay or suspend services – the Department shall reassign the parent to another provider who will provide virtual services.
4. SASSIs: All service plan requirements that a parent submit to a Substance Abuse Subtle Screening Inventory (SASSI) may be completed by virtual means. The prior requirement that the Department only implement in-person SASSI testing is temporarily suspended. The Department shall marshal a list of service providers that will accommodate parents by providing virtual SASSI testing.
5. ESSENTIAL HEARINGS: Except in the case of an absolute emergency, all hearings (essential and nonessential) to be conducted in Department cases shall be conducted telephonically (using the County conference bridge) or virtually through videoconferencing (coming soon) in order to minimize the risk of virus exposure to parents, caregivers, Department personnel, attorneys and court staff. The Department shall provide parents with all necessary call-in or log-in credentials to allow them to participate in all telephonic or virtual hearings. The Department shall reschedule any nonessential hearings to also aid in reducing the risk of exposure. Adversary Hearings, Emergency Placement Hearings and hearings to consider an intake of abuse/neglect concerning a child in care shall always be considered “essential” hearings.

This concludes the ORDERS of the Court.

RESPECTFULLY SUBMITTED,



ROBERT H. WILSON, Presiding Judge

321st DISTRICT COURT

SMITH COUNTY, TEXAS