



# **Illinois Supreme Court Policy on Remote Court Appearances**

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Effective May 2020

## I. PREAMBLE

The Illinois Supreme Court recognizes that meaningful access to the courts is essential to ensuring the integrity and fairness of the judicial process and to preserving trust in our legal system. Large numbers of self-represented litigants and other court users navigate the justice system in Illinois every year. The costs and challenges of travel, childcare, and time off from work, among other issues, present hardships to participating in court proceedings in-person. Lawyers, in particular legal aid and *pro bono* lawyers, are often limited in the number of clients they can represent because of the distance and time involved in traveling to and from courthouses and the constraints of in-person appearances.

One strategy for addressing these issues and ensuring access to justice is to permit and support remote participation in court proceedings. Certainly, there are circumstances where in-person appearances are necessary. But many proceedings can be effectively and efficiently held remotely.

Further, with the widespread availability of mobile telephones, particularly smartphones, and other personal devices and public access to computers in libraries, courthouses, and other community spaces, more people than ever before have the ability to participate in court proceedings remotely from a location outside the courtroom.

The opportunity to appear remotely allows lawyers to appear more economically and efficiently in multiple courthouses and to represent more clients. It offers cost savings for litigants, lawyers, and witnesses, and increased opportunities to participate in court proceedings. For courts, remote appearances provide greater flexibility in the management of dockets and can increase participation rates. Remote appearances also reduce safety and public health concerns by minimizing the number of people entering the courthouse.

[Supreme Court Rule 45](#)<sup>1</sup> authorizes and fosters the use of remote appearances in circuit courts with a goal of achieving uniformity in remote appearance practices throughout the state. Rule 45 sets forth categories of case types and proceedings where the option to appear remotely is appropriate and should be provided to Case Participants without the need for prior approval, and case types and proceedings where remote appearances may not be appropriate and prior approval is required. [Supreme Court Rule 44](#) permits remote court proceedings while prohibiting the recording of a remote proceeding except a recording by the court, at the court's direction, or pursuant to the Supreme Court's Extended Media Coverage Policy. For civil cases, [Supreme Court Rule 241](#) governs remote appearances in trials and evidentiary hearings and [Supreme Court Rule 242](#) governs remote jury selection.

Rule 45 is meant to improve access to the courts, increase efficiency, reduce costs, and promote statewide uniformity in remote appearance practices. It does not require a Case Participant to demonstrate hardship or good cause to appear remotely and provides that remote court appearances should be easy to request and liberally allowed. While Rule 45(b)(2) allows circuits to adopt remote appearance exemptions beyond those already included in Rule 45, circuits should adopt such exemptions only where necessary and local rules should be consistent with the spirit of Rule 45.

This Policy is intended to help courts implement, expand, and promote the use of remote court

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<sup>1</sup> The definitions in Supreme Court Rule 45(a) are incorporated into this Policy.

appearances in all types of cases by all Case Participants. Courts should ensure that they have removed unnecessary financial, procedural, and other barriers for Case Participants to appear remotely. The Policy outlines topics for courts to consider when developing or reviewing rules, orders, and procedures relating to remote court appearances and highlights practices to maximize the efficiency of remote proceedings. The Policy does not impinge on or diminish the provisions of Rule 45(b)(5) which relate to Case Participants who choose to participate in court proceedings by appearing in person.

## II. BENEFITS OF REMOTE COURT APPEARANCES

Remote court appearances provide many benefits to courts and Case Participants, including judges, court personnel, attorneys, and self-represented litigants. Some of the benefits, include, but are not limited to:

1. **Decreasing the time and expense of coming to court.** Appearing remotely allows represented parties to pay less for their lawyers' time and travel and permits self-represented litigants and other Case Participants to miss less work or school and reduces childcare and transportation costs.
2. **Increasing accessibility to the courts for Case Participants,** including people with disabilities, the elderly, people serving in the military, law enforcement, case workers, treatment providers, mental health facility staff, etc.
3. **Increasing case efficiency,** by reducing default and failure to appear rates, missed court dates, and scheduling conflicts and improving disposition and clearance rates for courts.
4. **Expanding access to legal representation,** particularly in geographically dispersed jurisdictions, areas with few lawyers, and for legal aid and *pro bono* lawyers who are in high demand.
5. **Expanding access to qualified spoken and sign language interpreters,** especially for languages and dialects that are less common and difficult to staff with short notice.
6. **Lowering risks to public health, safety, and security** and lessening the burdens on security and court staff by reducing the number of people in courthouses.
7. **Creating efficiencies for judges in geographically dispersed jurisdictions** to hear cases from outlying courthouses in one location, minimizing the time judges spend traveling.
8. **Improving the public perception of the court system.** Remote court appearances give the public confidence that the courts are keeping up with many of the private and public sector institutions that conduct business remotely in response to the evolving needs and expectations of the community.

## III. TECHNOLOGY SPECIFICATIONS

Effective remote court appearances need proper technology. Courts should routinely assess the current status of their technology, procure new technology as necessary, and identify reliable solutions that are free to users. Courts should ensure that the technology used is ADA-compliant

and grant accommodations as necessary to allow remote court appearances by court users with disabilities. Minimum technological specifications for successful telephonic, video, and hybrid court appearances are available in Appendix A to the Policy.

#### **IV. LOCAL RULES PURSUANT TO SUPREME COURT RULE 45**

[Supreme Court Rule 45\(b\)\(2\)](#) requires each circuit to adopt a local rule explaining in plain language the option to participate in court proceedings remotely. Local rules should allow the option to appear remotely to the greatest extent permitted under Rule 45.

Rule 45 requires each circuit to make this information available to the public, Case Participants, and other justice system partners and to provide a copy of its local rule (including any amendments) to the Administrative Office of the Illinois Courts (AOIC). [Local rules are also posted on the Supreme Court's website.](#)

Courts should regularly review and update their local rules and public materials to reflect changes in court and court user technology, local practices, and community needs.

#### **V. REQUESTS FOR REMOTE COURT APPEARANCES**

As the Committee Comments to Supreme Court Rule 45 state, “any procedures and processes for seeking an approval for a remote appearance shall be easy, and an approval should be liberally granted without requiring a showing of good cause or any particular level of hardship, unless otherwise provided by Supreme Court Rule . . . .” Procedures which disallow oral motions, require lengthy notice periods, or are otherwise unnecessarily burdensome are discouraged.

Judges should broadly exercise their discretion under Rule 45 when considering requests to appear remotely. A showing of good cause or hardship is not required under Rule 45. However, some factors courts may consider include:

1. Whether an in-person appearance is necessary;
2. The nature and purpose of the proceeding;
3. The court’s available technology;
4. Whether any undue prejudice would result;
5. The degree of inconvenience or hardship;
6. Whether there are security or safety concerns for allowing or denying the remote court appearance;
7. Whether the Case Participants have waived personal appearances or agreed to remote appearances;
8. Previous abuse of remote court appearances by the requesting Case Participant, including failure to follow applicable standards of decorum;
9. Objections by any of the other Case Participants; and
10. Any other issues of fairness and due process that the court may determine relevant.

If the court denies the request to appear remotely, it should state the reasons for the denial.

## VI. MAXIMIZING THE EFFECTIVENESS OF REMOTE COURT PROCEEDINGS

Courts should consider implementing the following practices to enhance remote court proceedings in all types of cases:

- **Establish and publicize clear and easy instructions** that address:
  - Where to find meeting log-in information and how participants will be notified if this information changes;
  - Where to find technical assistance during a remote proceeding, how to dial-in with audio only if there is a technical problem, and whether there is technology available at the courthouse (for instance, Zoom rooms for jurisdictions that have not yet transitioned to offering hybrid court proceedings);
  - When each Case Participant will be allowed to speak and how they can indicate their desire to speak if it is not their turn (*e.g.*, using the raise hand feature or physically raising their hand);
  - When and how to submit courtesy copies in advance of remote appearances;
  - When and how to submit proposed orders, how to address disagreements on the content of proposed orders, and when and how courts will return entered orders;
  - When and how to request interpreters (for spoken and signed languages) and reasonable accommodations.
- **Be consistent across courtrooms, divisions, counties, and circuits.** In jurisdictions that have multiple courthouses and courtrooms, it is crucial that efforts are made to ensure consistent and clear policies for when a Case Participant has the option to appear remotely and when they are required to ask for permission to appear remotely.
- **Utilize services that are free to Case Participants.** There is a myriad of options to consider, but if a fee-based service must be used, fees should be subject to waiver for Case Participants who cannot afford them. For Case Participants who may not qualify for a waiver, the court should permit those individuals to appear in person rather than incur a fee.
- **Taking court volume into account, designate an adequate number of trained staff members to provide technical assistance** and act as the point persons for Case Participants, including judges, lawyers, and self-represented litigants, to contact with questions and issues.
- **Stagger court call times and continuances.** Courts should reconsider the structure of their court calls and whether to group cases that are the same case type or in similar procedural postures or implement staggered court calls.
- **Publish call sheets.** Especially in high volume court calls, courts should make the daily call sheet available online or in another manner that makes it accessible to Case

Participants appearing remotely and to those in the courthouse. The call sheet, at a minimum, should contain the case caption and case number of scheduled cases and the time at which each case will be called, particularly if the courtrooms have staggered court call times.

Judges or other court staff should inform Case Participants of the order in which cases will be called and any special procedures (e.g., notifying the clerk when the case is ready to be called).

- **Limit how long Case Participants are left in virtual waiting rooms for matters that are open to the public.** In addition to increasing transparency and ensuring due process, this allows Case Participants to observe other matters and reduces confusion and uncertainty about whether someone is in the correct Zoom room. When a waiting room is used, broadcast a message to attendees in the waiting room when a judge is running behind or there is another delay in admitting participants.
- **Ensure remote Case Participants have the ability and opportunity to confer confidentially with their attorneys and/or advocates.** This applies not only to parties and their counsel but also to witnesses who may be working with an attorney, domestic violence advocate, or crime victim advocate.
- **Make sure orders and notices that set a future court date specify whether Case Participants may appear remotely,** and if they may, include accurate meeting log-in information. If in-person appearances are required for specific court dates, make sure any written orders, docket entries, and notices are clear and/or Case Participants are notified orally on the record, particularly if Case Participants were previously allowed to appear remotely.
- **Facilitate discussions between the parties and other Case Participants.** Despite best efforts, parties and other Case Participants may not have had an opportunity to meet and confer prior to a remote court appearance. To make the most of each court appearance, courts should consider creating virtual spaces, such as breakout rooms, to allow Case Participants to have “hallway” conversations before and after appearing before the judge to work towards resolution of their legal matters.
- **Use multiple channels of communication.** When providing information to Case Participants who are appearing remotely, share information in multiple modalities, such as through chat, verbally, by email, and by sharing a screen with the information displayed, as appropriate.
- **Be prepared to quickly address bad actors.** Courts and court staff should be familiar with the security features that allow hosts to quickly mute audio, turn off video, move Case Participants to a waiting room, or entirely remove disruptive participants, and train co-hosts on these features. Make sure to limit Case Participants’ ability to share screen, chat, or use other functions until a need arises and appropriately use waiting rooms to manage entry into the remote court proceeding. Implementing secure pathways of sharing meeting log in information, such as setting up a portal that asks for basic case information before displaying meeting log in information, may help deter bad actors but balance such efforts against

the rights of Case Participants and members of the public to attend remote court proceedings.

- **Implement safeguards to protect against inappropriate influences and be mindful of Case Participant safety.** Courts may use admonishments and other measures to ensure Case Participants understand what appearing remotely for a court proceeding will entail and are not unduly influenced during their remote appearances. Courts may consider asking Case Participants, if applicable, to confirm they are appearing from a location where opposing parties may not have access, remove virtual backgrounds, or demonstrate that mobile and other devices are turned off. Should there be any concerns, especially relating to a Case Participant's safety, courts should be prepared to end the proceeding and, if necessary, take steps to protect a Case Participant's safety, including notifying local law enforcement or other agency to conduct a wellness check.
- **Embrace hybrid hearings.** Courts should be able to effectively conduct proceedings where some litigants or attorneys appear remotely while others appear in-person. Courts should evaluate the technology in all their courtrooms to determine how to best accommodate hybrid hearings, including ensuring that all Case Participants can see and hear each other and see and hear the judge. If the hybrid technology does not allow for sidebars, immediate negotiations, or access to resources in diversion programs, the judge should allow a continuance with enough time for Case Participants to access resources or have the appropriate conversations.
- **Leverage diversion and access to justice programs.** Remote proceedings should factor in diversion programs or programs that increase access to justice by providing self-represented litigants with access to legal aid and other resources that may be more available if offered remotely.

For practices that are particular to different types of cases, consult Appendix B, attached.

## **VII. ASSISTANCE OF THE ADMINISTRATIVE OFFICE OF THE ILLINOIS COURTS**

The Administrative Office of the Illinois Courts (AOIC), including the Access to Justice Division of the AOIC (ATJ-AOIC), is available to assist courts in developing remote court appearance programs including investigating technology (especially telephone and videoconference services that are free or charge licensing fees that courts may absorb), drafting instructions, procedures, or rules, or other assistance necessary to facilitate remote court appearances. As technology and the availability and adoption of technology evolves, training opportunities for court stakeholders will regularly be made available.

Courts should cooperate with the AOIC in evaluating the ongoing success of remote court appearances, including by tracking its usage upon request and where practicable, and regularly reviewing policies, practices, and local circuit rules on remote appearances and their effectiveness.

To help identify remote appearance patterns or trends, the ATJ-AOIC will collect court user feedback via the Supreme Court's website to inform ongoing efforts to improve remote court experiences statewide in collaboration with the Supreme Court Commission on Access to

Justice's Remote Appearance Committee.

Remote appearance resources for courts and the public are available on the Illinois Courts website at [www.illinoiscourts.gov](http://www.illinoiscourts.gov) and the Supreme Court Commission on Access to Justice's website at [www.atjil.org](http://www.atjil.org), including a statewide video titled Preparing for a Court Appearance via Zoom (available in English and Spanish) that can be posted on court and clerk websites as well as in Zoom waiting rooms.

## APPENDIX A

The following are **minimum** technological specifications for successful remote court appearances that are conducted by (A) telephone, (B) video, and (C) in a hybrid manner. The Administrative Office of the Illinois Courts is available to assist courts in meeting these minimums as well as exploring ways to improve their remote court offerings.

### A. TELEPHONIC COURT APPEARANCES

For Telephonic Court Appearances, where each Case Participant is calling from a different device, a **court** should have:

1. A telephone or other electronic device that can convey the audio of the judge and remote Case Participants in an audible and understandable manner through internal or external speakers.
2. A call bridge or conference line that allows multiple Case Participants calling from different devices to participate in the same telephone proceeding. Free conference services may be available for use. For example, Zoom can be used for telephone conference services at no cost to the Case Participant.
3. Capacity to allow the judge or assigned court host to manage the Case Participants, including muting or removing Case Participants from the proceeding.
4. Recording capabilities, if permitted, to create the official court record and notification that the remote proceeding is being recorded by the court (when applicable).
5. Trained staff to assist in operating equipment and troubleshooting technical issues as needed.

For Telephonic Court Appearances, all **other Case Participants** should have:

1. A telephone or other electronic device that allows audio (sound) transmission, preferably with a mute function.
2. If the telephone is a cellular phone, it should have reliable service from the location where the Case Participant will be during the call.
3. Unique phone number and meeting ID credentials (if applicable) to join the proceeding telephonically.

### B. VIDEO COURT APPEARANCES

For video court appearances where all Case Participants are video conferencing from different devices, a **court** should have:

1. A high-speed internet connection.
2. A wireless router or hard wire connection enabling devices to access the internet and a back-up if wireless is unavailable, such as a personal hotspot.
3. A computer or tablet with a webcam or embedded video camera and embedded or external microphones and speakers that can convey the audio and video of the judge

and the remote Case Participants in an audible and visible manner.

4. An online video conference service, preferably with the ability to share screen or documents between Case Participants and the ability to allow private conversations between Case Participants in a breakout room. Video conference services that are free to Case Participants, such as Zoom, are available.
5. Capacity to allow the judge or assigned court host to manage the participants, including muting or removing participants from the proceeding and instituting waiting rooms.
6. Recording capabilities, if permitted, to create the official court record and notification that the remote proceeding is being recorded by the court (when applicable).
7. Trained staff to assist in operating equipment and troubleshooting technical issues as needed.
8. If Case Participants are appearing from outside the United States, courts should ensure settings allow for international participation.

For video appearances, all **other Case Participants** appearing remotely will need:

1. A computer, telephone, tablet, or mobile device with a webcam or embedded video camera, an internal or external microphone, and internal or external speakers.
2. A high-speed internet connection and access to the same video conference service used by the court.<sup>2</sup>
3. Unique video conference credentials or link to join the proceeding.

### C. HYBRID COURT APPEARANCES

For Hybrid Court Appearances, where Case Participants may be appearing utilizing multiple modalities, including by telephone, video, or in-person in a single case, a **court** should have:

1. A high-speed internet connection.
2. A wireless router or hard wire connection enabling devices to access the internet and a back-up if wireless is unavailable, such as a personal hotspot.
3. The judge's bench should have a computer or tablet with a personal external webcam or embedded video camera and personal audio microphone and audio speakers that are external or embedded into the judge's device unless they are incorporated into a separate audio system.
4. A video camera facing out from the bench area toward the courtroom so that other in-person Case Participants can be seen by the remote Case Participants. There are several options available (*e.g.*, a static video camera facing out toward the courtroom, portable A/V cart, or a 360° camera that can capture the entire courtroom but also detect audio to just show a "slice" of the 360° view). The system chosen

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<sup>2</sup> Most video conference services allow users to test their connectivity, video, microphone, and speakers before the scheduled video conference.

should be tailored to the needs of each particular courtroom and allow all Case Participants appearing in-person or by video to see each other.

5. Courtroom microphones are a critical part of the technology necessary to allow everyone to hear a court hearing, whether the Case Participants are in the courtroom or remote. It is important that a good quality microphone is used to pick up the spoken word from various locations in the courtroom such as the judge's bench, witness stand, and/or from the well of the courtroom (in front of the judge's bench). Information technology (IT) staff or third-party A/V partners may be useful to install and tune sound and recording systems to ensure audio is heard in the courtroom and for remote Case Participants.

Courtroom audio should be set up to convey the voices of in-person and remote Case Participants in an audible and understandable manner through internal or external speakers. Exact specifications are difficult to prescribe. For example, in a small courtroom, a courtroom computer's internal speakers may be sufficient, but in larger spaces, external speakers may be necessary. Any audio system should be tailored to the needs of the specific courtroom and allow all Case Participants, whether remote or in-person, to hear each other.

6. A screen or screens visible to the judge, the court reporter, the jury (if applicable), the other Case Participants in the courtroom, and the public who may be observing court proceedings in-person in the courtroom that show all the remote Case Participants. The screens do not need to be permanently available and can be moved to the courtroom as needed. The courtroom must be able to accommodate the screens.
7. An online video conference service, preferably with the ability to share screen or documents between Case Participants and the ability to allow private conversations between Case Participants in a breakout room. Video conference services that are free to Case Participants, such as Zoom, are available.
8. Capacity to allow the judge or assigned court host to manage the Case Participants, including muting or removing Case Participants from the proceeding and instituting waiting rooms.
9. Recording capabilities, if permitted, to create the official court record and notification that the remote proceeding is being recorded by the court (when applicable).
10. Trained staff to assist in operating equipment and troubleshooting technical issues as needed.
11. If Case Participants are appearing from outside the United States, courts should ensure settings allow for international participation.

## APPENDIX B

This appendix supplements the general practices set forth in the Policy, Section VII. Maximizing the Effectiveness of Remote Proceedings.

### **Additional Considerations for Civil Matters:**

- For evidentiary hearings and trials, consult [Supreme Court Rule 241](#).
  - For testimony presented by videoconference or for non-testimonial participation in a civil evidentiary hearing or trial, good cause and appropriate safeguards are required.
  - For testimony presented by telephone (audioconference only), good cause, compelling circumstances, and appropriate safeguards are required.
- For remote jury selection by video conference, consult [Supreme Court Rule 242](#).
  - Remote jury selection by video conference is allowed (no audioconference is allowed) if all parties consent or the judge presiding over the matter finds the case presents a compelling circumstance to proceed with remote jury selection.
  - [Courts should closely adhere to the Supreme Court's Remote Jury Guidelines](#).

### **Additional Considerations for all Criminal and Juvenile Matters:**

- When a waiver or plea is taken remotely, consideration must be given to ensure they are entered knowingly and voluntarily and that information about these decisions is meaningfully conveyed remotely.
- Consider whether the defendant may be required to sign documents during the proceeding (*e.g.*, waiver of a jury trial) and what options are available for doing so remotely. Electronic signature software may be available to securely capture the signature of a remote Case Participant.
- Courts should consider and actively promote the ability of a defendant to confidentially consult with their counsel prior to and during a remote proceeding, particularly when the defendant is in custody and appearing remotely from a jail or prison setting.
  - Courts should work with their local sheriffs and other facility staff to ensure that spaces are available to allow defendants to speak confidentially with counsel during a remote proceeding and that staff facilitating remote appearances have the necessary expertise to help defendants enter breakout rooms.
- For all Juvenile Matters (including Juvenile Delinquency, Abuse, Neglect, Dependency, and Intervention Matters):
  - Fully remote or hybrid proceedings can result in greater participation by the minor and the minor's family members who may face barriers to appearing in-person. Similarly, remote proceedings can allow case workers involved with

the minor to appear and provide helpful information to the court.

- Safeguards must be in place to ensure proceedings are confidential and only attended by authorized individuals.
- Careful consideration should be given to any requests that result in a minor appearing separately from their counsel. Minors often have questions about the court process, and they benefit greatly from being able to ask their attorney those questions immediately and confidentially. If a minor appears remotely and the attorney appears in-person, or vice versa, the benefits of immediate consultation dissipate. If the minor and their counsel are appearing separately, avenues to allow for this communication should be established and actively offered.
- Caution should be used when contemplating remote appearances in substantive proceedings (*e.g.*, trials, pleas, termination of parental rights, or surrenders). The court should take into account the age and maturity of the minor as well as all Case Participants' technical capabilities and other relevant factors known to the court to preserve the serious nature of the proceeding and ensure all constitutional rights are protected.