

From: [NL](#)
To: [RulesCommittee](#)
Subject: Public Comment in Support 25-09 & in Favor of Expanding the Recording Requirement
Date: Friday, August 14, 2026 8:26:44 AM

To the Illinois Supreme Court Rules Committee:

I strongly support Proposal 25-09 (the requirement that courts create and maintain a record of protective order proceedings). Protective order proceedings can profoundly impact the people involved. A reliable record is essential both for the parties and for meaningful appellate review, and it helps the public trust the court

Proposal 25-09 properly recognizes that every protective order proceeding at which a protective order is issued, extended, modified, terminated, vacated, published, or served should be preserved through stenographic or approved electronic recording. I respectfully urge the Committee, however, to expand that requirement substantially. Illinois courts should create an electronic recording of every court hearing, not only protective order proceedings.

When a proceeding is not recorded, the accuracy of the judicial process depends on the memories of the judge, attorneys, litigants, witnesses, and courtroom personnel. If an appeal is taken, the parties may be forced to reconstruct what occurred through an agreed statement of facts or a bystander's report. That process is inherently less reliable than a contemporaneous recording.

The Illinois Appellate Court has expressly recognized this limitation. In *People v. Majka*, the court observed that, "as a matter of ordinary human limitations," reports prepared from recollection are "significantly less detailed and precise" than verbatim transcripts. *People v. Majka*, 365 Ill. App. 3d 362 (Ill. App. Ct. 2006) <https://app.midpage.ai/document/people-v-majka-2026016?utm_source=mcp&lines=96-97>

The absence of a record can do more than create inconvenience. It can prevent review altogether. The appellate court has stated that where an appellate issue concerns the conduct of a hearing or proceeding, the issue "is not subject to review absent a report or record of the proceeding." *HYE RA HAN v. Holloway*, 408 Ill. App. 3d 387 (Ill. App. Ct. 2011) <https://app.midpage.ai/document/hye-ra-han-v-holloway-2483179?utm_source=mcp&lines=46-48>

Without such a record, the reviewing court ordinarily presumes that the trial court's order conformed with the law and had a sufficient factual basis, and doubts arising from the incomplete record are resolved against the appellant. *HYE RA HAN v. Holloway*, 408 Ill. App. 3d 387 (Ill. App. Ct. 2011) <https://app.midpage.ai/document/hye-ra-han-v-holloway-2483179?utm_source=mcp&lines=49-55> Thus, the absence of a recording can determine the practical availability of appellate review even where a litigant may otherwise have a legitimate claim of error.

In *People v. Appelgren*, the appellate court recognized that a missing portion of the record may impair the right to appeal when the material is necessary for meaningful review and no adequate substitute exists. The court explained that reviewing courts must consider both who was responsible for the missing record and whether the absence affects the court's ability to review the issues presented. *People v. Appelgren*, 377 Ill. App. 3d 137 (Ill. App. Ct. 2007) <https://app.midpage.ai/document/people-v-appelgren-2050714?utm_source=mcp&lines=76-77> In that case, the missing material deprived the defendant of a record sufficient for proper consideration of the claims, impaired the right to appeal, and ultimately required reversal and a new trial. *People v. Appelgren*, 377 Ill. App. 3d 137 (Ill. App. Ct. 2007) <https://app.midpage.ai/document/people-v-appelgren-2050714?utm_source=mcp&lines=197-198>

Universal recording would substantially reduce these problems. Most litigants would presumably choose to preserve their own hearings if they were permitted to do so. Courtroom rules and policies, however, generally prevent parties and observers from making their own audio or video recordings.

When a court prevents litigants from independently preserving a proceeding, the court is making an implicit procedural choice that no contemporaneous verbatim record will exist unless a court reporter happens to be present. That choice can later determine whether the litigant is capable of obtaining meaningful appellate review. If litigants may not record the proceeding themselves, the court should accept responsibility for preserving it.

Modern electronic recording makes universal preservation increasingly practical. A recording need not automatically become a certified transcript, and every recording need not be retained permanently. The recording can remain under court control and be accessed, transcribed, or certified only upon a proper request. Existing confidentiality protections can remain applicable to sealed proceedings and matters involving juveniles, adoption, mental health, or other sensitive subjects.

The Committee could adopt a limited retention period to control storage costs. A recording should be retained until at least the later of:

- the expiration of the time for filing a notice of appeal;
- the disposition of any timely postjudgment motion;
- the final disposition of an appeal in which the recording is or may be necessary;
- the resolution of a timely request that the recording be preserved; or
- any longer period required by statute, rule, or administrative order.

A recording should not be deleted merely because the ordinary notice-of-appeal period has expired if a timely postjudgment motion has extended that deadline, an appeal has been filed, or a party has requested preservation.

If the Committee declines to require electronic recording of all proceedings, it should, at minimum, require meaningful advance notice whenever a hearing will not be officially recorded.

A litigant should know before entering the courtroom whether a verbatim record will exist. That knowledge allows the litigant to make an informed decision about retaining a certified shorthand reporter or arranging for a neutral observer to attend who may later assist in preparing a bystander's report.

Without advance notice, those options are effectively lost. By the time the litigant learns that no record was made, the opportunity to secure a court reporter or bring a potential bystander has already passed.

Although Illinois procedure permits a party to retain a private court reporter, hiring a reporter for a single routine hearing is uncommon, can be expensive, and ordinarily requires advance coordination. Private reporters cannot realistically serve as a substitute for a statewide recording policy, particularly in small-claims, housing, family, traffic, and other high-volume courtrooms frequently used by self-represented litigants.

Likewise, the theoretical availability of a bystander's report offers little protection to a litigant who was never told that a bystander might be needed. A person cannot make an informed decision to bring a neutral observer without knowing that the court will create no record.

The notice should be conspicuous and provided sufficiently in advance of the hearing. It could be included in the

notice of hearing, scheduling order, electronic docket notice, remote-hearing invitation, or another document ordinarily received by the parties. The notice should state substantially:

“This proceeding will not be recorded by an official court reporter or electronic recording system. No verbatim record will exist unless a party arranges in advance for an authorized court reporter. A party seeking appellate review may otherwise be required to prepare an agreed statement of facts or bystander’s report under Supreme Court Rule 323.”

At the beginning of any unrecorded proceeding, the judge should also confirm on the record, or through a written courtroom acknowledgment, that the parties received this notice.

A simple notice requirement would impose little burden on the courts while protecting appellate rights. It would also make explicit a consequential fact that is currently easy for self-represented litigants to discover only after it is too late.

Universal recording would not guarantee that every judicial decision is correct. It would ensure, however, that reviewing courts and litigants do not have to determine what occurred based principally on competing memories. It would protect judges from inaccurate accounts of courtroom statements, protect litigants from incomplete records, reduce disputes surrounding bystander’s reports, conserve judicial resources, and strengthen public confidence in the courts.

Proposal 25-09 correctly recognizes that protective-order proceedings are too consequential to occur without a reliable record. The same reasoning applies to small-claims trials, eviction proceedings, family-law hearings, criminal matters, traffic cases, contempt proceedings, motions, and other hearings in which courts determine legal rights and obligations.

I therefore respectfully request that the Committee recommend adoption of Proposal 25-09 and expand Rule 46 to require an official electronic recording of every court proceeding, subject to appropriate confidentiality, access, and retention rules.

Alternatively, if universal recording is not adopted, the Court should require clear advance notice whenever a proceeding will not be recorded so that litigants may make an informed decision about retaining a court reporter or ensuring that an appropriate bystander is present.

Respectfully submitted,

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