

Rule 45. Participation in Civil or Criminal Proceedings by Telephone or Video Conferences

The court may, upon request or on its own order, allow a case participant to participate in a civil or criminal matter remotely, including by telephone or video conference. Use of telephone or video conferences in criminal or juvenile delinquency matters shall be undertaken consistent with constitutional guarantees applicable to such proceedings.

The court may further direct which party shall pay the cost, if any, associated with the telephone or video conference and shall take whatever action is necessary to ensure that the cost of remote participation is not a barrier to accessing the courts.

[Adopted May 22, 2020, eff. immediately.](#)

Committee Comments (May 22, 2020)

The use of telephone or video conferences was formerly contained in Article II – Rules on Civil Proceedings in the Trial Court as Supreme Court Rule 185 (Telephone or Video Conferences). New Rule 45 recognizes that telephone and video conferences can be used effectively and appropriately in other types of proceedings beyond civil cases. As indicated in the rule, special attention must be given to the use of telephone or video conferencing in criminal or juvenile delinquency proceedings. Continued study as this technology evolves will be necessary to ensure the constitutional guarantees applicable to such proceedings are consistently provided.

Application to Civil Proceedings

Rule 45 covers all nontestimonial court appearances, while Rule 241 addresses civil testimony. New Rule 45 intentionally provides wider latitude for a court to conduct court proceedings remotely by allowing any case participant to request a remote appearance for any reason and by allowing a court to make that decision on its own even if no request has been made by a case participant. While the use of remote participation is ultimately subject to the discretion of the court, appearing remotely under Rule 45 does not require good cause or meeting a particular hardship threshold. The intent of this Rule is that remote appearances should be easy to request and liberally allowed. The Illinois Supreme Court Policy on Remote Appearances in Civil Cases provides additional guidance on the use of this Rule.

This rule adopts the definitions in the Illinois Supreme Court Policy on Remote Appearances in Civil Cases. In particular, a case participant includes any individual involved in a civil case including the judge presiding over the case, parties, lawyers, guardians *ad litem*,

minors in the care of the Department of Children and Family Services (DCFS), witnesses, experts, interpreters, treatment providers, law enforcement officers, DCFS caseworkers, and court reporters.

Courts are encouraged to liberally grant requests to appear remotely and to be particularly accommodating of case participants who face an obstacle to appearing personally in court, including but not limited to distance from the court, difficulty with traveling, military service, incarceration, hospitalization or illness, disability, other health or mobility limitations, work or childcare obligations or responsibilities, or limited court operations. Whether telephone versus video technology is appropriate is a determination for the court to make based on each individual case and consideration of any hardship factors. Some case participants may appear by telephone, some by video, and some in person all on the same case.

Courts should first consider obtaining and using free telephone or video conference services before considering fee-based services. Free services are readily available. In this way, a remote appearance will not impose a cost on a case participant who is not able to pay that cost or would not otherwise incur a comparable cost if appearing in person. Some jurisdictions currently use telephone or video conference services which charge fees. However, to promote access to justice and to remove financial barriers to remote court appearances, courts should consider obtaining and using both paid and free services. Local rules and practices should not prohibit the use of free services for remote court appearances.

Additionally, any fees associated with a remote court appearance should be subject to waiver for case participants who cannot afford them. If a court chooses to use a service that requires the payment of fees, the court should consider whether the costs can be waived by the service, paid by another party, or paid by the court, or if the court should use a free service instead. The focus should be on increasing accessibility to the courts and not on imposing an additional barrier to a remote court appearance in the form of a fee. The court or circuit clerk shall not impose their own fees for case participants to do remote court appearances.