



**Illinois Supreme Court Policy on
Remote Court Appearances in
Civil Proceedings**

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. Courts can use technology to improve the administration of justice, increase efficiency, and reduce costs. The Court recently approved a branch-wide [Strategic Agenda](#)¹ prepared by the Illinois Judicial Conference, and the first strategic goal is "Accessible Justice & Equal Protection Under the Law." One strategy for ensuring accessible justice is to promote and expand remote access in civil cases, allowing court patrons to have easier access to court services, court and case information, and court appearances.

The widespread popularity of mobile telephones, particularly smartphones and other personal devices, means that more people than ever before have the ability to participate in court proceedings electronically from a location outside of court. Moreover, large numbers of self-represented litigants navigate the civil justice system in Illinois every year. The costs and challenges of travel, childcare, and time off from work can deter them from going to court. For lawyers, the opportunity to appear remotely may allow them to appear efficiently in multiple courthouses and to represent more clients. While improving efficiencies, Remote Court Appearances offer significant cost savings for litigants, lawyers, and witnesses and reduce safety and public health concerns by minimizing the number of people entering the courthouse.

New Illinois Supreme Court Rule 45 and Supreme Court Rule 241 grant courts broad discretion to allow Remote Court Appearances. To improve access to the courts, increase efficiency, and reduce costs, courts should permit Remote Court Appearances to the extent reasonable, feasible, and appropriate. Rule 45 does not require a Case Participant to demonstrate hardship or good cause to appear remotely. Therefore, Remote Court Appearances under Rule 45 should be easy to request and liberally allowed, and courts should ensure that they have removed unnecessary financial and other barriers for Case Participants to appear remotely. The use of Video Conferences for testimony in civil trials and evidentiary hearings may be allowed for good cause and upon appropriate safeguards under Rule 241 (and Telephone Conferences may be allowed in compelling circumstances for testimony). Courts have wide discretion under both rules to allow Remote Court Appearances

This Policy is intended to help courts implement, expand, and encourage the use of Remote Court Appearances in civil cases by any or all Case Participants, including judges. The Policy outlines several topics for courts to consider when developing remote appearance procedures and encourages courts to review their existing rules and orders to ensure none of them have the effect of creating financial or other barriers to Remote Court Appearances. Courts should also ensure that the technology available for Remote Appearances complies with the Americans with

¹ The full Strategic Agenda is available at https://courts.illinois.gov/SupremeCourt/Jud_Conf/IJC_Strategic_Agenda.pdf. For more information on the Illinois Judicial Conference, see http://illinoiscourts.gov/SupremeCourt/Jud_Conf/default.asp.

Disabilities Act (ADA). This Policy should help courts to understand when Remote Court Appearances are appropriate and reasonable to promote meaningful access to the courts.

The need for Remote Court Appearances and innovative methods for allowing access to our courts became acute during the COVID-19 crisis. It is hoped that this Policy and Rules 45 and 241 will assist our courts in establishing local rules, orders, and procedures for Remote Court Appearances which will be in place to address not only the ordinary but also extraordinary necessity for Remote Court Appearances and assure the accessibility of our judicial system.

II. DEFINITIONS

1. "Case Participant" – 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.² This term does not include jurors, the public, or members of the media that are not parties or witnesses in a case. Members of the media or their lawyers may be considered Case Participants if they have filed a motion or pleading in a pending case.
2. "Remote Court Appearance" or "Remote Appearance" – Participation by at least one Case Participant in a court proceeding via Telephone or Video Conference.
3. "Telephone Conference," "Telephonic Court Appearance," or "Telephone Appearance" – Simultaneous two-way audio (sound only) communication with Case Participants in two or more different locations on a telephone or other electronic device. This may be done by a simple person-to-person phone call or by use of a conferencing line service that allows multiple people to participate simultaneously from multiple locations.
4. "Video Conference," "Video Court Appearance," or "Video Appearance" – Simultaneous two-way audio (sound) and/or visual communication with Case Participants in two or more different locations via electronic means.

III. BENEFITS OF REMOTE COURT APPEARANCES

Remote Court Appearances in civil proceedings under Rules 45 and 241 provide many benefits to Case Participants, including judges and court personnel, while creating easier access to our courts. For example, Remote Court Appearances:

1. Decrease the time and expense of coming to court. As a result, represented parties will pay less for their lawyers' time and travel and self-represented parties or other Case Participants, will miss less work, pay less for childcare, and pay less for transportation.
2. Increase accessibility to the courts for Case Participants who are:
 - a. Living with disabilities and/or debilitating illnesses.
 - b. Elderly.

² Court reporters must comply with all requirements of the Court Reporter Act 705 ILCS 70.

- c. Serving in the military and particularly in deployed status.
 - d. Confined in a prison or jail.
 - e. Hospitalized or otherwise suffering from medical conditions.
 - f. In inpatient treatment for physical health, mental health, or substance abuse reasons.
 - g. Residing in nursing homes or long-term care facilities.
 - h. In a different state or country.
 - i. Residing a far distance from the courthouse or having other difficulties with traveling to the courthouse.
 - j. Serving other public needs such as medical providers, DCFS caseworkers, therapists, and law enforcement officers.
 - k. Part of emergency situations requiring courts to limit their operations.
3. Assist lawyers, including legal aid and *pro bono* lawyers who often serve large geographic areas, by providing a more efficient and convenient method for appearing in court. The resulting time savings and reduced travel may allow lawyers to take on more clients and expand their practices into more jurisdictions within Illinois.
 4. Reduce the numbers of persons in courthouses which reduces the burden on security, lessens risks to public health and safety, and allows court staff to manage their time more efficiently.
 5. Provide the Case Participants with more scheduling flexibility. This could be particularly valuable in critical cases such as emergency orders of protection.
 6. Allow judges in rural jurisdictions to hear cases from outlying courthouses in one location minimizing the time they spend traveling to outlying courthouses.
 7. Benefit law enforcement, correctional institutions, hospitals, and mental health facilities involved in civil cases by allowing Case Participants to appear from their premises rather than at courthouses and reduce the costs of transportation and security.
 8. Allow Case Participants such as witnesses, experts, caseworkers, and treatment providers a more efficient and convenient way to provide testimony and reduce costs relating to witness and expert testimony. Provide caseworkers and treatment providers with time saving measures which allow them to better manage their other duties and cases.
 9. Increase public perception of the court system as in step with the myriad of private and public sector institutions which conduct business remotely and as responsive to the needs of the community.

IV. CIRCUMSTANCES FOR REMOTE COURT APPEARANCES

Remote Court Appearances under Rule 45 are appropriate in many types of civil proceedings. Ideally, Remote Court Appearances should be an available option regardless of the type of case, nature of the hearing, or circumstances of the Case Participant. Some Case Participants may appear by telephone, some by video, and some in person all on the same case. Courts have the discretion to determine how many Case Participants may appear remotely and in what way based on the courts' capabilities.

Non-evidentiary civil court proceedings may be more conducive to Remote Court Appearances, but full trials and evidentiary hearings may also be appropriate for Remote Court Appearances depending on the specific circumstances under Rule 241. When considering a request from a Case Participant to appear remotely for testimony, the Court should take into consideration any hardships such as those outlined in Section III (2) above.

Courts should make all efforts to maintain the transparency and public nature of court proceedings involving Remote Court Appearances. The court also maintains its responsibility in remote proceedings to make an authorized record pursuant to Supreme Court Rule 46 when necessary.³

V. TECHNOLOGY SPECIFICATIONS

Successful Remote Court Appearances need proper technology. Courts should assess the current status of their technology, procure new technology as necessary, and identify reliable and affordable solutions (preferably free services) for Remote Court Appearances. Courts should ensure that technology is ADA-compliant and make accommodations as necessary to allow Remote Court Appearances by court patrons with disabilities. Courts should continue to follow the guidance of the Supreme Court regarding the taking of the official court record. The following are minimum technological recommendations for successful Remote Court Appearances.

A. TELEPHONIC COURT APPEARANCES

For Telephonic Court Appearances, at a minimum, a court should have:

1. A telephone or other electronic device that can convey the voices of in-person and remote Case Participants in an audible and understandable manner through internal or external speakers.
2. A call bridge or conference line which is a service that allows multiple Case Participants calling from different devices to participate in the same telephone conversation or proceeding. Free conference services may be available for use.
3. Plain language instructions for Case Participants to dial-in for their appearances and to mute their calls to prevent disruptive background noise.

³ For example, the proceeding involving Remote Appearances may be recorded through the court's electronic recording system or by a court reporter. The court reporter may appear remotely via Telephone or Video Conference or be in the courtroom while others are appearing remotely.

4. Trained staff to assist in operating equipment and troubleshooting technical issues as needed.

For Telephonic Court Appearances, at a minimum, all other Case Participants appearing remotely 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. Case Participants should be instructed that they are not allowed to record the proceeding in any way.

B. VIDEO COURT APPEARANCES

For Video Court Appearances, at a minimum, a court should have:

1. A high-speed internet connection.
2. A wireless router or hard wire connection enabling devices in the courtroom to access the internet.
3. A computer with a webcam or embedded video camera.
4. 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 are observing court proceedings. 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.
5. An online Video Conference service, preferably with the ability to share documents between Case Participants and the ability to allow private conversations between Case Participants in a breakout room. Free conference services may be available for use.
6. Plain language instructions for Case Participants to appear for their Video Appearances and to mute their videos to prevent disruptive background noise.
7. Trained staff to assist in operating equipment and troubleshooting technical issues as needed.

For Video Appearances, Case Participants appearing remotely, at a minimum will need:

1. A computer, telephone, 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. (Most Video Conference services allow for Case Participants to test their connectivity before the scheduled a Video Conference).

3. Case Participants should be instructed that they are not allowed to record the proceeding in any way.

VI. RULES, ORDERS, AND REQUESTS FOR REMOTE COURT APPEARANCES IN CIVIL PROCEEDINGS

Courts should post signs with information about Remote Appearances prominently in the courthouse, including in the clerk's office. Signs should be written in plain language and should include information about the availability of Remote Court Appearances and the process for requesting them. This information should also be publicized on the court's and clerk's websites and in other publicly available places. Courts should issue and publish a court order, standing order, or local rule detailing information about the process for requesting and participating in a Remote Court Appearance. Courts should also consider procedures to ensure court patrons with disabilities can participate in Remote Court Appearances.

This order or rule should, in plain language, include:

4. The available Remote Court Appearance options based on the court's technological capabilities (Telephone, Video, or both).
5. The technical requirements for Remote Court Appearances.
6. The procedures for requesting a Remote Court Appearance and for seeking relief as a result of missing a Remote Court Appearance.
7. Instructions for how to log in or call into the relevant technology to appear remotely.
8. The process for drafting orders and distributing signed orders to all Case Participants when there is a Remote Appearance.

A request to appear remotely may be made orally in person at any time when parties or their lawyers are present in court or may be made in writing. Additionally, under Rules 45 and 241, courts have the discretion to allow a Remote Court Appearance on its own order.

When ruling on a request to appear remotely where there is an objection, a court may consider:

1. Access to the courts.
2. The court's available technology.
3. Whether any undue prejudice would result.
4. The degree of inconvenience or hardship.
5. Whether there are security or safety concerns for allowing the Remote Court Appearance.
6. Whether the Case Participants have waived personal appearances or agreed to Remote Appearances.
7. The purpose of the court date.
8. Previous abuse of Remote Court Appearances by the requesting Case Participant or objections by the objecting Case Participant.

9. Any other factors or fairness considerations that the court may determine to be relevant. If the court denies the request, it should state the reasons for the denial.

Case Participants should not be penalized for technical failures or difficulties with a Remote Court Appearance. If there is a technical failure or difficulty caused either by the court's technology devices or those of the Case Participants, the remote Case Participants should be allowed to continue the hearing to another date or to seek other appropriate relief from the court, upon good cause shown.

VII. COSTS OF REMOTE COURT APPEARANCES

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.

For example, some courts' telephone lines may already allow for conference calls with speaker phones by making calls directly or obtaining conference call numbers for more than one remote Case Participant. The Access to Justice Division of the Administrative Office of the Illinois Courts (ATJ-AOIC) can assist courts in determining whether there are possible upgrades to their telephone services which would allow for enhanced Telephone Conferences.

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. ATJ-AOIC can assist courts in finding Telephone or Video Conference services which are free, charge licensing fees that courts could absorb, or will honor fee waivers. If a court chooses to use a service which requires the payment of fees, the court should consider whether the costs can be waived by the service, paid by another party, 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.

VII. ASSISTANCE OF THE ADMINISTRATIVE OFFICE OF THE ILLINOIS COURTS

ATJ-AOIC will assist courts in developing Remote Court Appearance programs including investigating technology, drafting instructions, procedures, or rules, or other assistance necessary to facilitate Remote Court Appearances. Courts should cooperate with ATJ-AOIC in evaluating the ongoing success of Remote Court Appearances including by tracking its usage. Courts shall provide a copy of their Remote Court Appearance procedures to ATJ-AOIC and provide certain tracked information upon request.

Although this Policy discusses only Telephone and Video Appearances, the Illinois Supreme Court Commission on Access to Justice and ATJ-AOIC will study other possible methods for accessing the courts and suggest updates to the Remote Court Appearance Policy based on their studies and

on advancements in technology. Courts should include in their reporting to ATJ-AOIC all ways in which they are enhancing access to court services, court information, and court appearances to help in determining the feasibility of other methods of remote access.⁴

⁴ For example, during the COVID-19 crisis, some jurisdictions implemented methods of email correspondence with courts to resolve matters rather than requiring Telephone or Video Appearances for any Case Participant.