FILED

FEB 09 2023 40

Clerk of the Circuit Court

STATE OF ILLIONIS)
) SS
SEVENTH JUDICIAL CIRCUIT)

CIRCUIT ADMINISTRATIVE ORDER 23-2

PROCEDURES FOR REMOTE HEARINGS IN MATTERS PENDING IN THE SEVENTH JUDICIAL CIRCUIT

WHEREAS pursuant to the Supreme Court Rule 21(b) and the Court's inherent authority, it is in the best interest to resume pre-pandemic court operations in the Seventh Judicial Circuit and to address delays caused by the COVID-19 pandemic.

WHEREAS the Illinois Supreme Court directed circuit courts to continue hearing essential matters and proceedings and allowed circuit courts to conduct those hearings remotely by telephone or video or other electronic means, if feasible and subject to constitutional limitations. In addition, the Illinois Supreme Court also allowed circuit courts to hear non-essential matters and proceedings remotely. (Supreme Court Rule 45).

WHEREAS the Seventh Judicial Circuit Court will continue to hear matters remotely, in accordance with the following procedures.

IT IS HEREBY ORDERED as follows:

I. INTRODUCTION

- **Remote/In-Person Hearing.** The following rules are intended to act as general guidelines, and each judge shall retain discretion to make or modify the rules when the judge deems appropriate – provided it is not inconsistent or in conflict with the Illinois Supreme Court Rules.
- **Jury Trials.** All jury trials will be held in-person.
- **Standing Orders**. In addition to these rules, the parties should refer to individual judges' Standing Orders for additional instructions and courtroom procedures.
- **Platform**. The Seventh Circuit will continue to use Zoom for remote hearings. All parties participating in a remote hearing must create an account for that platform.
- **Telephonic hearings.** In certain circumstances, telephonic hearings may also take place with the consent of all parties and the presiding judges.

II. ELIGIBILITY for Remote Hearings.

The following civil matters are presumed *eligible* for remote hearings, subject to the presiding judge's discretion:

- progress calls, status conferences, and case management conferences;
- routine motion hearings other than motions for default (*i.e.*, leave to amend, compel, continue);
- non-evidentiary hearings; and
- divorce prove-ups and entries of agreed Judgments of Dissolution and Parenting Allocation Judgments.

III. INELIGIBILITY for Remote Hearings. The following matters are presumed *ineligible* for remote hearings:

- first appearances;
- shelter care, adjudicatory, and dispositional hearings in juvenile matters;
- hearings regarding emergency, interim, and plenary orders of protection;
- hearings in which a party is seeking a sanction for contempt of court;
- hearings in which a party is seeking a finding of default or entry of a default judgment;
- evidentiary hearings;
- final pre-trial conferences; and
- criminal matters.

A. **Remote Hearings by Agreement**. The Court *may* consider allowing an otherwise presumed ineligible case to proceed to a remote hearing if all parties agree and present the Court with a proposed Agreed Order. Further details below.

> **Note**: Requests for remote appearances in criminal matters should be limited, and any requests and appearances must comply with the Illinois Rules of Criminal Procedure and applicable Supreme Court Rules.

IV. SCHEDULING a Remote Hearing

- **Matters Presumed to be Eligible for Remote Hearing**. If a matter is presumed to be eligible for remote hearing or the parties have agreed to a remote hearing which has been approved by the Court, the party scheduling the matter shall obtain a time and date for the hearing from the Court or Court's assistant.

  - If the party scheduling the matter desires a platform other than Zoom, the party shall inform the Court and determine whether the alternative platform is acceptable to the Court.

  - After the time, date, and platform have been determined, the party shall provide notice of the hearing to all other parties.

  - In addition to the date, time, and subject matter of the hearing, said Notice shall also specify:

    a. that the hearing is to be conducted remotely;
    b. the specific zoom/platform log-in information (ID and passcode);
    c. contact information, including e-mails and telephone numbers, should the other participants have technical difficulties;
    d. if an Order has been entered allowing the parties to appear remotely, then said Order shall also be attached to the Notice; and

e. when applicable, the individual judge's set of instructions/expectations for remote hearings must be attached to the Notice.

If an opposing party has not appeared and/or the party providing Notice does not have an opposing party's e-mail address or telephone number, the Notice shall also inform the opposing party that the party may participate in the hearing personally at the designated time and place, and alternatively, that if the party prefers to participate in the hearing remotely, the party should inform the Clerk of the Court at least three (3) full business day before the hearing of the party's desire to participate remotely and provide the Clerk the party's e-mail address or, if none, a telephone number. The Clerk will then forward that information to the presiding judge.

- **Objections**. If any party objects to conducting the noticed hearing remotely or to the platform designated, that party, as soon as practicable, shall file the party's objection in writing and notice the objection for hearing before the noticed remote hearing. If feasible, the Court may resolve the objection by allowing the objecting party to attend the noticed hearing in-person.

- **Remote Hearings by Agreement**. If a matter is presumed to be ineligible for remote hearing, but all parties have agreed to a remote hearing, one of the parties shall contact the Court to determine whether the Court will hear the matter remotely. If the Court agrees to hear the matter remotely, notice of the remote hearing shall be provided as set forth in subparagraph B above.

V. PROCEDURE for Remote Hearings. Unless otherwise ordered by the Court, remote hearings shall be conducted as follows:

- The Court will host the hearing and otherwise control entry into the hearing.

- If requested by a party and if technologically feasible, the Court will allow breakout meetings, private chats, or other private communication between attorneys and clients during the hearing; provided, however, that during the testimony of any person, that person may not communicate by private chat with any other person;

- **Video and Audio:** Any person participating in the remote hearing, whether an attorney or a witness testifying, must appear by both video <u>and</u> audio. The camera must be turned on so the judge can see the attorney and/or witness;

- When a participant is not speaking, the participant shall mute his or her microphone;

- **Environment:** All participants must be in an environment free of video and/or audio distractions;

- **Exhibits:** No exhibit may be used during a remote hearing unless a copy of the pre-marked exhibit was provided to all other parties and the Court at least three (3) full business day before the hearing;

- **Termination:** The Court shall be entitled to terminate or suspend the remote hearing for technological or other reasons at any time;

- The precise method in which a remote hearing will be conducted remains within the discretion of the judge assigned to the individual case, within the bounds of applicable law, rules, and practice procedures;

- **Witness Lists:** At least three (3) days prior to a hearing, the parties shall file a list containing names and e-mail addresses of the attorneys, parties, and witnesses (if any) who will attend the hearing. All persons must use their real names (not aliases) while online to ensure they will not be prevented from entering the hearing;

- **Interpreter:** If a party or a party's witness requires the use of an interpreter, that party shall be responsible for coordinating with the 7th Circuit Court Administrator how the interpreter will be obtained and involved in the hearing; and

- **Non-party witness:** If a party intends to call a non-party witness during a remote hearing, that party shall be responsible for providing the invitation to the remote hearing to the witness. The witness will be sworn or affirmed by the judge or clerk prior to commencement of the testimony.

    - In addition, the Court and the parties are to take all reasonable precautions to assure the following:

        - The witness is alone in a secure room with the doors closed.
        - There will be no interruptions or distractions for the duration of the witness's testimony and appearance at the remote hearing.
        - The witness should have recently read all affidavits, statements, and documents before the remote hearing and have a copy of those documents with them and identified in the same matter as the documents are filed with the clerk. (Note: The witness will only be allowed to refer to and/or read from said documents when instructed to do so.) This provision is not mandatory for materials to be used in cross examination or in the examination of an adverse witness.

- **Business Attire**: For court appearances, whether in-person or remote hearings, attorneys shall dress in appropriate business attire (*i.e.,* suits, sport coats and ties, pantsuits, dresses, and skirts). At a minimum, the parties should also dress in business-casual if possible. Attorneys and parties shall also advise their witnesses to dress in

appropriate attire. Any inappropriate and/or offensive attire that degrades the integrity and decorum of the Court may result in that litigant/witness being excluded from the Court proceeding and/or a finding of contempt.

- **Applicable Rules/Codes:** Except as otherwise provided for in this Administrative Order, all hearings shall be conducted as if all parties are personally present in a courtroom and in accordance with the Illinois Rules of Civil Procedure, Illinois Rules of Criminal Procedure, Illinois Rules of Evidence, Illinois Supreme Court Rules, the Rules of the Circuit Court of the Seventh Judicial Circuit, the Rules of Professional Conduct per ARDC, and pursuant to the Judicial Code of Conduct.

VI. FAMILY DIVISION

- **Uncontested Matters**. Uncontested matters and agreed upon matters, including presentment of motions, status settings or progress call, can be conducted on the telephone at the discretion of the judge.

- **Telephone Hearings**. For counties utilizing telephonic hearings, the Court may initiate the telephone contact of the party requesting the remote telephonic appearance. It is the responsibility of the party requesting the telephonic appearance to provide the Judge's scheduling personnel a valid, working telephone number for the Court to initiate the call;

- **Pre-Trial Settlement Conferences**. Settlement conferences will be in-person but can be held remotely, by Zoom, at the judge's discretion.

- **Trials and Evidentiary Hearings.** Trials and evidentiary hearings will be conducted in-person, although the trial judge, in his or her discretion, may allow witnesses to testify remotely by Zoom.

    - Any technical difficulty that may be encountered at the hearing bears on the party calling the witness remotely. The trial judge has the discretion of whether or not to continue the hearing due to technical difficulties.

- **Witnesses who are requested to appear by video conference appearance.** If there is no agreement among the attorneys for a witness to appear by video, it is the responsibility of the litigant or attorney calling the witness to file a motion to allow the video appearance of a witness(es) at least 14 days in advance of the hearing/trial. Courtesy copies of the motion shall be provided to the presiding judge, as well as the opponent/opposing counsel. Motions of this type shall be ruled on summarily by the judge without argument.

VII. CRIMINAL DIVISION

- **Felony/Misdemeanor Division.** All matters will be held in-person. Upon good cause shown and at the discretion of the court, the following matters *may* be held remotely on Zoom.
    - Arraignments, pre-trial calls, case management dates, continuances, and guilty pleas.
    - **Mental Health:** Mental health proceedings may be heard in-person or remotely and is left to the discretion of the judge. The judge may in his or her discretion allow witnesses to testify remotely.
    - **Domestic Violence**. All status, arraignments, and pre-trials will be heard in-person or remotely on Zoom as ordered by the Court. Trials and hearings will be held in-person.
    - **Fitness hearings:** Fitness status dates will be conducted remotely on Zoom for all in-custody, outpatient restoration and DHS defendants. Fitness and discharge hearings will be in-person, although the judge, in his or her discretion, may allow witnesses to testify remotely on Zoom.
- **Specialty Courts**. Veteran's Court, Mental Health Recovery Court, and/or Drug Court will be held in-person. However, at the Court's discretion, a participant and/or Team Member may be allowed to participate remotely or telephonically with prior approval from the judge.

VIII. JUVENILE DIVISION

- **Notice**. In every summons or petition, the State's Attorney shall provide notice of whether the appearance is in-person or on Zoom and shall provide the appropriate Notice of Rights. In every change of date notice, the Circuit Clerk shall provide notice of whether the appearance is in-person or remotely on Zoom along with the appropriate Notice of Rights.
- Case management dates, continuances, review hearings, and pleas may be held in-person or remotely on Zoom as ordered by the Court.
- Motions, detention hearings, hearings, sentencing hearings, and bench trials will be conducted in-person, although the judge, in his or her discretion, may conduct the hearing remotely on Zoom.

- **Shelter Care Hearings and Trials** shall be in-person, although the judge, in his or her discretion, may allow witnesses to testify remotely on Zoom. A party may also be allowed to testify by Zoom, at the discretion of the judge, with a showing of good cause.

- All other motions, case management dates, permanency hearings, review hearings, and continuances may be in-person or remotely on Zoom at the discretion of the Court.

- **Expungements/Sealings.** Hearings shall be in-person. The judge, in his or her discretion, may allow hearings to be remotely on Zoom.

- **Notices of Motions**. Notices of motions shall contain language indicating whether the appearance is in-person or over Zoom pursuant to the court's standing orders or adopted remote hearing instructions. If noticed for Zoom, the notice shall contain language "Parties shall attend the presentment of this motion remotely on Zoom" and shall provide the Meeting ID, Password, call in information or link to the meeting, if the Zoom link information is known.

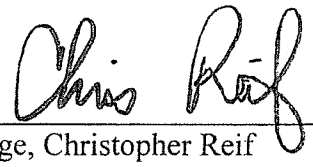
IX. PUBLIC ACCESS

The Court, parties, and attorneys shall be cognizant that Illinois Courts are generally open to the public, and it remains highly desirable that the operations of the courts are as transparent as practicable. In this regard, parties should be aware that although participants may appear remotely, the judge assigned to the case may be in the courtroom, and that the courtroom will remain open to the public. Moreover, the Court and parties must consider how the media and public can have access to the remote hearing. Members of the public and/or media who desire to observe a hearing should contact Court Administration for directions on how to attend. Observers are prohibited from speaking to witnesses or potential witnesses concerning any testimony or evidence until after the evidence has closed.

This Administrative Order shall remain in full force and effect until replaced or terminated by a subsequent Administrative Order.

Dated this 9th day of February, 2023.

ENTERED:



Chief Judge, Christopher Reif