

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 2

In Support of Remote and Virtual Hearings

WHEREAS, at the 2020 Annual Meeting, the Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 2, which sets forth six principles to guide technological changes for post-pandemic court technology; and

WHEREAS, during the COVID-19 pandemic, remote technology has been a vital tool to enable courts to maintain operations while keeping court users, the public, and court employees safe; and

WHEREAS, even in a post-pandemic world, the ability to participate in virtual hearings may bring benefits to attorneys, parties, and self-represented litigants, including economies of time and resources; and

WHEREAS, preliminary data suggests that appearance rates at court hearings are higher when litigants have the ability to appear remotely or virtually; and

WHEREAS, the public's ability to observe court proceedings online may enhance public understanding of, and confidence in, the fairness and impartiality of courts and judges; and

WHEREAS, the use of remote technology, and its possible expansion to include hybrid hearings, also raises critical questions about litigants' rights and their access to justice, and what courts and other stakeholders can do to mitigate any potential harms; and

WHEREAS, although the downward trajectory of US COVID-19 cases has enabled the beginning of a transition towards more in-person court operations, courts should not stop the usage or adoption of technology for court operations, including the filing of court documents, jury selection, and remote and virtual hearings; and

WHEREAS, the Conferences recognize that, even post-pandemic, courts should leverage technology to ensure litigant access to procedural and legal information and to make appearance possible via remote means when practicable;

NOW, THEREFORE, BE IT RESOLVED, the Conference of Chief Justices and the Conference of State Court Administrators urge their members to apply the guiding principles for court technology to remote and virtual hearings and support technological innovations to facilitate access to justice, so that all court users get the help they need and are treated fairly and with dignity.

Because virtual and remote hearings can pose challenges, courts are encouraged to consider:

- 1) Ensuring that all users, even those with difficulty using technology or who do not have access to reliable internet with necessary bandwidth, can still participate. This may require offering the option to appear in person or remotely, the provision of technology or access points in the court and community, and flexibility in allowing a video participant to transition to voice only or other adaptations caused by bandwidth or technology problems;
- 2) Making adjustments and being sensitive to privacy issues arising from court users having to appear remotely from a public or non-private space;
- 3) Determining what types of cases and hearings are appropriate for virtual hearings;
- 4) Ensuring that all parties to a dispute, regardless of English proficiency, disability, socio-economic status or whether they are self-represented, can meaningfully participate in court processes;
- 5) Adjusting the scheduling of hearings to allow adequate time to orient people and to handle any technology issues. Virtual and hybrid hearings may take more or less time than in-person hearings; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators support and urge the National Center for State Courts to engage in rigorous evaluation of innovative efforts, provide guidance, develop best practices, and share resources; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators offer leadership and encourage, where appropriate, collaborations with federal, state, and local government agencies and legislative bodies, private funders, and other civil justice system partners to support and provide financial resources to increase broadband, and address other solutions regarding the digital divide.

Adopted as proposed by the CCJ/COSCA Access and Fairness Committee and the CCJ/COSCA Public Engagement, Trust, and Confidence Committee at the CCJ/COSCA 2021 Annual Meeting on July 28, 2021.