

Digital Divide Considerations



A Pandemic Resource from NCSC

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The digital divide is real. It is easy to forget the existence of that divide when millions of people do their banking, shopping, and so many other simple or complex tasks online, often from a smart phone. As the rate of adoption by institutions increases, an adequate connection is no longer a matter of convenience; it becomes a necessity. From elementary school to court, fundamental aspects of everyday life, even those intertwined with citizenship and democratic governance, have moved online. Those without the ability to connect – the millions living in areas where broadband is not available, cell phone service is spotty, or the cost of a connection is too great – find themselves forced into parking lots outside libraries, schools, and even fast food restaurants to get online. Or they simply don't engage.

Remote court services offer great benefits. Pre-pandemic, litigants often had to travel long distances on multiple forms of public transit after arranging for childcare and to miss work. The ability to file, progress, respond, mediate, and adjudicate disputes remotely removes many of these obstacles. Moreover, remote court services enable increased remote pro bono legal representation and video remote interpretation that can expand the availability of legal representation and qualified interpretation into traditionally harder to reach communities. And yet, courts must still be aware of and sensitive to the digital divide; and, wherever practicable, courts should join efforts to identify and develop solutions to allow court users – even those without the requisite equipment, broadband or technology skills – to participate in court proceedings online.

Before getting into potential solutions, it is important to clearly define what we mean by the digital divide. The digital divide can be broken into three broad categories:

| Access to Device | Access to Broadband, Data and Cell Phone Minutes | Digital Literacy/Savvy |
|---|---|--|
| <ul style="list-style-type: none">• Smart phone• Tablet• Computer• Printer• Scanner | <ul style="list-style-type: none">• Access to internet• Access to broadband (speed adequate for streaming or video conferencing)• Cell phone plan with adequate data or minutes to complete court-based online activities | <ul style="list-style-type: none">• Established e-mail address and practice checking email• Ability to navigate video conferencing platform, e-filing service provider and/or automated forms |

While continuing to offer remote court processes, courts must always work to identify options for those who lack meaningful access to technology. Solutions to these barriers can be broken down into two broad categories: (1) those that help court patrons use technology and (2) those that deal with access to a device or connectivity. This document offers some initial ideas of ways courts can provide solutions to the digital divide, either on their own or in partnership with other civic, government or philanthropic partners.

Hardware (Connectivity)

- There are several examples of entities extending their wi-fi into adjacent parking lots for public use and/or offering other forms of public wi-fi, including:
 - Courthouse and detention center parking lots;
 - Private businesses (including law firms and McDonald's franchises);
 - Public libraries; and
 - Mobile wi-fi buses.
- Public-private partnerships have been established to offer internet access in more places or at higher speeds.

Hardware (Access to a Device)

- Courts can ensure all court websites (including e-filing platforms) are designed with mobile-friendly interfaces to make it possible for someone to successfully complete all necessary steps on a smart phone or tablet (rather than needing a computer).
- NCSC, AT&T and ABOTA have established a pilot project to provide broadband-enabled devices to potential jurors and grand juries to assist with trials in Arizona, Florida, Georgia, Michigan, New Jersey, and Texas.
- Courts can place kiosks (computer stations with a computer, webcam, headphones, and scanner) in community locations like, for example, a convention center.
- Courts can contain staffed self-help centers with equipment, internet access, and social-distancing and safety protocols in place.
- Courts can inform court users of free and easy scanning and signature apps.
- Courts can secure funding to provide court users with devices and broadband. One example: [HHS re: IV-B funding](#).

Digital Literacy/Savvy

- Offer secure drop boxes for pleadings outside a courthouse or in a community location.
- Consider community-based alternatives or other process for cash payments outside of a courthouse to account for unbanked court users.
- Develop step-by-step manuals of online court processes with screenshots of any technology platforms involved.
- Work with advocates and community-based partners to help them understand online court processes in order to assist their clients.
- Court-staffed call centers to offer step-by-step assistance and even screen sharing.
- Court-based (whether in lobby, law library or self-help center) computer kiosks with in-person assistance.
- Courthouse-based non-lawyer navigators to assist those who need help.

- Guided interviews that help users complete court forms and, even better, integrate those forms with the local e-filing system so that a person can file a pleading – start to finish – after answering only simple plain language questions.
- Conduct process simplification to assess whether there are any procedural steps (like requiring a scanned signature or a digital notarization) that may pose digital divide challenges and that could be relaxed or eliminated. This could also take the form of allowing simple e-filing to a dedicated email address, as was done in Alaska.