

National Scan of Remote-First and Remote-Friendly Court Rules

A Resource from the
Pandemic Rapid Response Team



In the summer of 2020, the Conference of Chief Justices and Conference of State Court Administrators passed a resolution “[In Support of the Guiding Principles for Post-Pandemic Court Technology](#)” which called for courts, among other things, “to adopt a remote-first or remote-friendly approach[] when moving court processes forward.” Many state courts have begun implementing rule changes to establish a remote-first or remote-friendly approach that provides access and protects the rights of litigants. This resource collects those rule changes as a resource for courts considering similar rules changes in the following areas:

- Remote format scheduled by default
- Case types excluded from remote format
- Remote participation optional or permitted by judicial discretion within identified criteria
- Safeguarding parties’ ability to privately confer with counsel
- Digital divide concerns
- Ensuring public access
- Ensuring proper decorum and participant safety
- Defining remote participation
- On- and Off-Ramp
- Developing caselaw

List 1: “Remote” format scheduled by default

Alaska R. Crim. P. 38.2 <https://bit.ly/3IXATQ9>

- Arraignment (in-custody)
- Bail reviews (in-custody, non-evidentiary)
- First appearance hearings (in-custody)
- Pleas (in-custody)
- Felony not guilty pleas (in-custody)

Massachusetts, 2021.05.27 Joint Standing Order 1-21 of the Boston Municipal Court Dept. and District Court Dept. (issued after its Supreme Court decided [Diaz](#))
<https://perma.cc/J5FS-VCU8>

- Criminal pretrial hearings (unless the presiding judge orders otherwise)
- Criminal compliance and election hearings
- Non-evidentiary motions
- Trial assignment hearings
- Status hearings
- Summary process hearings (apart from trials)
- Criminal show cause hearings
- Most mental health hearings and evaluations
- Small claims proceedings (unless the magistrate orders otherwise)
- Civil motor vehicle infractions and appeals
- Civil case management conferences and pretrial conferences
- Administrative appeal hearings

Massachusetts, 2021.06.10 Probate and Family Court Standing Order 1-21
<https://perma.cc/6RDR-JMPY>

(And on a staggered schedule)

- Uncontested adoptions (unless the assigned judge decides otherwise)
- Uncontested divorces
- Rogers* reviews
- DCF custody best efforts annual reviews
- Child support actions (except for contempt)
- Case management/status conferences
- Discovery motions

Massachusetts, 2021.06.09 Juvenile Court Dept. Standing Order 4-21
<https://perma.cc/A54L-6BFB>

- Care and protection matters
- Child requiring assistance (preliminary hearing when filed by a school department except for any hearing when custody may be granted to the Dept. of Children and Families)
- Conference

List 2: Case types expressly excluded from remote format



Florida, 2021.06.04 AOSC 21-17 (Amendment 3)

<https://perma.cc/5YYK-F8DE>

- Involuntary commitments (unless the person waives)

Idaho, 2021.06.25 Amended Emergency Order Regarding Court Services

<https://perma.cc/9E7T-99BY>

- Jury trial (civil and criminal—though witnesses may testify remotely if counsel and the judge agree)
- Sentencing (felony)
- Parental rights termination trials

Indiana, 2020.05.13 Emergency Order Permitting Expanded Remote Proceedings

<https://perma.cc/5PTD-SXFB> continued by 2021.05.07 Order Expanding Authority for Expanded Remote Hearings <https://perma.cc/63S5-67V2>

- Criminal case witness testimony and sentencing (unless there's a personal waiver)

Iowa, 2020.11.24 Amended Order In re Ongoing Provisions for Coronavirus/COVID-19 Impact On Court Services <https://perma.cc/HG9A-C58L>

- Civil jury trials

Massachusetts, 2021.05.27 Joint Standing Order 1-21 of the Boston Municipal Court Dept. and District Court Dept. (issued after its Supreme Court decided *Diaz*)

<https://perma.cc/J5FS-VCU8>

- Arraignments
- Bail matters
- Pleas
- Probation matters
- Criminal evidentiary motions and probable cause hearings
- Criminal bench trials (unless parties consent)
- Protection order hearings
- Civil bench trials (unless presiding judge orders otherwise)
- Summary process trials
- Petitions to seal records
- Appeals (unless presiding justice orders otherwise)

Massachusetts, 2021.06.09 Juvenile Court Dept. Standing Order 4-21 (issued after its Supreme Court decided *Diaz*) <https://perma.cc/A54L-6BFB>

[All must be in-person, *unless* (except for jury trials) the presiding judge opts to hold it virtually based on a determination that the facts and issues involved in the specific case require that the hearing occur in a different manner. And that determination shall be made with the agreement of all parties in the case.]

- Temporary custody and 72-hour hearings
- Hearing on the merits/best interest/termination of parental rights
- Child requiring assistance, preliminary hearing (except for those filed by a school department)
- Any child requiring assistance hearing when temporary custody may be granted to the Dept. of Children and Families
- Certain delinquency/youthful offender proceedings
 1. Arraignments
 2. Bail hearings
 3. Dangerousness hearings
 4. Motions to suppress
 5. Competency hearings
 6. Tender of plea/admissions
 7. Bench trial
 8. Jury trial
 9. Probation detention hearings/violation of probation hearings
- Guardianships
- Substance abuse and/or alcohol use disorder petitions
- Mental health petitions
- Harassment prevention orders



List 3: “Remote” participation optional or permitted by judicial discretion within identified criteria

Alaska, Alaska R. Crim. P. 38(a) <https://bit.ly/3m59ETE>

Alaska, Alaska R. Crim. P. 38.1 <https://bit.ly/3jVKP9U>

- Felony first appearance (defendant request or consent and court approval)
- Arraignment (defendant request or consent and court approval)
- Criminal hearing when evidence is presented / witness testifies (with defendant consent and court approval)
- Change of plea hearing (defendant request or consent and court approval)
- Criminal trial (defendant and prosecution request or consent and court approval)
- Criminal sentencing (defendant request or consent and court approval)
- Probation revocation (defendant and prosecution request or consent and court approval)
- Witness participation (defendant request or consent, or court discretion)

Alaska, Alaska R. Crim. P. 38.2 <https://bit.ly/3IXATQ9>

- In-custody sentencing in traffic and misdemeanor cases (defendant consent)

Alaska, Alaska R. Crim. P. 38.3 <https://bit.ly/3jLtQqM>

- Criminal witness testimony (including trial by party agreement or court discretion if three elements are met)

Alaska, Alaska R. Civ. P. 99 <https://bit.ly/2Vvr8Y3>

- Child custody hearings or depositions (for good cause and in the absence of substantial prejudice to opposing parties)
- Depositions (for good cause and in the absence of substantial prejudice to opposing parties)
- Civil hearings (for good cause and in the absence of substantial prejudice to opposing parties)

Arkansas, Ark. R. Civ. P. 43(a) <https://bit.ly/3xKmsBb> and 2021.06.10 Supreme Court per curiam opinion <https://perma.cc/X6W5-KZ2S>

- Civil trial testimony (for good cause shown in compelling circumstances and upon appropriate safeguards)

California, Emergency Rule 6(c) <https://perma.cc/7SDX-34LV>

- Foster care hearings

California, Emergency Rule 7(b) <https://perma.cc/7SDX-34LV>

- Juvenile delinquency



Florida, 2021.06.04 AOSC 21-17 (Amendment 3) <https://perma.cc/5YYK-F8DE> and 2021.02.17 Guidance “Requirements and Evaluation Criteria Remote Civil and Criminal Jury Trials” <https://perma.cc/X8J9-BYAV>

- Juror disqualification, excusals, postponements, and jury selection and trial (if parties consent)
- Criminal bench trials
- Civil jury trial
- Juvenile delinquency (if ordered by the chief or presiding judge)
- Parental rights termination (if ordered by the chief or presiding judge)

Georgia, Ga. R. Juv. Ct. 12.2 <https://bit.ly/3fZVe3A> and 2021.06.22 Order In re: Extending and Clarifying Temporary Amendments to Video Conference Rules for the Superior, Juvenile, Magistrate, Municipal, and Probate Courts (to June 30, 2022) <https://perma.cc/L2ZN-QG4L>

- Juvenile delinquency (in court’s discretion and with consent of all parties)

Georgia, Ga. R. Super. Ct. 9.1 <https://bit.ly/37GoPuc> and Georgia, 2021.06.22 Order In re: Extending and Clarifying Temporary Amendments to Video Conference Rules for the Superior, Juvenile, Magistrate, Municipal, and Probate Courts (to June 30, 2022) <https://perma.cc/L2ZN-QG4L>

- Civil pretrial and post-trial proceedings (judicial discretion)

Georgia, Ga. R. Super. Ct. 9.2 <https://bit.ly/3iK9JtU> and Georgia, 2021.06.22 Order In re: Extending and Clarifying Temporary Amendments to Video Conference Rules for the Superior, Juvenile, Magistrate, Municipal, and Probate Courts (to June 30, 2022) <https://perma.cc/L2ZN-QG4L>

- Initial appearance, arraignments, waiver of arraignment or appointment of counsel
- Probable cause hearings
- Witness (including youthful witness) testimony in any pending matter
- Entry of pleas, pretrial diversion imposition of sentences upon guilty or no contest pleas, and post-sentencing compliance hearings.

- Felony probation revocation hearings when the probation admits to the violation
- Misdemeanor probation revocation hearings

Georgia, 2020.10.26 Guidance for Remote Grand Jury Proceedings
<https://perma.cc/5JLU-XDHR>

- Grand jury

Georgia, "Election Regarding Video Testimony," Superior Court of Chatham County court form, <https://perma.cc/UUC8-PUFF>

Illinois, New Rule 45 (adopted 2020.05.22) <https://perma.cc/CZV7-65HZ>

- Global

Illinois, amended Ill. Sup. Ct. R. 241 for use of video conference technology in civil trials and evidentiary hearings (adopted 2020.05.22) <https://perma.cc/CZV7-65HZ>

- Civil trials and evidentiary hearings (for good cause shown and upon appropriate safeguards)

"**Illinois** Supreme Court Policy on Remote Court Appearances in Civil Proceedings" was simultaneously issued with the new/amended rules. <https://perma.cc/GMM2-X923>

Indiana, 2020.05.13 Emergency Order Permitting Expanded Remote Proceedings <https://perma.cc/5PTD-SXFB> continued by 2021.05.07 Order Expanding Authority for Expanded Remote Hearings <https://perma.cc/63S5-67V2>

- Felony cases (including guilty pleas, sentencings when the defendant waives the right to be present in court, and any other proceeding with witness testimony when the defendant waives the right of confrontation)
- Jury selection (civil and criminal; by party agreement)
- Civil jury trials (by party agreement)

Iowa, 2020.11.24 Amended Order In re Ongoing Provisions for Coronavirus/COVID-19 Impact On Court Services <https://perma.cc/HG9A-C58L>

- Bench trials (civil or criminal; with party consent)
- Civil court business (other than jury trials)
- Witness testimony (with party consent or when authorized by law)

Iowa, 2020.12.14 Amended Order In re Ongoing Provisions for Coronavirus/COVID-19 Impact On Court Services <https://perma.cc/4E87-7RLJ>

- Family law custody trials (on motion, with good cause shown, and by party consent)

Maine, 2021.07.01 PPMO-SJC-1 <https://perma.cc/7PY6-57EP>

- Global (“Each presiding judicial officer has the discretion to conduct conferences, hearings, and trials remotely through video or telephonic formats, or in person.”)

Maryland, Md. R. Civ. P. Cir. Ct. 2-802 <https://bit.ly/3iMzCca>

Maryland, Md. R. Civ. P. Cir. Ct. 2-803 <https://bit.ly/37Kj9iY>

- Civil, non-evidentiary and evidentiary proceedings (unless, upon objection by a party, [2-802:] the court finds that remote electronic participation would likely cause substantial prejudice to a party or adversely affect the fairness of the proceeding)

Massachusetts, 2021.06.09 Juvenile Court Dept. Standing Order 4-21

<https://perma.cc/A54L-6BFB> (In the discretion of the presiding judge based upon the circumstances of the case, the resources of the court and the availability and needs of the parties, counsel and witnesses.)

- Review and redetermination hearings in care and protection proceedings
- Orders for anti-psychotic medication and extraordinary medical treatment
- Do not resuscitate/withdrawing life-sustaining medical treatment
- Permanency hearings
- Adoptions
- Child requiring assistance (fact-finding hearings, disposition hearings, disposition review hearings)
- Delinquency/youthful offender proceedings (pretrial conference/compliance and election, reports/status hearings, trial readiness conference)



List 4: Safeguarding parties' ability to privately confer with counsel

Alaska R. Crim. P. 38.2(a) <https://bit.ly/3IXATQ9>

California, Emergency Rule 5(e)(2) <https://perma.cc/7SDX-34LV>

Georgia, Ga. R. Super. Ct. 9.2(B) <https://bit.ly/3iK9jtU> and 2021.06.22 Order In re: Extending and Clarifying Temporary Amendments to Video Conference Rules for the Superior, Juvenile, Magistrate, Municipal, and Probate Courts (to June 30, 2022) <https://perma.cc/L2ZN-QG4L>

Georgia, Ga. R. Juv. Ct. 12.2(c) <https://bit.ly/3fZVe3A> and 2021.06.22 Order In re: Extending and Clarifying Temporary Amendments to Video Conference Rules for the Superior, Juvenile, Magistrate, Municipal, and Probate Courts (to June 30, 2022) <https://perma.cc/L2ZN-QG4L>

Indiana, 2020.05.13 Emergency Order Permitting Expanded Remote Proceedings <https://perma.cc/5PTD-SXFB> continued by 2021.05.07 Order Expanding Authority for Expanded Remote Hearings <https://perma.cc/63S5-67V2>

Maryland, Md. R. Civ. P. Cir. Ct. 2-804(c) <https://bit.ly/3IZGMwa>



List 5: Digital divide concerns

Alaska, First Judicial District (Sitka courts only), Presiding Judge AO 21-14 <https://perma.cc/3RVP-T645>

Connecticut Family Court, 2020.17 memorandum Virtual (Video) Hearings and Future Scheduling of Family Court Matters <https://perma.cc/TF2B-VWUE>

Florida, Chapter 6 of the "Remote Civil Jury Trial Pilot Project Fourth Judicial Circuit" report addresses "Accommodating jurors lacking technology." <https://perma.cc/59KL-3Q7B>

Hawaii's website (within Question 1) <https://bit.ly/37CDFIm>

Illinois's amended Ill. Sup. Ct. R. 241 <https://bit.ly/3AE4sKp>

Indiana, 2020.05.13 Emergency Order Permitting Expanded Remote Proceedings <https://perma.cc/5PTD-SXFB> continued by 2021.05.07 Order Expanding Authority for Expanded Remote Hearings <https://perma.cc/63S5-67V2>

Massachusetts, 2021.06.10 Probate and Family Court Standing Order 1-21 <https://perma.cc/6RDR-JMPY>

List 6: Ensuring public access

Idaho 2021.06.25 Amended Emergency Order Regarding Court Services <https://perma.cc/9E7T-99BY>

Indiana, 2020.05.13 Emergency Order Permitting Expanded Remote Proceedings <https://perma.cc/5PTD-SXFB> continued by 2021.05.07 Order Expanding Authority for Expanded Remote Hearings <https://perma.cc/63S5-67V2>

Massachusetts, 2021.05.27 Joint Standing Order 1-21 of the Boston Municipal Court Dept. and District Court Dept. (issued after its Supreme Court decided *Diaz*) <https://perma.cc/J5FS-VCU8>

List 7: Ensuring proper decorum (and participant safety)

Indiana, 2020.05.13 Emergency Order Permitting Expanded Remote Proceedings <https://perma.cc/5PTD-SXFB> continued by 2021.05.07 Order Expanding Authority for Expanded Remote Hearings <https://perma.cc/63S5-67V2>

Kansas, 2020.11.16 Kansas trial courts virtual courtroom standards and guidelines <https://perma.cc/KP9P-2692>

Maine, 2021.06.01 PPMO-SJC-2 <https://perma.cc/K6JR-DHH9>

Massachusetts, 2021.05.27 Joint Standing Order 1-21 of the Boston Municipal Court Dept. and District Court Dept. (issued after its Supreme Court decided *Diaz*) <https://perma.cc/J5FS-VCU8>

List 8: Defining remote participation

California, Emergency Rule 3(a)(3), <https://perma.cc/7SDX-34LV>

Florida, 2021.06.04 AOSC 21-17 (Amendment 3) <https://perma.cc/5YYK-F8DE>

Maryland, Md. R. Civ. P. Dist. Ct. 3-513.1, <https://bit.ly/3jXZ7Hm>

List 9: On- or Off-ramp

Off: **Indiana**, 2020.05.13 Emergency Order Permitting Expanded Remote Proceedings <https://perma.cc/5PTD-SXFB> continued by 2021.05.07 Order Expanding Authority for Expanded Remote Hearings <https://perma.cc/63S5-67V2>

On: **Maryland**, 2021.07 Court form: Motion for Remote Proceeding or to Appear Remotely <https://perma.cc/9EVP-2SA3>

List 10: Developing caselaw

Maryland Court of Special Appeals. *In re J.D.*, 1363-2020 (Md. Ct. Spec. App. Aug. 12, 2021) <https://bit.ly/3CNPxiS>

Massachusetts Supreme Court. *Diaz v. Commonwealth*, SJC-13009 (Mass. May 5, 2021) <https://bit.ly/2VXjpDx>

Pennsylvania Commonwealth Court. *J.R. v. J.P.B.*, 1785 EDA 2020 (Pa. Cmmw. Ct. Aug. 10, 2021) <https://bit.ly/2VTunPt>

