

STATE OF MAINE
SUPREME JUDICIAL COURT
ADMINISTRATIVE ORDER JB-21-05

ORDER REGARDING TRIAL COURT REMOTE PROCEEDINGS AND PUBLIC
ACCESS

Effective: October 4, 2021

This order governs the presumed formats for court proceedings and the processes for remote court proceedings in all cases.

The Supreme Judicial Court has renewed and ongoing concerns for the health of both Judicial Branch employees and members of the public. In addition, the Court is aware that many attorneys and litigants increasingly have competing multiple obligations and court appearances. To address these concerns, the Court has determined that many trial court proceedings should be conducted remotely—through video or telephonic formats. Therefore, effective immediately and until further Order of the Court, it is hereby ordered as follows:

I. PRESUMED FORMATS FOR SOME COURT PROCEEDINGS

Unless the presiding judicial officer specifically orders otherwise, as discussed in section III below, the following proceedings shall be held remotely:

- A. Dispositional conferences pursuant to M.R.U. Crim. P. 18;
- B. Non-testimonial hearings or conferences in criminal cases;
- C. Pretrial or status conferences and non-testimonial hearings in Family Matters (FM) cases;
- D. Uncontested final hearings in Family Matters (FM) cases;
- E. Pretrial, discovery or status conferences and non-testimonial hearings in civil cases; and
- F. Stipulated judicial reviews, status conferences, and pretrial conferences in Child Protection (PC) cases.

In all criminal cases, proceedings involving a plea of guilty or nolo contendere or an admission to a motion to revoke probation should be held remotely to the

greatest extent possible consistent with due process. Any party may request that any plea or admission proceeding be held in person.

II. REQUEST OR COURT ORDER ALLOWING REMOTE FORMAT FOR OTHER COURT PROCEEDINGS

- A. ***Remote hearing at the request of a party.*** Any party may file a motion requesting that a proceeding not listed above be heard remotely. Any such motion must explain with specificity the basis for the request. Except as provided below, the motion must (1) provide the email address of the moving party and the responding party, if known; and (2) be filed and served on the other party or parties no later than fourteen days before the scheduled hearing date, unless otherwise ordered by the court. If a party objects to the motion, the objecting party must file a written opposition no later than seven days after the motion is filed, unless otherwise ordered by the court.

If the party filing the motion for remote proceeding believes that the health, safety, or liberty of the party or a minor child would be jeopardized by disclosure of identifying information, the party may provide the email address to the court, without providing that information to the other party, and file an Affidavit of Confidential Address (PA-015) to request that the party's email address be sealed by the court pursuant to 19-A M.R.S. § 4008.

- B. ***Remote hearing on the order of a court.*** A trial court may, upon reasonable notice, require additional proceedings not specified above to be held remotely.
- C. ***Standard for ordering that other proceedings be heard remotely.*** The standard for ordering that a court proceeding be heard remotely is good cause shown. In making the determination, the court must consider the health and safety of the court staff, parties, and witnesses; the ability of parties to participate remotely; the effect on the availability to other people of limited Judicial Branch resources, including courtroom space, technology assistance, and clerical assistance; and the effect on the availability of constitutionally required counsel to other people.

III. REQUEST OR COURT ORDER FOR IN-PERSON FORMAT

- A. ***In-person hearing at the request of a party.*** Any party may file a motion requesting that a type of proceeding listed above be heard in person. Any such motion must explain with specificity the basis for the request. Except as provided below, the motion must (1) provide the email address of the moving party and the responding party, if known; and (2) be filed and served on the other party or parties no later than fourteen days before the scheduled hearing date, unless otherwise ordered by the court. If a party objects to the motion, the objecting party must file a written opposition no later than seven days after the motion is filed, unless otherwise ordered by the court.

If the party filing the motion believes that the health, safety, or liberty of the party or a minor child would be jeopardized by disclosure of identifying information, the party may provide the email address to the court, without providing that information to the other party, and file an Affidavit of Confidential Address (PA-015) to request that the party's email address be sealed by the court pursuant to 19-A M.R.S. § 4008.

- B. ***In-person hearing on the order of a court.*** A trial court may, upon reasonable notice to the parties, require that any type of proceeding, even those specified above, be held in person.
- C. ***Standard for allowing an in-person proceeding.*** The standard for granting a motion or for ordering that a presumptively remote court proceeding be heard in person is good cause shown. In making the determination, the court must consider the health and safety of the court staff, parties, and witnesses; the ability of parties to participate remotely; the effect on the availability to other people of limited Judicial Branch resources, including courtroom space, technology assistance, and clerical assistance; and the effect on the availability of constitutionally required counsel to other people.

IV. CONDUCTING REMOTE PROCEEDINGS

- A.** The trial court will initiate all video or telephone proceedings and will provide information and instructions to all parties for how to access the conference or hearing.
- B.** Invitations to video or telephonic conferences or hearings will be sent to the parties by the clerk's office. To ensure that the invitations are received, each party is required to provide to the court an email address for official court communications.
- C.** The official audio recording of a remote proceeding shall be created by the Judicial Branch's electronic recording system, For the Record ("FTR").
- D.** If an evidentiary hearing will be held remotely, no later than seven days before the hearing any party intending to offer any exhibits during the hearing must mark, copy, and exchange those exhibits with the other party or parties. The offering party must also file paper copies of those exhibits with the court no later than seven days before the trial, unless the court orders a different time period. During a remote video hearing, the court may permit rebuttal exhibits to be uploaded electronically to the video conference platform. Electronically filed exhibits must be in a standard, non-proprietary format: MP4 for video; MP3 or MP4A for audio; PDF for documents; JPG for photographs. Exhibits in other electronic formats may be filed only with leave of the court. A paper copy of any exhibit offered in rebuttal, if not previously filed with the court, must be filed within 5 days after the final hearing.
- E.** Self-represented litigants are held to the same standards as represented parties. A litigant will not be afforded any special consideration because of self-represented status. All court rules of procedure and process, including the rules of evidence, and the rules of contempt, apply during remote hearings and conferences.
- F.** All parties are required to comport themselves as though the hearing or conference were occurring in person. Standards,

including decorum, demeanor, and dress code, still apply. Those participating shall behave as if they were inside the courtroom.

- G.** Each witness must be alone in a quiet room while testifying and may not use a virtual background unless a virtual background is necessary for the safety and security of the witness or party. Each witness is ordered, subject to contempt of court, to turn off all electronic devices except for the device enabling participation in the hearing and to refrain from exchanging any electronic messages with anyone while testifying.
- H.** When any proceeding is scheduled to be held remotely, counsel and parties shall be ready to proceed at the scheduled date and time. Private conversations and consultations outside the presence of the court will not generally be available on the remote platform.

V. PUBLIC ACCESS TO REMOTE COURT PROCEEDINGS

- A.** JB-05-15 shall apply to media coverage of remote court proceedings during a pandemic. The Media Notification-Requested Coverage of Court Proceeding form, found on the Judicial Branch website at

<https://www.courts.maine.gov/news/media.html>

shall be the means for requests by members of the media for

- 1.** Direct access to cover a public but remote court proceeding being conducted solely by video or telephone; and
 - 2.** Access to or recording of a live audio stream of a court proceeding.
- B.** The trial court retains discretion to approve, approve on conditions, or deny media coverage requests made pursuant to section E(1) above, or to allow access and coverage of remote court proceedings on its own or at the request of a party.

- C. Members of the public who wish to observe or listen to remote court proceedings should contact the clerk of the court where the hearing is being held. A list of addresses and telephone numbers for each clerk's office is attached to this order.

Dated: September 24, 2021

For the Court:

_____/s/_____
Valerie Stanfill
Chief Justice, Supreme Judicial Court

ATTACHMENT: Clerk's Office Addresses and Telephone Numbers

SUPERIOR COURT
(For all Courts: TTY 711 Maine Relay)

ANDROSCOGGIN County Superior Court
330-7500

AROOSTOOK County Superior Court
498-8125

CUMBERLAND County Superior Court
822-4204

FRANKLIN County Superior Court
778-3346

HANCOCK County Superior Court
667-7176

KENNEBEC County Superior Court
Capital Judicial Center
213-2800

KNOX County Superior Court
594-2576

LINCOLN County Superior Court
882-7517

OXFORD County Superior Court
743-8936

PENOBSCOT County Superior Court
Penobscot Judicial Center
561-2300

PISCATAQUIS County Superior Court
Piscataquis Judicial Center
564-2240

SAGadahoc County Superior Court
443-9733

SOMERSET County Superior Court
474-5161

WALDO County Superior Court
Waldo Judicial Center
338-3107

WASHINGTON County Superior Court
255-3326

YORK County Superior Court
324-5122

DISTRICT COURT

AUGUSTA District Court
Capital Judicial Center
213-2800

BANGOR District Court
Penobscot Judicial Center
561-2300

BELFAST District Court
338-3107

BIDDEFORD District Court
283-1147

BRIDGTON District Court
647-3535

CALAIS District Court
454-2055

CARIBOU District Court
493-3144

DOVER-FOXCROFT District Court
Piscataquis Judicial Center
564-2240

ELLSWORTH District Court
667-7141

FARMINGTON District Court
778-2119

FORT KENT District Court
834-5003

HOULTON District Court
532-2147

LEWISTON District Court
795-4800

LINCOLN District Court
794-8512

MACHIAS District Court
255-3044

MADAWASKA District Court
728-4700 or 834-5003

MILLINOCKET District Court
723-4786 or 794-8512

NEWPORT District Court
368-5778

PORTLAND District Court
822-4200

PRESQUE ISLE District Court
764-2055

ROCKLAND District Court
596-2240

RUMFORD District Court
364-7171

VIOLATIONS BUREAU

VIOLATIONS BUREAU Helpline
783-5422