

# *Recommended Remote and In-Person Hearings in Arizona State Courts in the Post-Pandemic World*

*Arizona Supreme Court*



# THE COVID-19 CONTINUITY OF COURT OPERATIONS DURING A PUBLIC HEALTH EMERGENCY WORKGROUP

State Courts Building ■ 1501 West Washington Street ■ Phoenix, AZ 85007

February 22, 2022

Chief Justice Robert M. Brutinel  
Arizona Supreme Court  
1501 West Washington Street  
Phoenix, Arizona 85007

## *Recommended Remote and In-Person Hearings in Arizona State Courts in the Post-Pandemic World*

Dear Chief Justice Brutinel,

We are pleased to submit the attached Report titled *Recommended Remote and In-Person Hearings in Arizona State Courts in the Post-Pandemic World*, the most recent work product of the COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup (“Plan B Workgroup”). This Report makes recommendations about which court hearing types should be held remotely and which should be held in person in Arizona’s state trial courts in the post-pandemic world. The Report includes best practice Recommendations, intended to account for all hearing types, in Appendix 1.

As more fully described in the Report, the Plan B Workgroup asks that these Recommendations be considered, adapted, adopted, and implemented in two steps.

***First***, that they be considered and approved by you and the Arizona Judicial Council.

***Second***, that they then be provided to Arizona’s trial court judicial leadership for consideration, adaption, adoption, and implementation. The Presiding Superior Court and City Court Judges, the Presiding Justices of the Peace and, for limited jurisdiction courts that have only one judicial officer, the judicial officer of such court, would then consider these Recommendations, adapt them to account for local court resources and limitations and adopt and implement them in the post-pandemic world by local court administrative order that accounts for local court resources and limitations. Such local court administrative orders should also authorize hearing-specific variation by a judge assigned to a case in which the presumptive manner for holding a hearing is not practical or otherwise in the interest of justice, with notice to the parties.

Chief Justice Robert M. Brutinel  
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The Report discusses: (1) the process used to develop these Recommendations; (2) the definition of “remote” court hearing; (3) advantages and challenges of remote court hearings; (4) concepts supporting these Recommendations; (5) suggestions for the approval, adaption, adoption, and implementation of these Recommendations; and (6) the need for feedback and evaluation after implementation.

We plan to make the Report and Recommendations available broadly, as we have with previous Plan B Workgroup whitepapers. Your continuing support of the Plan B Workgroup efforts is deeply appreciated.

Very truly yours,

*Samuel A. Thumma*

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Enclosure

Copy with enclosure via email to:

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Dave K. Byers, Administrative Director, Administrative Office of the Courts

# *Recommended Remote and In-Person Hearings in Arizona State Courts in the Post-Pandemic World*

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## **Arizona Supreme Court**

COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup  
February 22, 2022

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COVID-19 Continuity of Court Operations During a  
Public Health Emergency Workgroup  
(as of February 2022)

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## Introduction and Background

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The COVID-19 pandemic has required extraordinary change in the courts, including profoundly accelerating the adoption and use of technology. As is true in other jurisdictions, in Arizona's state courts, remote court hearings have been held during the pandemic in many hearing types that, pre-pandemic, typically were in person. This change caused by the pandemic means courts have become more comfortable with remote court hearings, including what hearing types are best suited for remote court hearings.

In this Report, the Arizona Supreme Court's COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup ("Plan B Workgroup") makes recommendations about which court hearing types should be held remotely and which should be held in person in Arizona's state trial courts in the post-pandemic world. These best practice recommendations are set forth in Appendix 1 ("Recommendations") and are intended to account for all hearing types. The Plan B Workgroup asks that these Recommendations be considered, adapted, adopted, and implemented in two steps.

**First**, that they be considered and approved by Arizona Supreme Court Chief Justice Robert M. Brutinel and the Arizona Judicial Council.

**Second**, that they then be provided to Arizona's trial court judicial leadership for consideration, adaption, adoption, and implementation. The Presiding Superior Court and City Court Judges, the Presiding Justices of the Peace and, for limited jurisdiction courts that have only one judicial officer, the judicial officer of such court, would then consider these Recommendations, adapt them to account for local court resources and limitations and adopt and implement them in the post-pandemic world by local court administrative order that accounts for local court resources and limitations. Such local court administrative orders should also authorize hearing-specific variation by a judge assigned to a case in which the presumptive manner for holding a hearing is not practical or otherwise in the interest of justice, with notice to the parties.

This Report discusses: (1) the process used to develop these Recommendations; (2) the definition of "remote" court hearing; (3) advantages and challenges of remote court hearings; (4) concepts supporting these Recommendations; (5) suggestions for the approval, adaption, adoption, and implementation of these Recommendations; and (6) the need for feedback and evaluation after implementation.

As has been true throughout the work of the Plan B Workgroup, because knowledge is changing quickly, new information available in the future should be considered in implementing these Recommendations.



## I. THE PROCESS USED TO DEVELOP THESE RECOMMENDATIONS

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In June 2021, the Plan B Workgroup issued a whitepaper titled *Post-Pandemic Recommendations*. In January 2022, the Workgroup published an expanded version of that whitepaper, including significant annotations and references to new survey data. See *Post-pandemic Recommendations: COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup*, 75 SMU LAW REVIEW FORUM 1 (Jan. 2022), <https://scholar.smu.edu/smulrforum/>. That January 2022 publication includes three significant surveys and responses: (1) a survey of Arizona’s state courts (conducted May 3-14, 2021); (2) a survey of members of the State Bar of Arizona (conducted July 9-23, 2021); and (3) an Arizona public opinion survey (conducted September 27-28, 2021). *Id.* at Appendices 1, 2, & 3 (respectively). The *Post-pandemic Recommendations* provide a foundation for this Report and these Recommendations.

In December 2021, the Plan B Workgroup was asked to consider issues addressed in this Report. Members were added to the Plan B Workgroup where previous members had retired or taken jobs outside the courts and to include additional presiding judges. The members of this reconvened Plan B Workgroup are listed above. The initial reconvening message noted that the Plan B Workgroup was being asked to develop recommendations on the continued availability of remote hearings in various matters in the post-pandemic world. The focus was practical recommendations for each case type and hearing type, drawing on the Plan B Workgroup’s experience as well as past survey work and efforts in other states.

The Plan B Workgroup held six weekly meetings in January and February 2022. The first meeting, on January 12, 2022, featured a discussion with Jeff Shorba, State Court Administrator of the Minnesota Judicial Branch. That discussion focused on the *Recommended Approach to Remote Hearings on the Other Side of the COVID-19 Pandemic*, a June 2021 report to the Minnesota Judicial Council and actions taken as a result. Appendix 2 is a summary chart from that Minnesota Report, with the complete report available online. The Plan B Workgroup meetings that followed discussed various concepts and approaches and considered drafts of these Recommendations and this Report.

This undertaking also was influenced by a statute enacted in 2021 and a legislative proposal in 2022, both directing Arizona courts to conduct remote hearings in certain case types. The statute, enacted effective September 2021, directs remote court appearances for initial appearances in detainer (eviction) actions:

Notwithstanding any other law, in a special detainer or forcible detainer proceeding before the court, any party, including an attorney or witness upon written notice to the court, shall be permitted to participate at the initial appearance remotely by using a telephone or video conference connection. If the court continues a contested matter to a later date, at the discretion of the court, the court may require all parties, attorneys and witnesses to participate in person.

Ariz. Rev. Stat. (A.R.S.) § 22-206. The Arizona Supreme Court promptly implemented this statute by amending the Arizona Rules of Procedure for Eviction Actions, both on an emergency basis and then permanently. See [R-21-0039 PETITION TO AMEND RULES 5, 6, AND 11 AND APPENDIX A \(azcourts.gov\)](#).

Senate Bill 1191, as originally introduced during the 2022 Legislative Session, would have required “in all proceedings related to a civil action” that “any party, including an attorney or witness on written notice of the court, shall be allowed to participate in the proceeding remotely by using a telephone or video conference connection.” As introduced, S.B. 1191 would have added a new section in Title 12 (“Courts and Civil Proceedings”) of the Arizona Revised Statutes and also amended A.R.S. § 22-206. A February 1, 2022 “Strike Everything” amendment changed S.B. 1191 substantially. As a result of that amendment, S.B. 1191 would direct the Arizona Supreme Court to adopt and make effective, before October 1, 2022, rules to allow parties, attorneys, and witnesses to participate in civil proceedings “remotely by telephone or video conference.” S.B. 1191 also would direct that:

Court rules . . . shall presumptively allow for remote participation in the proceedings unless the Supreme Court adopts a rule that remote participation is not practical for a particular case type or proceeding type or otherwise in the interest of justice.

See <https://www.azleg.gov/legtext/55leg/2R/proposed/S.1191PETERSEN.pdf>. S.B. 1191 has not been enacted, but it has influenced these Recommendations and this Report.

## II. “REMOTE” COURT HEARING DEFINED

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Similar terms have been used as a shorthand for court hearings that use technology to allow one or more individuals to participate without being physically present in a courtroom, including “remote,” “virtual,” “online,” “electronic,” and

“technology-based.” As used in these Recommendations, the term “remote” is intended to broadly include any court hearing where one or more participant uses a technology-based platform, such as Zoom, Teams, WebEx, Skype, GoToMeeting, bridgelines, conference call lines, telephone, or similar technology to participate in the court hearing. This broad definition of “remote” tracks prior Plan B Workgroup usage of the term. See *Post-pandemic Recommendations*, 75 SMU LAW REVIEW FORUM 1, 8, 10, 13, 15, 19, 21, 25, 42-45 (Jan. 2022), <https://scholar.smu.edu/smulrforum/>.

### III. ADVANTAGES AND CHALLENGES OF REMOTE COURT HEARINGS

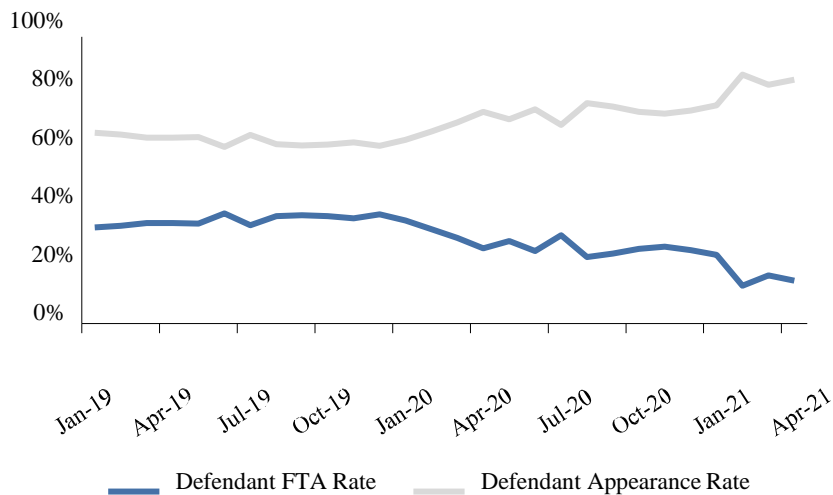
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The *Post-pandemic Recommendations* whitepaper addresses in significant detail advantages and challenges of remote court hearings. See 75 SMU LAW REVIEW FORUM 1, 12-47 (Jan. 2022), <https://scholar.smu.edu/smulrforum/>. This Report summarizes the advantages and challenges of remote court hearings, deferring to that publication for substantial additional detail.

Advantages of remote court hearings include reducing travel time; taking less time off work for litigants; reducing costs; increasing safety; increasing efficiency for participants and the court; increasing appearance rates and a corresponding decrease in default rates. There was strong support for remote court hearings in all three surveys included in the *Post-pandemic Recommendations* (court, lawyers, and the public). *Id.* at Appendices 1-3. Expanding the use of remote court hearings also provides another means to enhance access to justice. As reported in *Post-pandemic Recommendations*:

The ability of technology to increase access to justice is profound. One data-based example is the appearance rates in eviction actions filed in the Maricopa County Justice Courts. Before the pandemic, in more than one-third of evictions actions, the defendant failed to appear. In 2019, for example, the failure-to-appear rate in such cases ranged from one-third to approaching 40%. After implementing remote appearance options, failure-to-appear rates decreased significantly, to as low as approximately 13% in February 2021. The change in appearance rates is shown below:

### Defendant Appearance Rates in Evictions Actions - Maricopa County Justice Courts



*Id.* at 18-19 (footnotes omitted).

Challenges of remote court hearings include the “Digital Divide” (where some users lack access to Internet or computer hardware needed to facilitate effective participation); the need for training and education of participants and users within and outside the court; a loss of the “human factor” in hearings; the ability to confront witnesses in person; challenges with the use of exhibits; special user needs (including those with visual or hearing limitations, as well as those with behavioral health issues); funding for technology and related costs; accounting for public access to court proceedings, as well as addressing limitations on access to certain types of court proceedings; and the need to accept and account for change. Along with these advantages and challenges, remote court hearings also involve coordination by court staff in a manner that differs from in-person court hearings. The skill set and technical capacity to facilitate remote court hearings also differs for participants, including judicial officers, court staff, attorneys, parties, and others.

Given the significant potential advantages of remote court hearings, in general and where feasible, the Plan B Workgroup supports the adoption and use of remote court hearings for individuals involved in selected court proceedings, including parties, witnesses, and other court participants. The continued use of remote court hearings, post-pandemic, can allow Arizona’s state courts to better serve the public, to enhance access and efficiency, to reduce failure to appear rates, to accommodate the needs of participants in court proceedings, and to more closely reflect the approach taken outside of the courts. The Plan B Workgroup is strongly supportive of retaining, optimizing, and expanding the use of remote court hearings in the post-pandemic world.

## IV. CONCEPTS SUPPORTING THESE RECOMMENDATIONS

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These Recommendations are the product of and reflect some general concepts identified by the Plan B Workgroup. Those concepts include the following:

- Court hearings not involving live witness testimony generally are identified as presumptively remote, while court hearings involving live witness testimony generally are identified as presumptively in person. This dichotomy, which is largely reflected in these Recommendations, is designed to reflect the practical ability of holding different types of live witness hearings in different case types and in the interest of justice, including the right of confrontation under the U.S. and Arizona Constitutions for testimonial evidence in criminal proceedings, comparable issues in juvenile delinquency proceedings, exhibit management when hard copy exhibits are used with live witnesses, and other pragmatic issues. Exceptions to this dichotomy in these Recommendations are largely based on experience by Plan B Workgroup members and their respective local courts.
- In these Recommendations, a “hybrid” court hearing, where at least one participant appears in open court and at least one participant appears remotely, is defined as a remote hearing. The reasons for this definition include that a hybrid court hearing has, in many respects, more similarities to a remote court hearing than an in-person court hearing.
- Even if a hearing in a matter is set as a remote hearing, a party who is able and otherwise at liberty to attend that hearing in person, and wishes to do so, should be allowed to attend in person. The Plan B Workgroup feels strongly that the ability of such a party to a case to go to a physical courthouse to participate in person for a hearing in that case should not be limited or prevented by these Recommendations.
- During the pandemic, the Superior Court in some Counties conducted in-person grand jury proceedings while others conducted remote grand jury proceedings. These Recommendations defer to the Presiding Superior Court Judges in the Counties to consider practicalities and the interests of justice to determine whether grand jury proceedings should be in person or remote.
- After a local court adapts and adopts an administrative order setting forth standards tailored to that local court for which hearings should be remote and which hearings should be in person, individual trial judges will need the authority to conduct, on a case-specific basis, hearings that vary from those

standards. Recognizing that there are many possible standards for such a variation,<sup>1</sup> this Report recommends that local administrative orders authorize hearing-specific variation by a judge assigned to a case in which the presumptive manner for holding a hearing is not practical or otherwise in the interest of justice, the standards recommended by the S.B. 1191 “Strike Everything” amendment, with notice to the parties.

This recommendation would mean, for example, that if a local court administrative order directs that, presumptively, a certain hearing type be held remotely, an individual judge presiding over a case would have the authority to hold such a hearing in person if it was not practical to hold a remote hearing or if holding a remote hearing was not otherwise in the interest of justice. Such a determination could be made by the judge without a request or on the request of a party, but with notice to the parties. This flexibility is essential to ensure that individual judges retain the authority to conduct a hearing in the most appropriate manner given the needs of that hearing and case and should not impose a significant burden in varying from the presumption set forth in the applicable administrative order.

## V. APPROVAL, ADAPTION, ADOPTION, AND IMPLEMENTATION OF THESE RECOMMENDATIONS

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### *A. Statewide, Coordinated Approach with Local Court Adaptation, Adoption, and Implementation.*

The Plan B Workgroup considered recommending statewide standards for adoption uniformly in all of Arizona’s trial courts. There is merit in having a single set of statewide standards for various reasons, including uniformity of practice, certainty, and avoiding confusion. While acknowledging such benefits, this Report recognizes that local trial court judicial leadership is in the best position to consider resources and limitations in determining which types of hearings should be remote and which should be in person.

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<sup>1</sup> Minnesota uses “extenuating circumstances,” a standard not widely used in Arizona. Arizona’s rule sets use various other alternatives with some frequency, including “extraordinary circumstances,” *see, e.g.*, Ariz. R. Juv. Ct. P. 55; Ariz. R. Crim. P. 8.1; Ariz. R. Fam. L.P. 47, and “good cause,” *see, e.g.*, Ariz. R. Evict. Act. 10; Ariz. R. Juv. Ct. P. 50.1; Ariz. R. Civ. P. 6(b)(1); Ariz. R. Fam. L.P. 4(b)(1); Ariz. R. Crim. P. 16.1(d).

As a result, the Plan B Workgroup suggests a two-step approach for these Recommendations to be adapted, adopted, and implemented in Arizona's trial courts.

**First**, these Recommendations are submitted for consideration and approval by Arizona Supreme Court Chief Justice Robert M. Brutinel and the Arizona Judicial Council. The Plan B Workgroup hopes that such action could occur at the March 2022 Arizona Judicial Council meeting.

**Second**, after approval by the Chief Justice and the Arizona Judicial Council, the Plan B Workgroup asks that the Recommendations then be provided to Arizona's trial court judicial leadership for consideration. The Presiding Superior Court and City Court Judges and the Presiding Justices of the Peace and, for other limited jurisdiction courts that have only one judicial officer, the judicial officer of such court, would then consider these Recommendations, adapt them to account for local court resources and limitations, and adopt and implement them in the post-pandemic world by local court administrative order that accounts for local court resources and limitations. Such local court administrative orders should also authorize hearing-specific variation by a judge assigned to a case in which the presumptive manner for holding a hearing is not practical or otherwise in the interest of justice, with notice to the parties.

#### *B. Adaption, Adoption, and Implementation by Local Courts.*

A local court's consideration of the Recommendations should account for resources and limitations of that local court system, including technology hardware and software, the Digital Divide, and staff resources.

Local courts should consider using these Recommendations to identify any gaps in network capacity or other necessary technologies and staffing. Such information can be used for resource acquisition through state and local budget requests, grant proposals, and technology planning with the Administrative Office of the Courts. For example, the needs and resources of densely populated urban trial courts can be different than those of sparsely populated rural trial courts. Court and other facilities and resources also can vary greatly from location to location, meaning the ability of those facilities to accommodate remote proceedings will differ as well.

Ideally, courts serving populations in the same geographic area would adopt and implement the same standards. For example, if practicable, the most beneficial outcome would be if the Superior Court, Justice Courts, and City Courts serving the same geographic area had the same standards. But, for various reasons, adoption and implementation of the same standards for local courts serving the same geographic area may not be possible given resources and limitations of those local courts.



Standards adopted by local courts should be made available publicly in widely-circulated and posted administrative orders, along with forms and instructions, well before their effective date. To ensure that remote court hearings in the post-pandemic world best serve participants, an explanation of why the standards are being put in place, when they will become effective, and how hearings will be conducted is essential. Local courts should provide advance notice to participants for cases eligible for remote hearings and widely publicize information on the court website, along with forms, instructions, and best practices for remote court hearings. *Cf. Post-pandemic Recommendations*, 75 SMU LAW REVIEW FORUM 1, 47-49 (Jan. 2022) (discussing, in a somewhat different context, the need for communication strategies and periodic interaction with various court participants and the public), <https://scholar.smu.edu/smulrforum/>.

It may be that some hearing types would transition to a remote platform before others. Such a phased implementation will not only allow for education by participants, but also allow for feedback and changes to better facilitate future implementations.

Local court implementation of remote court proceedings will need to account for both public access to court proceedings and also how to address limitations on access to certain types of court proceedings. Arizona Supreme Court Administrative Orders Authorizing Limitation of Court Operations During a Public Health Emergency have addressed public access to remote court proceedings, providing that “[w]hen court proceedings are not held in-person or the public is limited from attending in-person proceedings, the presiding superior court judge shall provide public access by video or audio to civil and criminal court proceedings typically open to the public to maximize the public’s ability to observe court proceedings to the extent logistically possible. The presiding superior court judge or single judge of a limited jurisdiction court should make video or audio proceedings, excluding small claims cases, available to the public to the greatest extent possible.” A.O. 2021-87 at 5 (Dec. 14, 2021).

Along with addressing public access, local court implementation of remote court proceedings also will need to account for limitations on access to certain types of court proceedings, such as juvenile matters and ensuring the protection of victim’s rights, to account for legal requirements. Such efforts should comply with and be informed by existing law and measures already undertaken by local courts to account for digital recordings, confidentiality, and other limitations. *See, e.g.,* Ariz. R.P. Juv. Ct. 47; Ariz. R. Crim. P. 39; Ariz. R. Civ. P. 5.4 & 16.1; Ariz. R. Fam. L.P. 13; Ariz. R. Prob. P. 8; Ariz. Supreme Ct. R. 123.

Local court implementation of remote court proceedings should have an effective date that will accommodate sufficient training, education, and testing both for those within the courts and participants in remote court proceedings. Recognizing these



Recommendations are for the post-pandemic world, the Plan B Workgroup recommends that the effective date for implementation be triggered by the Arizona Supreme Court, with sufficient time for Arizona’s trial courts to adapt the Recommendations to account for local court resources and limitations and adopt them as modified well before their effective date for implementation. That effective date trigger could come by order of the Arizona Supreme Court, by the lifting or vacating of Administrative Orders Authorizing Limitation of Court Operations During a Public Health Emergency, most recently evidenced by A.O. 2021-87 (Dec. 14, 2021), or in some other written form.

Implementation and education may be particularly challenging for participants with unique needs, including those with visual or hearing limitations, as well as those with behavioral health issues. Accommodation will also need to be made for individuals who are of limited English proficiency. A local court authorizing remote proceedings should follow its Language Action Plan and provide appropriate services to court participants and account for their needs.

### *C. Consideration of Efforts to Expand Broadband Internet in Arizona.*

There is a substantial effort underway in Arizona to expand highspeed broadband Internet so that it is universally available, from a technical perspective, throughout the state. This effort includes the Arizona Broadband Development Grant Program, enabling local communities to build or improve broadband infrastructure to serve schools, small businesses, and others. From a public access perspective, this effort also includes public libraries and other publicly available locations.

The Arizona Supreme Court is working to expand the availability of highspeed broadband Internet for rural courts, purchasing licenses authorizing use of software to facilitate remote court hearings, and other advances. Courts also should consider making available “Zoom Rooms” or other publicly available space for remote participation or viewing where courthouses and technology can accommodate such access. Those efforts will help enhance the ability of local courts to hold remote court hearings. But even if highspeed broadband Internet becomes universally available throughout Arizona, that will not mean that every local court would have the technology, personnel, and other resources available to allow for most court hearings to be held remotely. Having local courts consider, adapt, and adopt local standards for remote court hearings properly recognizes and allocates authority to Arizona trial court judicial leadership, who can account for those resources and limitations.

### *D. Consideration of Arizona’s Digital Evidence Portal Project.*

Adopting directives for remote court hearings where evidence is being received also may depend on the status of the effort, currently underway by the Arizona Supreme

Court, for a digital evidence portal to provide a standard solution for the submission, management, and storage of exhibits. This development promises to expand the use of remote hearings for evidentiary proceedings in Arizona's trial courts. See <https://www.azcourts.gov/digitalevidence/>. That effort, however, is a work in progress, and although many courtrooms in Arizona's trial courts have the ability and technology to display digital evidence, some do not.

Similarly, the need to obtain signatures or fingerprints when required may impact a local court's ability to hold certain types of court hearings remotely. The capacity of courts to implement the digital evidence portal concept may also be a consideration a local court would need to account for (both in terms of technical abilities and in allocation of personnel) in determining which types of hearings should be held remotely in a local court.

#### *E. Future Planning Considerations.*

Adopting directives for remote court hearings should be part of a comprehensive planning effort to address the future. Technology needs and functionality change over time, sometimes quite quickly. Local court directives for remote court hearings should be accompanied by planning considerations for the future, including needs assessments, resources planning, and health, safety, and security protocols for courts and courthouses. See *Post-pandemic Recommendations*, 75 SMU LAW REVIEW FORUM 1, 50-53 (Jan. 2022), <https://scholar.smu.edu/smulrforum/>.

## **VI. THE NEED FOR FEEDBACK AND EVALUATION AFTER IMPLEMENTATION**

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Feedback and evaluation will be essential to determine the effectiveness of the implementation of these Recommendations and to make modifications and improvements as needed. This will be particularly true for types of proceedings that largely move to a remote court hearing.

Data capture will help identify potential efficiencies, including expanding capacity, providing related benefits, and identifying gaps. But, implementation should also include periodic qualitative assessment, including surveying, to obtain feedback from participants in remote court hearings and in applying the standards adopted by local courts.

The survey information obtained by the Plan B Workgroup in 2021 suggests that courts, attorneys, and the public at large strongly support availability and expansion of remote court hearings. See *generally Post-pandemic Recommendations*, 75 SMU LAW REVIEW FORUM 1 & Appendices (Jan. 2022), <https://scholar.smu.edu/smulrforum/>. Periodic

future feedback and survey information from participants (including those with unique needs or limitations) in remote court hearings (along with data capture) will help identify successes and opportunities for improvement.

Throughout its work during nearly two years of the pandemic, the Plan B Workgroup has attempted to encourage creativity by local courts and to help identify additional “tools” for the trial court’s toolbox. The focus on adaption, adoption, implementation, and modification of these Recommendations by local courts will continue to allow for innovation by local courts in their ongoing efforts to best serve participants in Arizona’s state trial courts and the public at large.

## Appendix 1: Recommended Remote and In-Person Hearings in the Post-Pandemic World by Case Type and Hearing Type

Case Type	Hearing Type	Remote	In-Person
<b><i>Proceedings Under the Arizona Rules of Civil Procedure (Including Proceedings Under the Rules of Procedure for Judicial Review of Administrative Decisions; Superior Court Rules of Appellate Procedure - Civil and Criminal and Tax Court Rules of Practice)</i></b>			
<i>General</i>			
	Temporary Restraining Order	X	
	Preliminary Injunction – Non-witness	X	
	Preliminary Injunction – Witness		X
	Scheduling Conference	X	
	Settlement Conference		X
	Compulsory Arbitration – Non-witness	X	
	Compulsory Arbitration – Witness		X
	Good Faith Settlement Hearing		X
	Pre-trial/Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Jury Selection		X
	Jury Trial		X
	Bench Trial		X
	Default	X	
	Contempt – Non-witness	X	
	Contempt – Witness		X
	Post-Judgment Proceedings – Non-witness	X	
	Post-Judgment Proceedings – Witness		X
	Excess Proceeds	X	
	Amended Marriage Licenses and Birth Certificates	X	
	Forfeitures	X	
<i>Civil Court Appellate – Civil and Criminal</i>			
	Motion	X	
	Oral Argument	X	

Case Type	Hearing Type	Remote	In-Person
<b><i>Proceedings Under the Arizona Rules of Criminal Procedure</i></b>			
	Initial Appearance	X	
	Arraignment	X	
	Grand Jury Proceedings <sup>1</sup>		
	Preliminary Hearing – Non-witness	X	
	Preliminary Hearing – Witness		X
	Bail Eligibility Hearing	X	
	Early Disposition Court	X	
	Rule 11 (Competency) – Non-witness	X	
	Rule 11 (Competency) – Witness		X
	Fugitive from Justice		X
	DUI Court		X
	Therapeutic Court		X
	Pre-trial/Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Change of Plea		X
	Submitting Case on Record	X	
	Jury Selection		X
	Jury Trial		X
	Bench Trial		X
	Sentencing		X
	Restitution		X
	Setting Aside a Conviction	X	
	Restoring Civil Rights	X	
	Expungement	X	
	Post-Conviction – Non-witness	X	
	Post-Conviction – Witness		X
	Probation Violation – Initial Appearance	X	
	Probation Violation – Non-witness	X	
	Probation Violation – Witness		X
	Probation Violation Disposition		X
	Bond Forfeiture/Exoneration	X	

<sup>1</sup> During the pandemic, some the Superior Court in some Counties conducted in-person grand jury proceedings, while others conducted remote grand jury proceedings. These Recommendations defer to the Superior Court in each county to consider practicalities and the interests of justice to determine how grand jury proceedings should be conducted.

***Recommended Remote and In-Person Hearings in Arizona State Courts  
in the Post-Pandemic World***

Case Type	Hearing Type	Remote	In-Person
<b><i>Proceedings Under the Arizona Rules of Family Law Procedure</i></b>			
	Pre-trial/Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Default	X	
	Resolution Management Conference	X	
	Temporary Orders – Non-witness	X	
	Temporary Orders – Witness		X
	Alternative Dispute Resolution – Non-witness	X	
	Alternative Dispute Resolution – Witness		X
	Conciliation Services		X
	Early Resolution Conference	X	
	Scheduling Conference	X	
	Trial		X
	Post-Decree/Post-Judgment – Non-witness	X	
	Post-Decree/Post-Judgment – Witness		X
	Contempt/Civil and Child Support Arrest Warrant – Non-witness	X	
	Contempt/Civil and Child Support Arrest Warrant – Witness		X
	IV-D Hearing – Non-witness	X	
	IV-D Hearing – Witness		X
	Specialty Court		X
	Decree on Demand	X	
	Accountability and Enforcement		X

Case Type	Hearing Type	Remote	In-Person
<b><i>Proceedings Under the Arizona Rules of Juvenile Court Procedure</i></b>			
<i>Dependency, Termination, Guardianship and Successor Guardianship</i>			
	Preliminary Protective/Initial Dependency		X
	Pre-adjudication/Motion – Non-witness	X	
	Pre-adjudication/Motion – Witness		X
	Dependency Alternative Program Hearing		X
	Settlement Conference		X
	Dependency Adjudication		X
	Disposition		X
	Review of Temporary Custody/Return of Child		X
	Contested Change of Physical Custody		X
	Review/Permanency	X	
	Initial Termination	X	
	Termination Adjudication		X
	Initial Guardianship	X	
	Guardianship Adjudication		X
	Guardianship Review	X	
<i>Delinquency/Incorrigibility</i>			
	Advisory	X	
	Detention	X	
	Transfer		X
	Pre-adjudication/Motion – Non-witness	X	
	Pre-adjudication/Motion – Witness		X
	Change of Plea		X
	Adjudication		X
	Disposition		X
	Restitution		X
	Probation Violation – Non-witness	X	
	Probation Violation – Witness		X
<i>Adoption/Emancipation</i>	Hearing – Non-witness	X	
	Hearing – Witness		X
<i>Other</i>	Hearing – Non-witness	X	
	Hearing – Witness		X

***Recommended Remote and In-Person Hearings in Arizona State Courts  
in the Post-Pandemic World***

Case Type	Hearing Type	Remote	In-Person
<b><i>Proceedings Under the Arizona Rules of Probate Procedure (Including the Arizona Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders) and Name Change Proceedings</i></b>			
<i>All Case Types (Unless Listed Otherwise)</i>			
	Initial Hearing	X	
	Pretrial/Motion/Conference – Non-witness	X	
	Pretrial/Motion/Conference – Witness		X
	Alternative Dispute Resolution – Non-witness	X	
	Alternative Dispute Resolution – Witness		X
	Settlement Conference		X
	Evidentiary Hearing		X
	Order to Show Cause/Compliance Hearing		X
	Jury Selection		X
	Jury Trial		X
	Bench Trial		X
<i>Guardianship/Conservatorship/Decedent Estates</i>			
	Final Accounting – Uncontested	X	
	Final Accounting – Contested		X
	Settlement of Claims for Minors and Adults in Need of Protection/Distributions to Persons Under Disability – Non-witness	X	
	Settlement of Claims for Minors and Adults in Need of Protection/Distributions to Persons Under Disability – Witness		X
<i>Mental Health/Civil Commitment</i>			
	Pre-trial/Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Evidentiary Hearing (including on recommitment)		X
<i>Name Change</i>	Non-witness	X	
	Witness		X
<i>Adult Adoption</i>	Non-witness	X	
	Witness		X



Case Type	Hearing Type	Remote	In-Person
<b><i>Proceedings Under Arizona Rules of Protective Order Procedure</i></b>			
	Ex Parte Hearing	X	
	Contested Protective Order [Evidentiary] Hearing		X
	Other	X	
<b><i>Proceedings Under the Arizona Rules of Procedure for Eviction Actions</i></b>			
	Initial Appearance	X <sup>2</sup>	
	Jury Selection		X
	Jury Trial		X
	Bench Trial	X	
	Writ of Restitution	X	
	Post-Judgment	X	
<b><i>Proceedings Under the Arizona Rules of Small Claims Procedure</i></b>			
	Hearing	X	
	Alternative Dispute Resolution	X	
<b><i>Proceedings Under the Arizona Justice Court Rules of Civil Procedure</i></b>			
	Pre-trial/Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Mediation Conference	X	
	Settlement Conference	X	
	Jury Selection		X
	Jury Trial		X
	Bench Trial	X	
	Other	X	

<sup>2</sup> By statute:

Notwithstanding any other law, in a special detainer or forcible detainer proceeding before the court, any party, including an attorney or witness upon written notice to the court, shall be permitted to participate at the initial appearance remotely by using a telephone or video conference connection. If the court continues a contested matter to a later date, at the discretion of the court, the court may require all parties, attorneys and witnesses to participate in person.

Ariz. Rev. Stat. § 22-206.

Case Type	Hearing Type	Remote	In-Person
<b><i>Limited Jurisdiction Proceedings Involving Criminal Misdemeanor Charges; under the Rules of Court Procedure for Civil Traffic, Boating, Marijuana and Parking and Standing Violations (CTBMPSV) and Juvenile Hearing Officer Proceedings</i></b>			
<i>Criminal Misdemeanor</i>			
	Appearance/Arraignment/Initial	X	
	Pre-trial Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Change of Plea/Sentencing	X	
	Pre-trial Conference	X	
	Order to Show Cause		X
	Case Management Conference/Trial Preparedness Conference	X	
	Settlement Conference	X	
	Jury Trial		X
	Bench Trial		X
	Probation Violation Arraignment	X	
	Probation Violation Hearing		X
	Probation Violation Disposition		X
	Other – Non-witness	X	
	Other – Witness		X
	Bond Forfeiture	X	
<i>CTBMPSV</i>			
	Arraignment	X	
	Trial/Contested Hearing		X
	Photo Enforcement Hearing	X	
	Other (including ID Hearings, Local Ordinance, Parking)	X	
<i>Juvenile Hearing Officer Proceedings</i>		X	

## Appendix 2: "Case Types and Hearing Types Presumed Remote and In-person" from Minnesota Judicial Branch Other Side Workgroup, July 2021 Report to Minnesota Judicial Council

This table includes case categories and major case types, where notable for the hearing types to be held remote or in-person. Not all case types are listed in this document. If they are not listed, presume the general case category recommendations for that case type (e.g. Family case category applies to "Family Other" MNCIS case type).

Case Category and Case Type	Hearing Type	Remote	In-Person
<b><i>Criminal:</i></b>			
	Hearing Officer Appointments	X	
<i>Petty Misdemeanors</i>	Petty Arraignments	X	
	Petty Court Trials	X	
<i>Minor Criminal<sup>1</sup></i>	Arraignment	X	
	Bail Hearing	X	
	Court Trial		X
	Jury Trial		X
	Motions		X
	Pre-Trials	X	
	Probation Violation		X
	Revocation		X
	Restitution		X
	Sentencing		X
	Settlement Conference		X
<i>Major Criminal<sup>2</sup></i>	Bail Hearing	X	
	Court Trial		X
	Contested Omnibus/Evidentiary motions		X
	Omnibus (waiver)	X	
	First Appearance	X	
	Jury Trial		X
	Motions	X	
	Pre-Trials	X	
	Probation Violation		X
	Revocation		X
	Restitution		X
	Sentencing		X
	Settlement Conference		X
<b><i>Family:</i></b>			
<i>Dissolution, Custody, etc.</i>	Court Trial		X
	Defaults	X	
	Evidentiary		X

<sup>1</sup> Minor criminal includes DWI, domestic assault, and mandatory court appearances. This also includes if the defendant has already schedule a hearing officer appointment and they wish to go to court.

<sup>2</sup> Major criminal cases includes all Gross Misdemeanor and felony level cases.

## Appendix 2

Case Category and Case Type	Hearing Type	Remote	In-Person
	ICMC	X	
	Motions	X	
	Pre-Trial Conference	X	
	Scheduling Conference	X	
<i>Domestic Abuse</i>	Evidentiary	X	
	Motions	X	
	Order for Protection-Initial appearance	X	
<i>Expedited Process</i>	Contempt	X	
	Hearing	X	
	Review	X	
<i>Paternity</i>	Hearing	X	
	Court Trial		X
	Evidentiary		X
<i>Adoption</i>	Adoption		X
<b>Civil:</b>			
<i>Harassment</i>	Evidentiary	X	
	Harassment	X	
	Motions	X	
<i>Minor Civil<sup>3</sup></i>	Conciliation	X	
	Eviction (Unlawful Detainer)	X	
	Hearing	X	
	Implied Consent	X	
	Motions	X	
<i>Major Civil<sup>4</sup></i>	Arbitration	X	
	Contempt		X
	Court Trial		X
	Default	X	
	Hearing	X	
	Jury Trial		X
	Motions	X	
	Scheduling Conference	X	
	Settlement Conference	X	
	Temporary	X	
<b>Juvenile:</b>			
<i>Juvenile Protection</i>	Admit/Deny		X
	Court Trial		X
	EPC		X
	IDH	X	
	Permanency Progress Review		X
	Post-Permanency Review	X	
	Pre-Trial	X	
<i>Juvenile Delinquency<sup>5</sup></i>	Arraignment	X	
	Court Trial		X

<sup>3</sup> Minor civil case types include implied consent, unlawful detainer, conciliation cases, and minor civil judgments.

<sup>4</sup> Major civil case types includes all other case types that are not classified in minor civil types.

<sup>5</sup> Juvenile Delinquency includes all juvenile criminal case types such as petty offenses and traffic.

## Appendix 2

Case Category and Case Type	Hearing Type	Remote	In-Person
	Detention	X	
	Disposition		X
	EJJ		X
	Motions	X	
	Pre-Trial	X	
	Restitution		X
	Revocation		X
<b>Probate/Mental Health:</b>			
<i>Guardianship/Conservatorship</i>	Account	X	
	Final Account	X	
	Hearing	X	
	Order to Show Cause		X
	Probate	X	
<i>Civil Commitment</i>	Commitment	X	
	Jarvis	X	
	Motions	X	
	Preliminary	X	
	Re-Commitment	X	
<i>Informal Probate</i>	Probate	X	
<i>Formal Probate</i>	Order to Show Cause		X
	Probate	X	

**Original Material Omitted**