

Conducting Effective Remote Hearings in Child Welfare Cases



The following is an excerpt from the resource guide, [Conducting Effective Remote Hearings in Child Welfare Cases](#). To see the full resource that includes suggestions for judges and court administrative staff, click the link above.

The COVID-19 pandemic and social distancing requirements have required courts to be flexible and creative in continuing to carry out essential functions. The Children’s Bureau has encouraged, and many courts have adopted, the use of technology to conduct child welfare hearings remotely when they cannot take place in-person. Although there are some challenges to holding a hearing via technology, these hearings are essential to address important issues affecting children and families, to litigate and allow the court to make key decisions impacting safety, permanency and wellbeing, and to ensure due process and access to justice for families. The following guide distills some best practices and other recommendations for remote or “virtual” hearings. Please note that courts across the country are using several programs and platforms for video conferencing. This guide provides general guidance without regard to the specific platform being used.

Tips for All Hearing Participants

- Determine in advance what device you will use to access the hearing (i.e. computer, smart phone, tablet). Make sure your device’s camera and speakers are working properly. If possible, log in to the platform before a scheduled remote hearing to practice using it.
- Wear solid colors that are easily viewed on camera, avoid patterns.
- Be aware others can see what’s behind you. Consider using a solid background instead of full camera view if that is an option on your platform. Pay attention to lighting—sitting in front of a window can make you look “washed out” or difficult to see.
- Minimize noises and distractions to the extent possible. When you are not speaking, mute your microphone. Turn your phone on silent and minimize or close other windows on your computer screen to avoid sounds and notifications (this may also help the program run more smoothly).
- Consider confidentiality limitations. If your communications are confidential, ensure that others in your home can’t hear you.
- Look at the camera when you are speaking. Position the camera at about eye level if possible.
- Speak slowly and clearly. There may be an audio lag, so pause before and after speaking to account for this.
- Be flexible but remember professional decorum. Things may go wrong, and all participants may need to be extra patient and forgiving. Accept that these hearings may be less productive than in-person hearings. Despite the inevitable hiccups, the rights and experiences of children and parents are still at stake in remote child welfare hearings. Treat an online hearing with the seriousness with which you would treat an in-person hearing.

Special Considerations for Attorneys

- Continue to zealously advocate for your client and protect your client's interests. If your client is tangibly disadvantaged by having a remote hearing, file for a continuance. If your client's case is continued and she is disadvantaged by not having a hearing, file a motion requesting a remote hearing (or an in-person hearing under appropriate circumstances). Make these strategic determinations based on the individual needs of clients.
- Client counseling is crucial during this time. Walk your client through how the hearing might go and what to expect. Make a plan for the hearing with your client in advance. This is particularly true for child clients.
- The closure of courts means that attorneys are not engaging in "hallway conversations" and other informal in-person conversations that can move cases forward. Attorneys should coordinate conference calls and emails prior to the hearing can help attorneys resolve issues and enter the virtual courtroom well-prepared.
- Where possible, negotiate stipulations and other areas of agreement to efficiently resolve matters (i.e. the return of a child to her parent) where all parties agree.
- File written reports and motions liberally. Written pleadings not only can resolve issues for your client, they also create a clear record.
- Take special care with witness testimony. As always, make a record via objections. The file-transfer or screen share functions can be used to submit exhibits, impeach witnesses, or refresh a witness's recollection.
- Hold the child welfare agency accountable to make reasonable efforts to prevent removal and finalize permanency. Even during difficult times, the agency must make efforts that are reasonable under the circumstances.
- There are numerous ways to communicate directly and confidentially with your clients during a virtual hearing. These include, but are not limited to:
 - Some platforms have a "private chat" function which can only be viewed by two participants.
 - Text your client during the hearing. Explain to the court that you are texting your client and ask for breaks if needed.
 - Ask for a break to call your client. Step away from the camera and mute your microphone when you do so.
 - Some platforms have "breakout rooms." Ask to be placed in a breakout room with your client, and then rejoin the main hearing.
- Help your client navigate the "digital divide." Does your client have access to the technology needed to participate in remote hearings? Some tips:
 - Many video conferencing platforms have smartphone apps. These can be helpful where clients don't have access to computers.
 - Smartphone apps also work via WiFi, which can be helpful when clients don't have cellular data plans but can access a wireless internet network.
 - Research community resources that may be helpful. Is there a broadband internet provider that is offering free or low-cost internet access (Comcast, Cox and Spectrum all have these programs)? Are their local charities or other resources for free or low-cost phones or computers?
 - Brainstorm with clients about their potential personal resources for technology access, such as supportive family members or mentors or friends who could lend them a phone or computer.
 - Consider asking (informally or via motion) the child welfare agency to provide technology or otherwise help your client access technology. This may be a reasonable efforts issue.

- As always, comply with all applicable ethical standards and Rules of Professional Conduct. Zealously advocate for your clients, engage with other parties with civility, make representations with candor, maintain client confidences, and avoid engaging judges in ex parte contact.