

In the Indiana Supreme Court

Cause No. 22S-MS-1



Interim Administrative Rule 14 for Remote Proceedings

On May 13, 2020, this Court issued an [Emergency Order Permitting Expanded Remote Proceedings](#). That order modified the existing Indiana Administrative Rule 14 and created a framework for trial courts to hold hearings and dispose of cases remotely as a response to public health practices necessitated by the COVID-19 pandemic.

Over two years later, the same COVID-19 emergency conditions that necessitated the Emergency Order no longer remain. But remote proceedings—in appropriate cases and under appropriate circumstances—provide an efficient and effective means of accessing the court system for litigants and lawyers.

Being duly advised by the Committee on Rules of Practice and Procedure, the Court therefore **RESCINDS** its May 13, 2020, Emergency Order, effective January 1, 2023. All proceedings occurring on or after January 1, 2023, shall be subject to the following Interim Administrative Rule 14. The Court will review use of this interim rule and feedback from the public, bench, and Bar prior to issuing a new rule.

Interim Administrative Rule 14. Remote Proceedings

A. Definitions

1. A “remote proceeding” is any proceeding, including without limitation entire proceedings or parts of it, using telephone or videoconferencing capabilities to allow case participants to appear virtually.
2. A “case participant” includes the judge presiding over the case, court staff, parties, lawyers, guardians ad litem, witnesses, experts, interpreters, and any other persons the judge determines are directly related to the case.
3. A “testimonial proceeding” is a proceeding in which the judge receives sworn oral testimony.

B. Authority in Non-Testimonial Proceedings. In all non-testimonial hearings or conferences, a court may, upon request or on its own order, conduct the hearing or conference as a remote proceeding.

C. Authority in Testimonial Proceedings. A court must conduct all testimonial proceedings in person except that a court may conduct the proceedings remotely for all or some of the case participants for good cause shown or by agreement of the

- parties. Remote proceedings must comply with constitutional and statutory guarantees.
- D. Opportunity for Confidential Communication.** During a remote proceeding, a court must provide the opportunity for confidential communication between a party and the party's counsel.
- E. Record.** A court must create a record of the proceeding sufficient to enable a transcript to be produced for the Record on Appeal.
- F. Oaths.** Court reporters and other persons qualified to administer an oath in the State of Indiana may swear a person remotely provided the person is positively identified.

Commentary

Telephone versus Video Technology. Courts should determine on a case-by-case basis whether telephone or video technology is appropriate. Some case participants may appear by telephone, some by video, and some in person all on the same case.

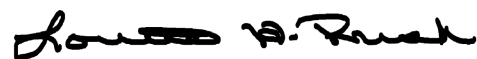
Testimonial Court Proceedings. Presenting live testimony in court remains of utmost importance. For this reason, Rule 14(C) requires showings of good cause or agreement of the parties prior to allowing a remote appearance. A court must also have safeguards in place to ensure adequate identification of the witness and to protect against influences by persons present with the witness. To participate in a remote proceeding, case participants must have adequate internet service allowing for uninterrupted audio and visual transmission.

Objections. Case participants may object to a request for a remote proceeding or to a court's order setting a remote proceeding. The Rule does not place any specific deadlines or set out any procedures for objections. Courts are expected to handle objections in accordance with usual practice and procedure; however, case participants should object or indicate their ability to participate remotely as soon as reasonably possible.

Guidance. The Indiana Office of Judicial Administration shall develop guidance and best practices on remote proceedings and make those available on a public website.

The Office of Judicial Administration is directed to post this interim rule for public comment without delay.

Done at Indianapolis, Indiana, on 9/30/2022.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.