



# Summary Report of Remote Proceedings Prevalence and Practices in Washington Courts

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Penny Larsen, Senior Court Program Analyst  
ADMINISTRATIVE OFFICE OF THE COURTS | BOARD FOR JUDICIAL ADMINISTRATION

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## Introduction

In 2022, the Board for Judicial Administration approved a motion to convene the Remote Proceedings Work Group (Work Group) to evaluate the current and future state of remote proceedings in courts throughout the state. The Work Group implemented a statewide survey assessment of court practices conducted remotely to determine the types of proceedings and practices that work well remotely and to develop best practice guidelines to help courts conduct remote proceedings efficiently.

This report summarizes the assessment survey data collected in January 2023 by the Remote Proceedings Work Group. Courts rapidly began conducting court proceedings with video conferencing technology in March of 2020, during the early stage of the Covid 19 pandemic, and continue to refine their practices. The timing of this survey allowed us to see how courts have routinized video conferencing into everyday practice in the last two years.

In this report, “Remote Proceedings” refers to two types of proceedings: “video,” in which all participants appear remotely with video conferencing technology, or “hybrid,” in which some participants appear by video/telephone and some appear in person. Hybrid proceedings were the most frequently reported type by all court levels, and many of the tables in this report focus on hybrid proceedings. In addition, courts were asked whether they conducted hearings exclusively telephonically, though this type of hearing was less frequent.

## Survey Highlights

- Most courts, regardless of court level or size, reported that they conducted proceedings remotely in the past three years and planned to continue the practice for at least one year in the future.
- Over half the courts reported that their greatest need to conduct more efficient remote proceedings was more resources for technical assistance and space renovations.
- Remote proceedings that did not include witnesses or evidence were more prevalent. Still, many courts reported allowing witnesses and evidence to be presented remotely, especially for civil matters.

## Survey questions and response rates

The survey had 30 questions that took respondents an average of 10 minutes to complete. A total of 123 Presiding Judges and Administrators responded to the survey. ***The response rate for Superior and District Courts was an astounding 98%***. A total of 47 responses from Municipal Courts produced a response rate of approximately 60%. High response rates mean the survey captured the data from small and rural courts, which are especially important in the conversation about essential resources such as internet access and staffing needed to conduct remote proceedings.

Questions asked respondents to describe how parties appeared before the court, either in virtual proceedings (every participant appeared via video or telephonically) or hybrid proceedings, (participants appeared in some combination of video, telephone, or in person). Respondents were asked about remote practices in their courts at the current time of the survey, past remote practices, what future remote options courts wanted, and what remote options they deemed undesirable or not feasible.

Questions that focused on learning how court operations were managed in remote proceedings included asking for specific information on interpreters, self-represented litigants, therapeutic courts, electronic filings, and electronic signatures.

This survey asked detailed questions that will help develop the guidelines. However, not all data collected is summarized in this report. This summary report presents the primary data points of interest for court management and policy development. The complete data set is available upon request.

## The Prevalence of Hybrid Appearances: Now and the Future

Nearly all courts reported conducting hybrid proceedings at the time of the survey and planned to continue the practice for at least one year, approximately January 2024. This survey did not ask how frequently remote proceedings occurred or what proportion of all proceedings were remote. Capturing the frequency data would be labor-intensive for the respondent and too complex to analyze for this assessment.

Table 1 shows that all Superior Courts reported conducting hybrid hearings in 2022, and most planned to continue the practice. Most District Courts reported conducting hybrid hearings in 2022 and planned to do so in the future. Over three-quarters of Municipal Courts reported conducting remote proceedings in 2022, and all of them reported they planned to do so in the future.

*Table 1: Prevalence of current and future hybrid proceedings*

Courts that were conducting hybrid proceedings in 2022			Courts that planned to conduct hybrid proceedings in one year			
	Yes	No		Yes	No	Uncertain
<b>Superior</b>	100%	0%	<b>Superior</b>	95%	0%	5%
<b>District</b>	92%	8%	<b>District</b>	96%	0%	4%
<b>Municipal</b>	78%	22%	<b>Municipal</b>	100%	0%	0%

**Remote Proceedings by court level and type of practice and matter**

This report section presents information about what court matters were handled in remote proceedings. Knowing what types of proceedings most courts wanted to handle or did not want to handle remotely, will inform best practice guidelines.

The tables in this section of the report focus on court matters. Tables show the number of courts that conducted remote proceedings at the time of the survey, whether the courts that were not conducting them at the time of the survey had done so in the past three years, and whether they reported that a type of proceeding was not feasible or desired.

**Types of remote options listed in the survey:**

- Video (all participants appear remotely by video)
- Hybrid (some participants appear by video and some appear in person)
- No remote options currently, but did have them in the last year
- Remote options were not feasible/desired

**Types of proceedings listed in the survey:**

- |                                          |                                    |
|------------------------------------------|------------------------------------|
| Case status updates                      | Small claims                       |
| Evidentiary and non-evidentiary hearings | Bench trials                       |
| Hearings with and without witnesses      | Jury trials                        |
| Consumer debt                            | Jury selection                     |
| Protection orders                        | Small claims                       |
| Traffic infractions                      | Scheduling conferences             |
| Bail hearings                            | Guardianship review                |
| Sentencing and revocation                | Court Facilitator sessions         |
| Omnibus hearings                         | Divorce and Child Custody Hearings |

**Types of court matters listed in the survey:**

- |          |                         |
|----------|-------------------------|
| Civil    | Family                  |
| Criminal | Juvenile and Dependency |

## Civil Matters Handled Remotely

Table 2 shows the percentage of courts that conducted common types of criminal proceedings remotely. They are sorted from highest to lowest prevalence of hybrid proceedings. Over three-quarters of courts conducted less-complex proceedings remotely. Reading down the columns, the percentages of remote hearings declined for more complex proceedings, with a small number of courts that conducted civil jury trials and jury selection.

*Table 2: Prevalence of civil proceedings, all courts*

For each type of criminal proceeding, describe your court's practices						
Types of Civil Proceedings, all courts	Hybrid	Video	Telephonic	No remote, but did in the last 3 years	Unable but wanted remote options	Not feasible or desired
Case status updates	78%	26%	9%	2%	4%	10%
Non-evidentiary hearings	77%	30%	15%	1%	3%	10%
Hearings without witnesses	76%	29%	15%	3%	5%	9%
Consumer debt	72%	25%	8%	2%	5%	20%
Protection orders	68%	26%	12%	4%	3%	17%
Traffic infractions	59%	36%	14%	7%	5%	12%
Evidentiary hearings	55%	26%	8%	4%	5%	31%
Hearings with witnesses	52%	20%	8%	5%	2%	38%
Small claims	43%	15%	4%	0%	9%	47%
Bench trials	43%	19%	4%	6%	5%	44%
Jury trials	18%	5%	3%	1%	5%	78%
Jury selection	8%	5%	0%	3%	9%	80%

## Comparing civil hybrid hearings with and without witnesses

The option to allow witnesses to appear remotely is a timely and contentious issue. The remote appearance of witnesses reduces expenses and increases availability, which improves case flow. However, there are concerns about witness coaching, intimidation, and other issues that could occur off-camera. The percentage of Superior Courts that allowed witnesses to appear remotely was nearly double that of CLJs. However, Superior Courts heard more cases that included presenting evidence and witnesses than CLJs.

In Table 3, the first shaded column is the percentage of hybrid civil hearings without witnesses. The remaining columns are the percentage of hybrid civil hearings with witnesses, courts' practices, and preferences for remote witness appearances.

*Table 3: Comparing hybrid civil proceedings, with and without remote witness*

	<b>Hybrid <u>without</u> witnesses</b>	<b>Hybrid <u>with</u> witnesses</b>	<b>No remote options <u>with</u> witnesses, but did in the last 3 years</b>	<b>Unable but want remote options <u>with</u> witnesses</b>	<b>Remote options <u>with</u> witnesses not feasible or desired</b>
<b>Superior</b>	94%	79%	12%	0%	12%
<b>District</b>	69%	38%	0%	6%	56%
<b>Municipal</b>	59%	32%	0%	0%	53%

- The differences between court levels that conducted hybrid hearings with witnesses was significant: 79% of superior courts and approximately 35% of CLJs reported they had conducted hybrid proceedings with witnesses.
- Over 55% of CLJs reported that remote witnesses were not desired/feasible, while only 12% of superior courts reported that remote witnesses were not desired/feasible.
- Almost no courts reported that they wanted to conduct hearings with remote witnesses but could not do so.

## Comparing evidentiary and non-evidentiary hybrid proceedings

Evidentiary hearings conducted remotely required more staff and equipment resources to display evidence so that all participants could view the evidence regardless of whether they were in the courtroom or participated remotely.

Superior Courts conducted a much higher percentage of hybrid evidentiary hearings than CLJs. This variation could be due to various factors, such as a higher volume of evidentiary hearings in superior courts, or the availability of equipment, staff availability, and training.

The data on evidentiary proceedings repeated the same pattern as the witness data, with substantial differences between court levels.

- Superior Courts reported conducting double the percentage of hybrid hearings than CLJs.
- Almost no courts reported that they wanted to conduct evidentiary remote hearings but were unable to.
- A much more significant percentage of CLJs reported that remote options were not feasible or desired.

*Table 4: Comparing hybrid civil proceedings, evidentiary and non-evidentiary*

	<b>Hybrid <u>non-evidentiary</u></b>	<b>Hybrid <u>evidentiary</u></b>	<b>Unable but want evidentiary remote options</b>	<b>Remote evidentiary options not feasible or desired</b>
<b>Superior</b>	91%	79%	0%	12%
<b>District</b>	72%	42%	13%	45%
<b>Municipal</b>	62%	38%	0%	38%

## Civil Protection Orders

The recent changes to RCW 71.105 have made handling protection orders confusing. The bulk of civil protection orders were handled in District Courts. Municipal Courts no longer handled protection orders and were omitted from the analysis.



Table 5: Civil hybrid protection order proceedings, by court level

	Hybrid	Video	Telephonic	No remote, but did in the last 3 years	Unable but want remote options	Remote options not feasible or desired
Superior	91%	36%	15%	0%	0%	3%
District	56%	22%	13%	6%	6%	22%

### Prevalence of other types of civil proceedings

- Almost 90% of Superior Courts reported handling **case status updates** in hybrid mode as compared to 75% of District Courts and 63% of Municipal Courts.
- Half of the District Courts reported holding hybrid **consumer debt proceedings**, and 34% of District Courts said that this type of proceeding was either not feasible or not desired.
- Nearly three-quarters of District Courts reported conducting hybrid **traffic infraction** proceedings, and approximately half of the Superior and Municipal courts reported conducting this type of proceeding in a hybrid mode.
- Half of the Superior and District Courts reported conducting hybrid **small claims** proceedings.

### Criminal Matters Handled Remotely

Table 6 presents the percentage of courts that conducted remote criminal proceedings. Almost 80% of all courts conducted less-complex criminal proceedings remotely. The percentages of courts that conducted more complex proceedings remotely decreased, although a few courts reported that they conducted remote criminal trials and jury selection.

*Table 6: Types of criminal proceedings, all courts*

For each type of criminal proceeding, describe your court's practices						
Types of Criminal Proceedings all courts	Hybrid	Video	Telephonic	No remote, but did in the last 3 years	Unable but want remote option	Not feasible or desired option
Case status updates	79%	30%	13%	5%	3%	6%
Non-evidentiary hearings	77%	28%	12%	6%	2%	8%
Omnibus hearings	76%	29%	12%	4%	3%	13%
Bail hearings	74%	34%	12%	2%	2%	8%
Sentencing and revocation	57%	21%	8%	11%	5%	29%
Evidentiary hearings	47%	16%	6%	6%	6%	37%
Bench trials	32%	15%	4%	4%	6%	59%
Jury trials	11%	3%	1%	3%	7%	82%
Jury selection	8%	5%	0%	2%	12%	80%

### Comparing the prevalence of evidentiary and non-evidentiary in criminal hybrid hearings

There was a sharp decrease in remote proceedings that included evidence. Over 94% of Superior Courts conducted hybrid, non-evidentiary hearings, but the percentage dropped to 63% for evidentiary hearings. The difference was likely because of the special equipment and staff expertise needed to display evidence to remote participants. This pattern held for CLJs and was consistent with national reports from National Center for State Courts (NCSC).

*Table 7: Criminal evidentiary and non-evidentiary hybrid proceedings, by court level*

	Hybrid <u>non-evidentiary</u>	Hybrid <u>evidentiary</u>	Unable but want remote evidentiary options	Remote evidentiary options not feasible or desired
<b>Superior</b>	94%	63%	3%	34%
<b>District</b>	68%	35%	6%	52%
<b>Municipal</b>	69%	44%	9%	26%

## Criminal proceedings for case status updates, bail and omnibus hearings, and sentencing revocations

Many courts reported that they conducted hybrid proceedings for common types of criminal court matters, as shown below in Table 8.

- For sentencing and revocation hearings, less than 5% of all courts wanted remote options but could not have them. About 40% of courts reported that remote options for these types of hearings were not desired/feasible.
- A large percentage of bail and omnibus hearings were conducted by video or phone. Very few courts reported that they wanted remote options but could not, and very few reported remote bail hearings were not desired or feasible.

*Table 8: Criminal hybrid proceedings, by type and court level*

	Case Status Updates	Bail	Omnibus	Sentencing and Revocation
<b>Superior</b>	94%	91%	88%	61%
<b>District</b>	74%	71%	69%	52%
<b>Municipal</b>	70%	62%	65%	58%

## Prevalence of criminal bench trials and jury selection:

- Remote jury selection was rarely reported, with less than 10% of courts conducting virtual or hybrid voir dire.
- A large percentage of courts reported remote jury selection was not desired or feasible.
- Half of Superior Courts reported they conducted hybrid bench trials, and less than a quarter of CLJs reported doing so.

*Table 9: Prevalence of Criminal Hybrid Bench Trials and Jury Selection*

	Conducted hybrid bench trials	Conducted remote jury selection	Remote jury selection not feasible/desired	Unable but want remote jury selection
<b>Superior</b>	50%	9%	84%	16%
<b>District</b>	26%	3%	87%	3%
<b>Municipal</b>	19%	10%	69%	17%

## Family, Juvenile and Dependency Matters

Approximately 90% of courts handling family, juvenile, and dependency matters conducted hybrid hearings for many routine proceedings. The percentages decreased somewhat for evidentiary proceedings and adjudications.

### Prevalence of family proceedings held remotely.

Most family law hearings were conducted remotely. However, for court facilitator sessions, 60% of courts reported they held sessions remotely, and 24% either did not want to hold these sessions remotely or they were not perceived to be feasible.

*Table 10: Types of family law proceedings conducted remotely*

Types of Family Law Proceedings	Hybrid	Remote currently	Telephonic	No remote, but did in the last 3 years	Not feasible or desired
Non-evidentiary hearings	91%	26%	12%	3%	0%
Non-Witness hearings	91%	26%	9%	3%	0%
Case status updates	91%	26%	12%	3%	0%
Scheduling conferences	91%	26%	12%	3%	0%
Guardianship review	91%	29%	12%	3%	0%
Evidentiary hearings	85%	21%	12%	6%	12%
Divorce hearings	85%	29%	12%	6%	6%
Child custody hearings	85%	29%	12%	6%	6%
Witness hearings	79%	21%	9%	9%	15%
Court Facilitator sessions	60%	20%	24%	4%	24%

### Prevalence of juvenile proceedings held remotely

A large percentage of juvenile matters were conducted remotely. However, 35 - 41% of courts who handled these matters reported that remote evidentiary and adjudication hearings were not feasible or desired.

*Table 11: Types of juvenile proceedings conducted remotely*

Types of Juvenile Proceedings	Hybrid	Video	Telephonic	Not feasible or desired
Non-evidentiary hearings	88%	29%	15%	3%
Scheduling conferences	88%	29%	15%	3%
Evidentiary hearings	65%	15%	12%	35%
Adjudication hearings	53%	18%	12%	41%

## Prevalence of dependency proceedings held remotely

Most courts reported that they conducted hybrid non-evidentiary dependency proceedings. Many courts also conducted video and telephone hearings. Fact-finding proceedings were the least commonly reported type of remote hearing, and 21% of courts reported remote options for this type of hearing are not feasible or desired, likely due to the appearances of witnesses and displays of evidence.

*Table 12: Types of dependency proceedings conducted remotely*

Types of Dependency Proceedings	Hybrid	Video	Telephonic	No remote, but in the last 3 years	Not feasible or desired
Non-evidentiary hearings	94%	26%	15%	0%	0%
Scheduling conferences	88%	29%	15%	0%	3%
Evidentiary hearings	82%	24%	15%	6%	9%
Fact-finding hearings	74%	18%	12%	6%	21%

## Common Court Processes in Remote Proceedings

### Interpreters Appearing Remotely: Frequency, Advantages and Challenges

Respondents were asked if they allowed interpreters to appear by video or telephone and what they viewed as the advantages and challenges.

- Approximately 73% of all courts reported they “always” or “frequently” allowed interpreters to appear remotely.

- Eighty-eight percent of courts reported “greater availability” as the top advantage to allowing remote interpreters, 75% of courts reported “easier to schedule” as an advantage and 59% of all courts reported cost savings as an advantage.
- Fifty-six percent of courts reported that the biggest challenge to remote interpreters was that they “added substantial time to the length of the proceeding,” and 34% of all courts reported that interpreters appearing remotely “required more steps to coordinate than in-person proceedings”.

## Electronic Signatures in Remote Proceedings

Signing and processing documents in remote proceedings is a challenge that courts continue to address. The table below shows how many courts implemented some methods for electronic signatures under Pandemic Emergency Orders.

The two most reported methods used were on opposite ends of the spectrum. The most reported method was sign/print/scan/return, which requires participants to have access to printers and scanners. The following most commonly reported method is the /s/, or conformed signature, requiring no equipment or technology. More information is needed to understand courts’ policies and usage of the s-signature method.

### How Courts Implement Electronic Signatures Remotely

*Table 13: Courts methods of implementing electronic signatures remotely*

	<b>Print-Sign-Scan-Return</b>	<i>/s/</i> <b>designation</b>	<b>Pasted image of signature</b>	<b>Contract with vendor (e.g. DocuSign, Adobe)</b>	<b>Other</b>
<b>Superior</b>	83%	57%	33%	20%	37%
<b>District</b>	68%	46%	21%	11%	21%
<b>Municipal</b>	41%	56%	15%	31%	36%

### Barriers or challenges to electronic signatures in remote proceedings

Less than half of courts reported challenges with electronic signatures. Several comments noted their court did not accept them.

*Table 14: Barriers to using electronic signatures in remote proceedings*

	<b>Takes substantially more time than in-person signatures</b>	<b>None of the above</b>	<b>Software application glitches</b>	<b>Other</b>
<b>Superior</b>	43%	36%	18%	32%
<b>District</b>	50%	15%	23%	35%
<b>Municipal</b>	38%	38%	15%	24%

### *Electronic filing practices in remote proceedings*

*Table 15: Courts' methods of implementing electronic filing remotely*

	<b>Yes</b>	<b>No</b>	<b>Planned for the near future</b>	<b>What method(s) do you allow for electronically filing</b>
<b>Superior</b>	73%	10%	27%	33%
<b>District</b>	53%	30%	20%	37%
<b>Municipal</b>	67%	21%	13%	31%

Most respondents reported using email as a method for electronic filing, other methods were OCourt and other third-party vendors.

### *Self-Represented Litigant Services in Remote Proceedings*

Courts were asked how they assisted self-represented litigants to participate in remote proceedings. A large percentage of courts provided instructions in a variety of ways. Many respondents reported that written instructions were sent with hearing notices.

*Table 16: Services provided to self-represented litigants for remote proceedings*

	<b>Verbal instructions, if requested</b>	<b>Written instructions are available upon request</b>	<b>Directed to website for published instructions</b>	<b>Other measures provided)</b>
<b>Superior</b>	85%	70%	82%	15%
<b>District</b>	81%	77%	55%	16%
<b>Municipal</b>	67%	67%	59%	23%

### *Advantages and challenges of remote proceedings*

Courts were asked what they perceived was the most significant advantage of remote proceedings. The convenience factor was the most reported advantage, followed by higher appearance rates. One-quarter of the respondents listed other advantages to this

question. Several respondents noted advantages such as needing less security and the increased availability of counsel and prosecutors.

When courts were asked to identify the challenges of remote proceedings, the connectivity issues of remote parties were the most reported, followed by the technological difficulties experienced by remote parties.

*Table 17: Reported advantages of remote proceedings*

<b>Advantages</b>	<b>Superior</b>	<b>District</b>	<b>Municipal</b>
Convenience for court participants	91%	88%	89%
Higher appearance rates	57%	58%	76%
Improves caseflow	34%	21%	36%
None	0%	9%	0%
Other	37%	24%	16%

*Table 18: Reported challenges of remote proceedings*

<b>Challenges</b>	<b>Superior</b>	<b>District</b>	<b>Municipal</b>
Connectivity/internet issues - REMOTE PARTIES	74%	70%	66%
Participants with limited experience/comfort with remote technology	66%	73%	54%
Glitches with video conferencing equipment	60%	58%	44%
Limited court or technical support staff	57%	33%	22%
Glitches with displaying exhibits or documents	49%	42%	10%
Other	37%	21%	19%
Limited opportunity for informal discussion among opposing counsel and justice partners	34%	52%	44%
Connectivity/internet issues - COURT SITE	31%	21%	17%
Take substantially longer to facilitate than in-person	20%	58%	32%
None of the above occur frequently enough to be a barrier.	3%	3%	7%

## Resources courts need to increase the efficiency of remote proceedings

Over half of Superior Courts reported that technical assistance and infrastructure improvements are needed to increase the efficiency of remote proceedings. A lower percentage of CLJs reported these as the top two items needed.



*Table 19: Resources courts need to increase the efficiency of remote proceedings*

	<b>Consultant or technical assistance</b>	<b>Infrastructure improvements or renovations</b>	<b>Audio/Visual equipment</b>	<b>Enlarged or improved courtroom space</b>	<b>None</b>	<b>Other</b>
<b>Superior</b>	54%	51%	37%	31%	9%	31%
<b>District</b>	41%	34%	31%	21%	38%	14%
<b>Municipal</b>	29%	21%	43%	17%	33%	21%

## Future Work

The Work Group will use this survey data and other reference materials from local and national sources to create best practice guidelines specific to Washington Courts.

The goal is to give courts the information they need to refine their remote proceedings practices to increase efficiencies and better serve court users throughout the state.