

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
ADOPTION AND IMPLEMENTATION)	Administrative Order
OF PLAN B WORKGROUP)	No. 2022 - <u>88</u>
RECOMMENDATIONS AS)	(Replacing Administrative
PRESUMPTIVE STANDARDS FOR)	Order No. <u>2022-46</u>)
REMOTE AND IN-PERSON HEARINGS)	
)	

In June 2021, the Arizona Supreme Court’s COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup (Plan B Workgroup) recommended best practices that should be retained or adapted post-pandemic, which included a recommendation that courts continue to use and expand technology to conduct remote court proceedings. It reconvened in January 2022 to develop and make additional recommendations regarding the use of remote hearings post-pandemic. On February 22, 2022, the Plan B Workgroup issued a report, *Recommended Remote and In-Person Hearings in Arizona State Courts in the Post-Pandemic World* (“Report”).

On March 24, 2022, the Arizona Judicial Council approved adoption of the Report, which includes as Appendix 1 the Plan B Workgroup’s recommendations about which hearing types should be held remotely and which should be held in-person. Those recommendations were adopted as presumptive standards for Arizona courts in Administrative Order No. 2022-46, along with related orders allowing for local adaptation. That order is now replaced to address issues raised during the implementation process.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED adopting the presumptive standards as set forth in Appendix 1 of the Report regarding which hearing types should be held remotely and which should be held in-person in Arizona courts (“Presumptive Standards”).

IT IS FURTHER ORDERED that any Presumptive Standard inconsistent with the Arizona Rules of Court shall supersede procedural requirements of the rules.

IT IS FURTHER ORDERED that the presiding judge of the superior court may adapt the Presumptive Standards as necessary due to limitations in local court resources, bandwidth, technology hardware, software, and staffing or, for good cause, to meet unique needs in their respective counties. The presiding judge of the superior court shall issue administrative orders adopting the standards for the superior court and for the justice of the peace courts in their county, following approval of the Chief Justice.

IT IS FURTHER ORDERED the presiding justice of the peace in each county shall coordinate with the other justices of the peace in the county to provide recommendations to the

county superior court presiding judge regarding the Presumptive Standards that should be adopted for the justice of the peace courts in that county.

IT IS FURTHER ORDERED that, after consultation and approval from the presiding judge of the superior court in that county, the presiding judge of each municipal court may adapt the Presumptive Standards as necessary due to limitations in local court resources, bandwidth, technology hardware, software, and staffing or, for good cause, to meet unique needs in their city. The presiding judge of each municipal court shall issue a local administrative order adopting the standards, following approval of the Chief Justice.

IT IS FURTHER ORDERED that, to the extent feasible, the Presumptive Standards adopted for co-located justice of the peace and municipal courts shall be the same for each court.

IT IS FURTHER ORDERED that administrative orders adopting the Presumptive Standards for remote and in-person hearings shall include a provision that authorizes a judge assigned to a case to make a hearing-specific deviation from the presumptive manner in which a hearing must be held if holding the hearing in the presumptive manner is not practical or otherwise not in the interest of justice. The provision must include a requirement to provide notice to the parties when such a deviation is made.

IT IS FURTHER ORDERED that Presumptive Standards as adopted pursuant to this Order shall be implemented no later than October 1, 2022.

IT IS FURTHER ORDERED that an administrative order issued pursuant to this Order shall be posted on the website of the courts to which it applies.

IT IS FURTHER ORDERED that drafts of administrative orders shall be submitted to the Administrative Office of the Courts 30 days prior to issuance.

IT IS FURTHER ORDERED that the Administrative Director of the Administrative Office of the Courts shall provide an analysis of the adaptations from the Presumptive Standards made by the presiding judges to the Arizona Judicial Council for consideration at its December 2022 meeting. The analysis should distinguish adaptations necessitated due to limitations in local court resources, bandwidth, technology hardware, software, and staffing from those adaptations made by the presiding judges for good cause to meet unique needs in their respective jurisdictions.

IT IS FURTHER ORDERED that this Order replaces Administrative Order No. 2022-46.

Dated this 3rd day of August, 2022.

FOR THE COURT:

ROBERT BRUTINEL
Chief Justice

**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
<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>			
<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
<i>Proceedings Under the Arizona Rules of Criminal Procedure</i>			
	Initial Appearance	X	
	Arrestment	X	
	Grand Jury Proceedings ¹		
	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	

¹ 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
<i>Proceedings Under the Arizona Rules of Family Law Procedure</i>			
	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
<i>Proceedings Under the Arizona Rules of Juvenile Court Procedure</i>			
<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
<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>			
<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

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

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

² 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
<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>			
<i>Criminal Misdemeanor</i>			
	Appearance/Arrestment/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 Arrestment	X	
	Probation Violation Hearing		X
	Probation Violation Disposition		X
	Other – Non-witness	X	
	Other – Witness		X
	Bond Forfeiture	X	
<i>CTBMPSV</i>			
	Arrestment	X	
	Trial/Contested Hearing		X
	Photo Enforcement Hearing	X	
	Other (including ID Hearings, Local Ordinance, Parking)	X	
<i>Juvenile Hearing Officer Proceedings</i>		X	

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