



SUPREME COURT GUIDELINES FOR RESUMING ILLINOIS JUDICIAL BRANCH OPERATIONS DURING THE COVID-19 PANDEMIC

Introduction

In response to the Supreme Court’s March 17, 2020 order, Illinois Judicial Branch operations in courthouses and court facilities have been largely confined to emergency and essential matters. As directed by this order, courts across the state have adeptly responded to the COVID-19 pandemic and worked to balance public health and safety with access and openness.

As Illinois moves through the phases of this pandemic, our courts must plan for increased in-person access to the judicial system as restrictions are eased. The following guidance, referenced in the Supreme Court’s M.R. Order 30370 entered May 20, 2020, is intended to provide courts with important considerations as they chart a path forward. The content also will help to standardize, to the extent possible, the information and communication provided by courts to lawyers, litigants, the media, and the public. While most of the provisions are applicable to trial courts, reviewing courts may find the content useful, as well.

These guidelines recognize that each jurisdiction is uniquely positioned to address COVID-19 challenges based on local conditions. The considerations highlighted here are offered as best practices to aid in the administration of justice while maintaining practices to mitigate risk of COVID-19 resurgence and protecting court personnel and the public.

It is also important to recognize that these considerations are fluid and courts will continuously need to identify and evaluate important novel issues that require further research, analysis, planning, and implementation. As such, this document will be reviewed and updated as necessary to inform on additional matters as the courts learn from their experiences and as conditions evolve throughout the remainder of the pandemic.

Whatever the new “normal” brings, a silver lining for the judicial branch is the culture shift in the effective use of video conference technology and remote work capacity. For those jurisdictions without resources to take advantage of these efficiencies, the Administrative Office of the Illinois Courts is exploring various options for enhanced statewide support of video conferencing and other remote technology.

I. Supreme Court's May 20, 2020 Order

As noted in the Supreme Court's May 20, 2020 order, chief circuit judges are authorized to develop plans for resumption of court operations in their circuits. Plans for each circuit, which may even differ from county to county, should be based on the factors specified in the order and with due consideration to the guidelines in this document.

The local plans should continue to promote the use of remote hearings where appropriate. To the extent that the March 17, 2020, order prohibits in-person proceedings on non-essential matters, that provision is relaxed in accordance with a chief judge's local plan. This directive acknowledges both the successful use of remote hearings during the stay-at-home order and the reality that jurisdictions will need to take the appropriate amount of time to gradually resume holding matters in the courthouse. In most jurisdictions, this will be a slow process and the pace will be dependent on local conditions which may change rapidly.

The May 20, 2020, order also modifies the April 7, 2020, order which provides that chief judges may continue trials until further order of the Court. Such continuances remain excluded from speedy trial computations and statutory time restrictions are tolled until further order of the Court. The May 20 modification states that this provision also applies when a trial is delayed when the court determines proper distancing and facilities limitations prevent the trial from proceeding safely. The judge in the case must find that such limitations necessitated the delay and shall make a record thereof. This May 20 modification acknowledges the significant challenges most courts will immediately face in resuming trials at the courthouse, and jury trials in particular, in a manner that assures the safety of all participants.

II. Plan to Triage and Prioritize Cases

During the remainder of the Governor's stay-at-home order and prior to termination of local administrative orders restricting access to the courthouses, judges and court staff should continue to plan and prioritize cases. If possible and where appropriate, judges should hold informational meetings with local bar associations (via Zoom or other video conference service) or hold smaller meetings with attorneys and litigants about their cases.

The May 20, 2020, order includes factors which may be considered by the chief judge in determining whether matters may be safely heard. These include: deadlines which apply to a case or class of cases; the length of time any applicable deadline has been suspended by order of the Supreme Court or the Circuit Court; applicable information from public health authorities; limitations in court facilities or staffing; and anticipated prejudice to any class of cases as a result of continued delay.

Courts should carefully consider data for each case type to determine capacity to manage the urgent matters and the extent of the backlog resultant from the pandemic, and plan accordingly. While this iterative process will vary greatly from jurisdiction to jurisdiction, some proceedings will be obvious priorities. As indicated in the May 20 order, chief circuit judges should understand that local conditions may change, and their plans should contain contingencies if restrictions on in-person court operations need to be resumed for the health and safety of personnel and court users.

III. Health and Safety of Court Personnel, Litigants and the Public

Most individuals do not come to court by choice. As such, courts have a particularly compelling responsibility to make certain that courthouses are safe. Procedures that involve large numbers of individuals, such as summoning for jury duty, need to be implemented in a manner that not only assures safety but also makes individuals *feel* safe before and after they arrive at the courthouse. Public health authorities must inform these decisions, and local public health departments may have guidance specific to convening jurors and jury trials.

Courts will need to limit access to courtrooms and impose social distancing practices consistent with Centers for Disease Control (CDC) guidelines and local public health authorities. This will require an ongoing working relationship with local health departments to keep pace with COVID-19 case activity and the requirements for current conditions. Local health authorities will provide direction on the screening criteria that is appropriate for pandemic conditions in the court community.

All practical measures should be taken within the courthouse and courtrooms to ensure a clean environment and prevent the spread of the virus, including:

1. Within the courthouse, provide hand sanitizer at multiple locations within the courtroom, circuit clerk's offices, and public spaces.
2. Notify all entering the courthouse that wearing a mask/face covering is required (consistent with current public health requirements). If possible, have extra masks/face coverings on hand if someone arrives at the courthouse without one. Notices to come to court should advise recipients: (1) to bring a mask/face covering, (2) those without a mask/face covering will only be provided one IF they are available, and (3) if you have no mask/face covering and none are available at the courthouse, you may be refused entry.
3. Purchase plexiglass germ shields and install them in key locations, such as the circuit clerk's office, courtrooms, law library, etc. These can be secured with C-clamps for easy removal without causing permanent damage to counters, benches, desks, etc.
4. Establish routine protocols for disinfecting and cleaning any keyboards, desks, counters, written self-help materials, etc.
5. Enhance and increase regular courthouse cleaning schedules.

All possible measures should be taken within the courthouse and courtrooms to maintain social distancing consistent with current public health requirements:

1. Ask the local public health department to do an assessment of each courthouse and give recommendations about establishing traffic patterns for people entering the building and maintaining the required distance.
2. Evaluate where lawyers, bailiffs, parties, court reporters, and interpreters are situated within the courtroom and rearrange as necessary to maintain social distancing. If all necessary people cannot be in the courtroom at the same time while observing social distancing guidelines, consider having one or more parties join remotely from another location.
3. Use tape to mark required spacing for social distancing.
4. Subject to constitutional limitations, entry into the courthouse should be limited to lawyers and named parties. Self-represented litigants should be allowed to bring one friend or family member with them into the courthouse.

5. To ensure public access and health and safety, monitor the number of people entering and exiting the courthouse and provide entry to only a certain number of people at a time.
6. If represented by counsel, only require the litigant to appear when necessary.
7. Employ a system to facilitate social distancing and avoid crowding. Options include lawyers and litigants leaving a cellphone number and asked to wait in a place where social distancing can be observed. Another option is purchasing pager-type devices, similar to those used in restaurants, that can be distributed when litigants check-in.

IV. Rethinking Court Appearances

The restrictions associated with the pandemic, compounded by significant levels of backlogged cases, will challenge most courts for the foreseeable future. Particularly in larger jurisdictions, courts will need to continue to limit in-person matters until a plan can be implemented consistent with social distancing restrictions. The following are important options that courts should consider:

1. Hearing most cases and proceedings remotely, if possible, with limited exceptions, such as jury trials.
2. Requiring meaningful action at every court appearance, not just an opportunity for parties to exchange documents or schedule matters.
3. Holding matters such as status hearings, briefing schedules, uncontested matters, case management conferences, pre-trial conferences, motions, and bond calls remotely unless otherwise ordered.
4. Allowing all involved in a case to appear remotely, including the judge, circuit clerk, lawyers, parties, interpreters, and court reporters. Carefully consider who needs to come to court and for what reason.
5. Using interpreters remotely when possible. If interpreters must be used in-person, provide simultaneous interpreting equipment to allow interpreters to maintain the appropriate distance.
6. Providing clear instructions to parties about remote proceedings and determine how to ensure proceedings typically open to the public remain open.
7. Determining the number of staff required to be present within the courthouse and consider if their role can be done remotely.
8. Developing online parenting classes in English and Spanish.

Consider altering traditional work processes, for example:

1. Provide a process for how to electronically exchange what was traditionally provided in a paper/hard copy in advance of or during in-person court appearances, including sensitive documents such as social history, notice of probation violation, pre-sentence investigation, GAL report, etc. Consider the role secure and encrypted email can play in such exchanges.
2. Allow for e-signature on documents if consistent with Supreme Court Rules and orders.
3. Implement automatic briefing schedules.
4. Consider ruling on fully briefed matters without oral argument. If oral argument is necessary, hold it remotely where possible.

All possible measures should be taken to avoid large “cattle calls” or move them to a facility that allows for appropriate social distancing. Some suggested practices include:

1. Limiting the number of cases on each call and stagger the times (i.e. five cases at 9:00, 10:00, 11:00, 1:30, 2:30, 3:30, etc.).
2. Holding court outside of normal business hours upon the agreement of all participants.
3. Changing current schedules for more efficient assignment of cases, i.e. assigning certain types of cases to be heard on certain days/certain hours of the day or assigning certain types of matters to particular courtrooms.

All possible measures should be taken to ensure social distancing for juries. Some suggested practices include:

1. Limiting the number of jurors coming to the courthouse by better identifying the number likely needed for trials.
2. Identifying the largest courtrooms within your courthouse and holding jury trials there.
3. Considering allowing the jury to deliberate within the courtroom if jury deliberation rooms are not large enough.
4. Investigating the use of other, larger non-court facilities.

V. Maintaining a High Level of Assistance and an Open Court

All possible measures should be taken so that court patrons have access to service during the pandemic. Suggested practices include:

1. Exploring ways that courts can:
 - a. Improve training and information sharing for front-line staff, like building security and those staffing the circuit clerk's office front desk, to ensure they can provide effective information and referrals to resources at that first point of contact.
 - b. Make resources and information for self-represented litigants available in the lobby or in one location so that the court patrons do not traverse the courthouse before finding the information they need.
 - c. Consider developing and utilizing a chatbot to provide the public with court assistance.
2. Investigating new models of service delivery such as:
 - a. Remote operation of courthouse help desks, self-help centers, and law libraries where practicable.
 - b. Providing e-filing help remotely, enabling remote "friend of the court" assistance, and filing by mail for litigants who qualify for an e-filing exemption.
 - c. Providing a mechanism for case participants experiencing difficulties connecting to their remote hearings to contact designated court staff, such as a phone number or online chat.
 - d. Utilizing a centralized hotline model for disseminating legal information.
 - e. Expanding or creating a new legal aid advice hotline
 - f. Exploring use of remote mediation, arbitration, and facilitation, as consistent with court rules, to potentially resolve cases.

Next Steps

The pandemic will no doubt continue to present novel issues and challenges to the administration of justice for the foreseeable future. Court leadership teams should be certain to regularly meet with other local court stakeholders (prosecutors, public defenders, local bar associations, etc.) to evaluate and receive feedback on pandemic response in the court system. Identifying responses that worked well, in addition to opportunities for improvement, will facilitate local response plan improvements and incorporation of “lessons learned” into existing EP-COOP and separate pandemic-specific response plans.

IN THE
SUPREME COURT OF ILLINOIS

In re:)	
)	
	Illinois Courts Response to)	
	COVID-19 Emergency)	M.R. 30370
)	
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Order

Article VI of the Illinois Constitution of 1970 vests the judicial power of our State in the Supreme Court, an Appellate Court, and the Circuit Courts. That constitutional grant of power creates a corresponding duty of service to the People of Illinois. To fulfill that duty, the judiciary's mission is to protect the rights and liberties of all by providing equal access to justice, resolving disputes, and upholding the rule of law. Those principles have always remained fundamental, even in times of crisis.

Article VI also gives general administrative and supervisory authority over the judicial branch to the Supreme Court. In the exercise of that authority, this Court has issued a series of orders governing court functions during the COVID-19 pandemic. The March 17, 2020 order directed Illinois courts to hear "essential court matters and proceedings." The order further authorized courts to conduct both essential and nonessential matters and proceedings remotely, subject to constitutional and practical limitations.

Our concerns about the health and safety of all court users, staff, and judicial officers during these extraordinary circumstances are ongoing, and our duty to the People of Illinois is ever present. That duty requires courts to resume operations as quickly and fully as possible. Various approaches for doing so based on local public health data have emerged at the national and state levels. We have considered those approaches in charting a path forward.

Pursuant to the exercise of its general administrative and supervisory authority over all Illinois courts as conferred on this Court pursuant to Article VI, Section 16 of the Illinois Constitution of 1970 (Ill. Const. 1970, art. VI, sec. 16), IT IS HEREBY ORDERED:

Effective June 1, 2020, the Court's order of March 17, 2020, is modified so that each circuit may return to hearing court matters, whether in person or remotely, according to a schedule to be adopted for each county by the chief judge in each circuit. The circuit courts shall continue, to the extent possible, to allow for appropriate social distancing and attempt to reduce the number of persons appearing personally for court appearances.

The factors which may be considered by the chief judge in determining whether matters may be safely heard include, but are not limited to, the following: deadlines which apply to a case or class of cases; the length of time any applicable deadline has been suspended by order of the Supreme Court or the Circuit Court; applicable information from public health authorities; limitations in court facilities or staffing; and anticipated prejudice to any class of cases as a result of continued delay. Chief judges should also take into consideration the *Supreme Court Guidelines for Resuming Illinois Judicial Branch Operations During the COVID*

19 pandemic. Chief circuit judges should understand that local conditions may change, and their plans should contain contingencies in that event.

Local plans should continue to promote the use of remote hearings where appropriate. To the extent that the Court's order of March 17, 2020 prohibits in-person proceedings on non-essential matters, this provision is relaxed according to the plan adopted by the chief circuit judge in each circuit.

Additionally, the April 7, 2020, order regarding Illinois Courts Response to COVID-19 Emergency/Impact on Trials is modified to read as follows:

In the exercise of the general administrative and supervisory authority over the courts of Illinois conferred on this Court pursuant to Article VI, Section 16 of the Illinois Constitution of 1970 (Ill. Const. 1970, art. VI, sec. 16); in view of the state of emergency that has been declared by the Governor of the State of Illinois in order to prevent the spread of the novel coronavirus; and in the interests of the health and safety of all court users, staff, and judicial officers during these extraordinary circumstances, and to clarify this Court's orders of March 20, 2020 and April 3, 2020, IT IS HEREBY ORDERED that the Court's orders of March 20, 2020 and April 3, 2020 are amended as follows:

The Chief Judges of each circuit may continue trials until further order of this Court. The continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)) and section 5-601 of the Illinois Juvenile Court Act (705 ILCS 405/5-601 (West 2018)). Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of this Court. This provision also applies when a trial is delayed when the court determines proper distancing and facilities limitations prevent the trial from proceeding safely. The judge in the case must find that such limitations necessitated the delay and shall make a record thereof.

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Court, this 20th day of May, 2020.

Carolyn Taft Gersbelle

Clerk,
Supreme Court of the State of Illinois

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered May 22, 2020.

(Deleted material is struck through, and new material is underscored.)

Effective immediately, Illinois Supreme Court Rule 185 is repealed and reserved, Rule 45 is adopted, and Rules 46 and 241 are amended, as follows.

Repealed and Reserved Rule 185

Rule 185. ~~Telephone or Video Conferences~~ Reserved

~~—Except as may be otherwise provided by rule of the circuit court, the court may, at a party's request, direct argument of any motion or discussion of any other matter remotely, including by telephone or video conference. The court may further direct which party shall pay any cost associated with the remote session.~~

~~Adopted April 1, 1992, effective August 1, 1992; amended Dec. 29, 2017, eff. Jan. 1, 2018.~~

Committee Comments

~~—This rule was adopted as part of a package of measures to increase the use of electronic and telephonic technology and to simplify and make more efficient motion and conference practices. The availability of this alternative procedure may be modified by local rule, inasmuch as telephone conferencing may not be the most efficient way to handle motions, etc., in some circuits or counties.~~

New Rule 45

Rule 45. Participation in Civil or Criminal Proceedings by Telephone or Video Conferences

The court may, upon request or on its own order, allow a case participant to participate in a civil or criminal matter remotely, including by telephone or video conference. Use of telephone or video conferences in criminal or juvenile delinquency matters shall be undertaken consistent with constitutional guarantees applicable to such proceedings.

The court may further direct which party shall pay the cost, if any, associated with the telephone or video conference and shall take whatever action is necessary to ensure that the cost of remote participation is not a barrier to accessing the courts.

FILED

MAY 22 2020

**SUPREME COURT
CLERK**

Adopted May 22, 2020, eff. immediately.

Committee Comments
(May 22, 2020)

The use of telephone or video conferences was formerly contained in Article II – Rules on Civil Proceedings in the Trial Court as Supreme Court Rule 185 (Telephone or Video Conferences). New Rule 45 recognizes that telephone and video conferences can be used effectively and appropriately in other types of proceedings beyond civil cases. As indicated in the rule, special attention must be given to the use of telephone or video conferencing in criminal or juvenile delinquency proceedings. Continued study as this technology evolves will be necessary to ensure the constitutional guarantees applicable to such proceedings are consistently provided.

Application to Civil Proceedings

Rule 45 covers all nontestimonial court appearances, while Rule 241 addresses civil testimony. New Rule 45 intentionally provides wider latitude for a court to conduct court proceedings remotely by allowing any case participant to request a remote appearance for any reason and by allowing a court to make that decision on its own even if no request has been made by a case participant. While the use of remote participation is ultimately subject to the discretion of the court, appearing remotely under Rule 45 does not require good cause or meeting a particular hardship threshold. The intent of this Rule is that remote appearances should be easy to request and liberally allowed. The Illinois Supreme Court Policy on Remote Appearances in Civil Cases provides additional guidance on the use of this Rule.

This rule adopts the definitions in the Illinois Supreme Court Policy on Remote Appearances in Civil Cases. In particular, a case participant includes any individual involved in a civil case including the judge presiding over the case, parties, lawyers, guardians *ad litem*, minors in the care of the Department of Children and Family Services (DCFS), witnesses, experts, interpreters, treatment providers, law enforcement officers, DCFS caseworkers, and court reporters.

Courts are encouraged to liberally grant requests to appear remotely and to be particularly accommodating of case participants who face an obstacle to appearing personally in court, including but not limited to distance from the court, difficulty with traveling, military service, incarceration, hospitalization or illness, disability, other health or mobility limitations, work or childcare obligations or responsibilities, or limited court operations. Whether telephone versus video technology is appropriate is a determination for the court to make based on each individual case and consideration of any hardship factors. Some case participants may appear by telephone, some by video, and some in person all on the same case.

Courts should first consider obtaining and using free telephone or video conference services before considering fee-based services. Free services are readily available. In this way, a remote

appearance will not impose a cost on a case participant who is not able to pay that cost or would not otherwise incur a comparable cost if appearing in person. Some jurisdictions currently use telephone or video conference services which charge fees. However, to promote access to justice and to remove financial barriers to remote court appearances, courts should consider obtaining and using both paid and free services. Local rules and practices should not prohibit the use of free services for remote court appearances.

Additionally, any fees associated with a remote court appearance should be subject to waiver for case participants who cannot afford them. If a court chooses to use a service that requires the payment of fees, the court should consider whether the costs can be waived by the service, paid by another party, or paid by the court, or if the court should use a free service instead. The focus should be on increasing accessibility to the courts and not on imposing an additional barrier to a remote court appearance in the form of a fee. The court or circuit clerk shall not impose their own fees for case participants to do remote court appearances.

Amended Rule 46

Rule 46. Official Record of Court Proceedings

(a) Taking of the Record. The record of court proceedings may be taken by stenographic means or by an electronic recording system, including video conferencing services, approved by the Supreme Court. All transcripts prepared as the official record of court proceedings shall be prepared pursuant to applicable supreme court rules.

(b) Security of the Record. The confidentiality of court proceedings and the retention and safekeeping of notes and electronic recordings shall be maintained consistent with standards established by the Supreme Court through its Administrative Office.

(c) Court Reporting Personnel. For purposes of this rule and other supreme court rules regarding the official record, “court reporting personnel” shall include:

- (1) court reporters as defined by the Court Reporters Act (705 ILCS 70/1);
- (2) court personnel who have fulfilled the training and certification standards promulgated by the Supreme Court and consistent with paragraph (d) of this rule; and
- (3) certified shorthand reporters hired through an agency or as an independent contractor by a private party or parties to take a stenographic record in court proceedings.

(d) Electronic Recording of Court Proceedings.

(1) The Supreme Court shall provide for and prescribe the types of electronic recording equipment and video conferencing services that may be used in the circuit courts. Those jurisdictions with electronic recording systems installed are required to properly utilize and staff such equipment in order to produce a reliable verbatim record of the proceedings.

(2) Court reporting personnel, including court reporters as defined by the Court Reporters Act (705 ILCS 70/1), must successfully complete training and certification designed to qualify them to operate electronic recording equipment, prepare transcripts from such proceedings, and certify the record on appeal. Such training and certification shall be consistent with standards established by the Supreme Court, through its Administrative Office.

(3) Electronic recordings of proceedings shall remain under the control of the court having custody of them. The chief judges shall provide for the storage and safekeeping of such recordings consistent with the standards referenced in paragraph (b) of this rule.

(4) The Administrative Office shall monitor the operation of electronic recording equipment, the security of the electronic recordings, and the training of court reporting personnel to assure that each county is in compliance with this rule.

Adopted December 13, 2005, effective immediately; amended May 22, 2020, eff. immediately.

Amended Rule 241

Rule 241. Use of Video Conference Technology in Civil Trials and Evidentiary HearingsCases

The court may, upon request or on its own order, for good cause shown ~~in compelling circumstances~~ and upon appropriate safeguards, allow a case participant to testify or otherwise participate in a civil trial or evidentiary hearing by video conferencing from a remote location. ~~permit presentation of testimony in open court by contemporaneous transmission from a different location.~~ Where the court or case participant does not have video conference services available, the court may consider the presentation of the testimony by telephone conference in compelling circumstances with good cause shown and upon appropriate safeguards. The court may further direct which party shall pay the cost, if any, associated with the remote conference and shall take whatever action is necessary to ensure that the cost of remote participation is not a barrier to access to the courts.

Adopted October 4, 2011, effective immediately; amended May 22, 2020, eff. immediately.

Committee Comments (October 4, 2011)

The presentation of live testimony in court remains of utmost importance. As such, showings of good cause and compelling circumstances are likely to arise when a witness is unable to attend trial for unexpected reasons, such as accident or illness, but is able to testify from a remote location. Advance notice should be given to all parties of foreseeable circumstances that may lead the proponent to offer testimony by contemporaneous transmission.

Good cause and compelling circumstances may be established if all parties agree that testimony should be presented by contemporaneous transmission; however, the court is not bound by a stipulation and can insist on live testimony.

Adequate safeguards are necessary to ensure accurate identification of the witness and protect against influences by persons present with the witness. Accurate transmission must also be assured.

Committee Comments (May 22, 2020)

The principles that prompted Rule 45 apply to the changes to Rule 241. The use of video technology to conduct testimony under oath in civil trials increases accessibility to the courts, aids in the efficient administration of justice, avoids delays in trials, and more efficiently administers testimony for case participants who face an obstacle to appearing personally in court such as illness, disability, or distance from the courthouse.

This rule adopts the definitions found in the Illinois Supreme Court Policy on Remote Appearances in Civil Cases. In particular, a case participant includes any individual involved in a civil case including the judge presiding over the case, parties, lawyers, guardians *ad litem*, minors in the care of the Department of Children and Family Services (DCFS), witnesses, experts, interpreters, treatment providers, law enforcement officers, DCFS caseworkers, and court reporters.

Due to the relative importance of live testimony in court, a showing of good cause is required. Good cause is likely to arise when a witness is unable to attend trial for unexpected reasons, such as accident, illness, or limited court operations, but also in foreseeable circumstances such as residing out of state. Good cause may be established where all parties agree that testimony should be presented by video conference. Adequate safeguards are necessary to ensure accurate identification of the case participant testifying remotely and to avoid improper influences by any individual who may be present with the case participant at the time of the testimony.

A court has broad discretion to determine if video testimony is appropriate for a particular case. A court should take into consideration and balance any due process concerns, the ability to question witnesses, hardships that would prevent the case participant from appearing in person, the type of case, any prejudice to the parties if testimony occurred by video conference, and any other issues of fairness. A court must balance these and other relevant factors in an individual case.

Where a case participant testifies from a remote location and no neutral representative or representative of an adverse party is present in the room with the testifying case participant, care must be taken to ensure the integrity of the examination. The testifying case participant may be examined by the court or counsel for any party regarding the identity of all persons in the room during the testimony. Where possible, all persons in the room during the testimony should separately participate in the videoconference. In furtherance of their obligations under Illinois Rules of Professional Conduct 3.3 (Candor Toward the Tribunal), 3.4 (Fairness to Opposing Party and Counsel), and 8.4(d) (Misconduct), counsel representing a case participant should instruct the case participant that (a) he or she may not communicate with anyone during the examination other than the examining attorney or the court reporter and (b) he or she may not consult any written, printed, or electronic information during the examination other than information provided by the examining attorney. Unrepresented case participants may be similarly instructed by the court.

Where the court or case participant does not have video conference services, the court may consider the presentation of the testimony by telephone or other audio means but only upon a showing of good cause, including a showing of exigent, safety, or security circumstances and with appropriate safeguards. The court must carefully balance the factors described in these comments with the need to provide protection for the case participant.

Courts should first consider obtaining and using free video conference services before considering fee-based services. Free services are readily available. In this way, a remote

appearance will not impose a cost on a case participant who is not able to pay that cost or would not otherwise incur a comparable cost if appearing in person. Some jurisdictions currently use video conference services which charge fees. However, to promote access to justice and to remove financial barriers to remote court appearances, courts should consider obtaining and using both paid and free services. Local rules and practices should not prohibit the use of free services for remote court appearances.

Additionally, any fees associated with a remote court appearance should be subject to waiver for case participants who cannot afford them. If a court chooses to use a service that requires the payment of fees, the court should consider whether the costs can be waived by the service, paid by another party, or paid by the court, or if the court should use a free service instead. The focus should be on increasing accessibility to the courts and not on imposing an additional barrier to a remote court appearance in the form of a fee. The court or circuit clerk shall not impose their own fees for case participants to do remote court appearances.

IN THE
SUPREME COURT OF ILLINOIS

In re:)	
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Illinois Courts Response to)	
COVID-19 Emergency)	M.R. 30370
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Order

On March 9, 2020, Governor Pritzker declared a State of Emergency in response to the novel coronavirus (COVID-19). On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency. On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (P.L. 116-136) was passed by Congress and signed into law by the President of the United States. The CARES Act, section 4024(b), prohibits landlords of certain “covered dwellings” from initiating eviction proceedings against their tenants. These “covered dwellings” include rental properties with federal assistance or federally related financing. These protections extend for 120 days from the enactment of the CARES Act or through July 25, 2020.

The CARES Act, section 4024(c), also requires that landlords serve a 30-day notice of termination of tenancy to the tenant after the expiration of the 120 day period on July 25, 2020, meaning these cases cannot be filed until August 24, 2020 at the earliest.

Pursuant to the general administrative and supervisory authority vested in the Supreme Court under Article VI, Section 16 of the Illinois Constitution, Illinois appellate and circuit court procedures and prior orders of this Court:

- A. For the purpose of this order:
 - a. “Covered dwelling” refers to a dwelling that (A) is occupied by a tenant (i) pursuant to a residential lease; or (ii) without a lease or with a lease terminable under State law; and (B) is on or in a covered property.
 - b. “Covered property” refers to any property that (A) participates in (i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 ([34 U.S.C. 12491\(a\)](#))); or (ii) the rural housing voucher program under section 542 of the Housing Act of 1949 ([42 U.S.C. 1490r](#)); or (B) has a (i) Federally backed mortgage loan; or (ii) Federally backed multifamily mortgage loan.

- B. Effective immediately, in any eviction action involving a residential premises brought pursuant to the Eviction Act (735 ILCS 5/9), the plaintiff shall affirmatively state in the complaint or in a supporting affidavit whether the dwelling unit of which

the plaintiff seeks possession is a “covered dwelling” within the meaning of Section 4024(a)(1) of the CARES Act or Section 4024(a) (2) of the CARES Act. The plaintiff shall use the attached certification form in Appendix A or language substantially similar. This requirement shall remain in effect until August 24, 2020 or further order of the Court.

- C. For any eviction action involving a residential premises brought pursuant to the Eviction Act (735 ILCS 5/9) after March 27, 2020 and before this Order took effect, the plaintiff must amend the complaint or supplement it with a supporting affidavit stating whether the dwelling unit of which the plaintiff seeks possession is a “covered dwelling” within the meaning of Section 4024(a)(1) of the CARES Act or Section 4024(a)(2) of the CARES Act. The plaintiff shall use the attached certification form or language substantially similar. This requirement shall remain in effect until August 24, 2020 or further order of the Court.
- D. If the plaintiff fails to comply with paragraph (a), (b) or (c), the plaintiff must provide testimony under oath in open court as to whether the property is a “covered dwelling” as defined above before the case may proceed. This requirement shall remain in effect until August 24, 2020 or further order of the Court.
- E. If an eviction action is improperly brought involving a “covered dwelling” as defined in paragraph (a), and the eviction complaint alleges that the basis for termination is nonpayment of rent, the complaint shall be dismissed and the judge shall order the record sealed.

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Court, this 22nd day of May, 2020.

Carolyn Taft Gusbell Clerk,
Supreme Court of the State of Illinois

APPENDIX A
 IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
 FOR _____ COUNTY, ILLINOIS

Plaintiff(s))	
)	
v.)	Case. No. _____
)	
Defendant(s))	

PLAINTIFF’S CARES ACT EVICTION CERTIFICATION

NOTICE TO PLAINTIFF: Through August 24, 2020, Section 4024 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act prohibits filing certain evictions from “covered dwellings” if those dwellings are in “covered properties.” In general, a “covered property” is any property that receives a federal rental subsidy or has a federally-backed / insured mortgage (such as Fannie Mae, Freddie Mac, or the FHA). If unsure, read the actual language of the Act before completing this certification.

I, [name], hereby state as follows:

1. I am the named plaintiff (or) an Agent of the named plaintiff.
2. The filing of this eviction case does not violate the CARES Act because:
 (check one)
 - A. The property is not a “covered property;” or
 - B. The property is a “covered property,” but the eviction is otherwise allowed under the Act.

I certify that everything in this certification is true and correct. I understand that making a false statement is perjury and has penalties provided by law under 735 ILCS 5/1-109.

Sworn:

 Plaintiff (or Agent)

 Plaintiff’s attorney (if any)