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What do we know about remote court hearings?

Parents involved with the child welfare system experience a world of uncertainty, many not knowing whether and when their child might return home. Research demonstrates that parent-child separation is traumatic,¹ making timely and frequent court hearings essential for expediting case progress toward permanency and, if possible, reunification. Delayed hearings overwhelm dockets and create backlogs. As a result, children may remain in foster care for months or years longer than necessary.

During the COVID-19 pandemic, virtual or remote hearings surfaced as a viable strategy to ensure that due process rights of children and families were protected, safety and permanency remained a priority, and court dockets did not become backlogged. Some courts rapidly adapted to conducting all hearings remotely, while others transitioned over time. While the public health requirements of the pandemic are in the past, many courts have continued to use remote and hybrid hearings.

This brief summarizes potential benefits and concerns for family courts using remote hearings. The information was gleaned from a combination of presentations, conversations with child welfare leaders, court advocates, judges, and other stakeholders,² as well as some studies conducted in the wake of the COVID-19 pandemic.

Recent surveys of [attorneys](#) and [litigants](#), as well as [interviews with judges](#) and [focus groups with parent partners](#) all provide useful insights. However, **child welfare still lacks empirical evidence about the effectiveness of remote hearings** as well as sustained feedback from parents and children about their personal experiences. More thorough research and evaluation are needed to better understand the impacts on children and families, and to inform decisions about when and under what conditions remote hearings are useful.

Potential benefits

Some potential benefits of remote court hearings that have been shared by different groups of stakeholders include:

Time and costs savings

Remote hearings can be more convenient for some families and professionals, and therefore can increase attendance. Remote hearings also can move the court docket along faster and are less costly than in-person hearings. Some parents have reported they appreciate not having to take time off work or find transportation and child care in order to participate. Caseworkers and attorneys no longer need to spend their entire day at the courthouse waiting for cases to be heard or drive long distances to court, saving both money and time, and reducing their workload burden. During the pandemic, caseworkers and attorneys also reported having more time to prepare for remote court hearings and more time to check in with children and families as a result of the time savings.

Increased family participation

Remote hearings can make it easier for parents, children, foster parents and kinship caregivers, caseworkers, and other extended family or community members to attend. For example, one judge shared that a family member from Africa appeared at an adoption hearing that occurred virtually, something that could never have happened at a courtroom hearing. Some remote platforms also can offer simultaneous translation during hearings (including sign language and closed captioning), and attorneys have reported that remote hearings make it easier to request accommodations like these for participants who need them.

The video platform may be less intimidating for some than a courtroom setting, and may reduce the stress and power dynamics inherent in a traditional courtroom set-up. Some parents report they feel more comfortable in their own home and appreciate feeling more like an equal participant in remote hearings, given everyone occupies the same amount of screen space. As a result of these factors, parent and child participation has increased in some jurisdictions. That said, the limited research available paints a mixed picture, and it remains unclear whether remote hearings alone (absent additional support for preparation and in-hearing engagement) consistently increase family participation rates.

Greater teaming

Collaboration can increase in the context of remote hearings. Opposing legal parties have reported collaborating more, and some stakeholders have reported a decrease in contested hearings and an increase in negotiations and mediated outcomes. In other instances, court teams are gathering the day before hearings to review and prepare, contacting children and families in advance and supporting their participation in hearings. Attorneys report that remote hearings have made meeting with clients before court easier, and that being able to make arrangements for the child to attend court is an additional potential benefit.

Professional development opportunities

Child welfare supervisors and managers have reported being able to provide more on-demand coaching and support to their staff during remote hearings. They report being more able to observe new staff attorneys and caseworkers in hearings and coach them on how to improve their performance. In addition, child welfare leadership has the opportunity to learn firsthand about how staff are managing hearings, something that can be difficult when all hearings are in-person.

Potential challenges

While there are several potential benefits, there also are a number of challenges to consider and address as remote and hybrid hearings become embedded in ongoing family court practice. The following concerns have been raised by stakeholders and identified through research:

Security

Proper training and adequate investments in technology can help to mitigate potential security concerns. For example, some courts in the U.S. have addressed the need for attorneys and clients to have confidential conversations by selecting a technology platform that enables privacy. In addition, some judges have expressed concern about not knowing who is in the room during a remote hearing, which can be partially mitigated by proper training and adherence to defined procedures.

Isolation

While there are obvious benefits to reducing the time spent at the courthouse waiting for hearings to begin, the waiting period can be a time when caseworkers and attorneys have an opportunity to speak privately with children and families. This opportunity can be lost in the remote environment unless it is intentionally included in the schedule. In addition, the first hearing is where [parent partners](#) often approach parents who are newly involved with the child protection agency and accompany them to the hearing to provide emotional support. In remote hearings, parents are generally alone in their home. Without these in-person connections, or options to secure this support virtually, parents may feel even more isolated and disengaged. Attorneys specifically identified this as a challenge, noting that consulting with parents or youth during the hearing itself, and ensuring that they understand documents, can be easier in person.

Access to technology

While trends are improving, considerable disparities still exist between demographic groups on access to technology and internet connectivity. According to the [National Telecommunications and Information Administration's 2021 internet use survey](#), Black and Latino families have less access to the internet than white and Asian families, and low-income communities have much lower access than affluent neighborhoods. Since parents involved with child protection agencies often experience poverty and disproportionately, limited technology access can exacerbate inequities. Some courts and child protection agencies are providing electronic devices for families to access a virtual platform, but policies and practices in this regard vary widely.

Surveillance

Another potential concern is judges can see directly into parents' homes during remote hearings and could make decisions based on what they observe rather than the objective facts of the case as presented. This potentially impinges on parental rights to a fair hearing.

Judicial bias

Law scholars and criminal justice activists have questioned the fairness of remote hearings. Several studies³ note that some aspects of video presence may affect the believability of an individual. Numerous articles cite the effect of video on a person's credibility, with a lack of eye contact and other non-verbal cues frequently leading to a lack of trust. Literature from other fields,⁴ particularly communications and social psychology, suggests that videoconferencing may negatively impact how defendants are perceived and represented in court, and how they experience the justice system. While some parents find remote hearings more accessible, others have shared that in-person hearings feel more like "having their day in court."

Key resources for conducting remote hearings

Adapting hearings in response to COVID-19 provided an unprecedented opportunity to [rapidly redesign the court process](#), and it is clear that remote and hybrid hearings are continuing in some fashion post-pandemic. While more research and evaluation are needed, one thing that is clear is that remote hearings are not a silver bullet. Courts need ongoing feedback from families and children to determine when remote hearings are useful, and what they need to be effectively engaged and supported in the process.

The following tools and resources were developed by national and state court partners to address the challenges of remote and hybrid court hearings and support judges and court partners in effectively implementing them:

- The Capacity Building Center for Courts has produced guidance and tips for [Conducting Effective Remote Hearings in Child Welfare Cases](#).
- The Joint Technology Committee established by the Conference of State Court Administrators, the National Association for Court Management, and the National Center for State Courts released [Strategic Issues to Consider when Starting Virtual Hearings](#), a guide to help courts succeed with virtual hearings.
- The Gault Center and the National Council of Juvenile and Family Court Judges developed [Navigating Virtual Proceedings in Juvenile Court: A Guide for Judges](#), which includes a checklist for conducting virtual hearings.
- The National Center for State Courts is conducting [ongoing research](#) and has developed several resources, including guidance for facilitating [trauma-responsive virtual hearings for dependency cases](#), a [Virtual Hearings Tip Sheet](#), a [Checklist for Judges in Virtual Proceedings](#), and [Facilitating Meaningful Child Engagement in Remote Dependency Hearings](#).
- The National Center for State Courts also developed several video resources, including one on the [digital divide](#); [Mock Video Conference Hearing: Pierce County \(WA\) Superior Court](#); and the [Lights, Cameras, Motion! Webinar series](#), which features perspectives of state court administrators and judges who have implemented remote hearings.
- The Children’s Commission of the Supreme Court of Texas developed this [resource letter](#) for judges and attorneys discussing the benefits of utilizing technology in child protection cases, and this [Video Conferencing: Best Practices & Tips](#) resource.

¹ Center on the Developing Child at Harvard University. (2016). [Applying the science of child development in child welfare systems](#).

² Information in this brief is based on: the National Center for State Courts’ virtual hearing webinar series; Casey Family Programs presentations; interviews with child welfare agency and court staff in Missouri, New Jersey, and the Tulalip Tribal Court in Washington state; and a conversation with Teri Deal, principal court management consultant at the National Center for State Courts on September 28, 2023.

³ Diamond, S. S., Bowman, L. E., Wong, M., & Patton, M. M. (2010). Efficiency and cost: The impact of video-conferenced hearings on bail decisions. *Journal of Criminal Law & Criminology*, 100(3), 869–902.; Orcutt, H. Goodman, G.S., Tobey, A. E. & Thomas, S. (2001). Detecting deception in children’s testimony: Factfinders’ abilities to reach the truth in open court and closed-circuit trials. *Law and Human Behavior*, 25 (4), 330-372. Goodman, G. S., Tobey, A.E., Batterman-Faunce, J.M., Orcutt, H., Thomas, S., Shapiro, C., & Sachsenmaier T. (1998). Face to face confrontation: Effects of closed-circuit technology on children’s eyewitness testimony and jurors’ decisions. *Law and Human Behavior*, 22(2), 165-203.

⁴ Murphy, K. (2020, April 29). [Why Zoom is terrible](#). *The New York Times*; Poulin, A. B. (2003). Criminal justice and videoconferencing technology: the remote defendant. *Tulane Law Review*, 78, 1089.

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