

## NOTICE TO THE BAR AND PUBLIC

### FUTURE OF COURT OPERATIONS – REMOTE AND IN-PERSON PROCEEDINGS – PUBLICATION FOR COMMENT

The Supreme Court invites written comments on a proposal to continue certain court events in a primarily or presumptively remote format even after the end of the COVID-19 pandemic. The following proposal is intended to apply to the ongoing future of court operations and is not presented as a short-term or interim approach. As explained below, jury proceedings are deliberately excepted from this proposal and request for comment.

#### **Background**

The Judiciary at all levels successfully adapted to remote operations during the extended COVID-19 crisis, conducting more than 212,000 virtual court proceedings that involved more than 2.9 million participants. Attorneys and other court users, including advocates for self-represented litigants and persons with disabilities, have expressed appreciation for the option to participate in court events in a remote format. Stakeholders specifically have requested that certain routine court matters continue to be conducted remotely so as to reduce time and money costs for attorneys, clients, and court users who otherwise would be required to miss work, school, or other obligations. Accordingly, this June 2, 2021 [notice](#) announced that certain specific court events and operations for now would continue in a remote (or remote first) format.

#### **Preliminary Input**

Earlier this month, the Administrative Director conducted a series of listening sessions with legal associations, advocates for self-represented litigants, public interest groups, community organizers, and faith leaders, to discuss the future of court operations. These stakeholder associations offered constructive suggestions about which court proceedings should – and should not – continue to be offered in a remote format. Informed by recommendations of judges, court staff, and these external participants, the Court developed and presents for public comment the following high-level protocol for remote and in-person court operations:

1. Oral arguments before the Supreme Court and the Appellate

Division of the Superior Court will primarily be conducted in person.

2. Judges shall have discretion to determine whether to conduct court proceedings virtually or in person, except as follows:
  - a. Criminal jury trials shall proceed in person;
  - b. The following matters only may proceed remotely with the consent of all parties, except that the consent of a party will not be required if the party is absent and unreachable:
    - i. Sentencing hearings in Criminal, Family Juvenile Delinquency(FJ), and Municipal matters;
    - ii. Juvenile delinquency adjudications;
    - iii. Evidentiary hearings and bench trials in Criminal matters;
    - iv. Evidentiary hearings and trials in Municipal matters that involve a reasonable likelihood of a jail sentence or loss or suspension of license;
    - v. Termination of parental rights trials, fact-finding and permanency hearings, and other hearings in which constitutional interests are at stake; and
    - vi. Hearings for an adjudication of incapacity and appointment of a permanent guardian.
3. In all matters, judges may determine to proceed in person where the participants have demonstrated an inability to proceed in a remote format, or in other exceptional circumstances.
4. In matters that are conducted in person, judges may determine to permit one or more participants to participate remotely based on the individual facts and circumstances of the case.
5. In matters that are conducted remotely, judges may accommodate a participant who appears and requests to participate in person.

6. The following matters in general will proceed remotely:
- a. Motion arguments and case management conferences in all trial divisions of the Superior Court and the Municipal Courts;
  - b. CRIMINAL: Central Judicial Processing / First Appearances on defendants in custody; Sexually Violent Predator (SVP) hearings; most proceedings that involve state prisoners;
  - c. CIVIL: landlord tenant proceedings; Special Civil (DC) and Small Claims (SC) trials; civil arbitrations; mediations; and involuntary civil commitment proceedings, absent an application for an in-person hearing based on the individual circumstances of the case;
  - d. FAMILY: uncontested adoptions; hearings to establish or modify child support; applications for a temporary restraining order (TRO) and initial conferences (but not hearings on a final restraining order); initial applications for protection pursuant to the Sexual Assault Survivor Protection Act (SASPA); matrimonial early settlement panels; and mediations, except for Intensive Settlement Conferences; and
  - e. MUNICIPAL: most hearings, except for DWI, other matters with especially serious penalties, and trials that involve multiple witnesses or complex evidence.

### **Jury Proceedings – Continued Interim Adjustments**

By design, the above proposal does not address jury trials and grand jury, and comments on jury protocols are not requested at this time.

In response to the COVID-19 pandemic, the Court has authorized a number of interim adjustments to jury operations, including virtual grand juries, hybrid jury selections, and virtual civil jury trials. The Judiciary also has established and refined health protocols for individuals who report in person for jury proceedings, which at present include the final in-person phase of criminal jury selections, in-person civil and criminal trials, and in-person grand juries.

The Court and Judiciary intend to return to primarily in-person jury proceedings as soon as it is safe to do so. To that end, this notice announces that the statewide juror summons documents (for both jury trials and grand juries) will

be modified for reporting dates on or after September 7, 2021. The revised summons will inform prospective jurors that they may be required to report virtually or in person. It also will direct them to the Jurors page of the Judiciary's public website for up-to-date information.

Jurors provide a critical service that enables the ongoing administration of justice in criminal and civil cases. The Judiciary is continuing to monitor evolving public health guidance as it relates to health protocols for jurors and other participants in jury trials. More information will be provided as soon as practicable.


### **Request for Comments**

Please send any comments on the proposal for the future of court operations (remote and in-person proceedings) in writing by August 16, 2021 to:

Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts  
Comments on the Future of Court Operations  
Hughes Justice Complex; P.O. Box 037  
Trenton, New Jersey 08625-0037

Comments may also be submitted via email to: [Comments.Mailbox@njcourts.gov](mailto:Comments.Mailbox@njcourts.gov).

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by email should include their name and email address). Comments are subject to public disclosure upon receipt.

  
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Hon. Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts

Dated: July 16, 2021