



UTAH STATE COURTS

State of Utah Judiciary Risk Phase Response Plan

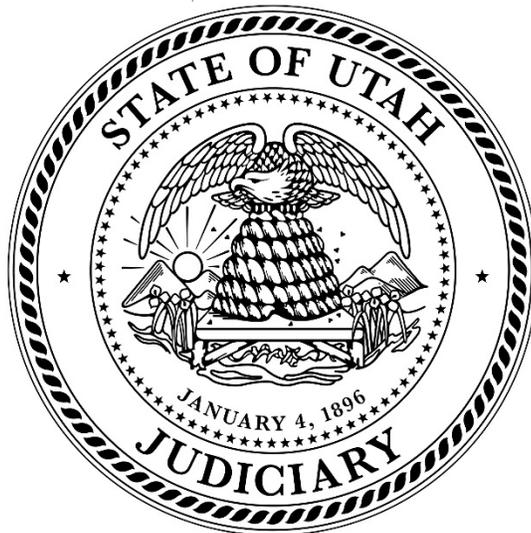


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Risk Phase Response Plan

INTRODUCTION

The purpose of this plan is to establish requirements and guidelines for the courts to follow during the various phases of the COVID-19 pandemic. The Judiciary has generally used the four risk phases the Utah State Governor developed to guide the people of this state through stages of restrictions and recovery. The stages are Green (new normal), Yellow (low risk), Orange (moderate risk), and Red (high risk). The Judiciary recognizes, however, that the four risk phases may not always align with the concerns of the Judiciary, which is in a unique position to compel individuals to come to court. The Judiciary's Pandemic Response Plan has therefore been amended to include three phases: **Green (new normal)**, **Yellow (low risk)**, and **Red (moderate or high risk)**. The Judicial Council will, through administrative order, determine the risk phase of each court and will determine when a court may transition to a different phase. In making decisions, the Judicial Council will consider the Governor's executive orders addressing the phases of specific areas. The Judicial Council recognizes that different counties or court sites might be in different phases at any given time considering the spread of COVID-19 in a particular area. This document will provide guidance to the courts on operations during each phase. The trial plans for each court level are included as appendices.

When the Judicial Council issues an administrative order declaring a Yellow phase, in-person proceedings may resume in any district or court if the Management Committee of the Judicial Council has approved the district's or court's plan to resume operations. Each district must create a COVID-19 operation plan for every building within their district or, if the building is shared with other entities, for the portion of the building under the court's authority. In the juvenile courts, this includes probation offices. In the Second, Third, and Fourth Districts the juvenile courts and the district courts must create separate plans. Each justice court must create a plan for areas under the control of the court, recognizing that many justice courts are in multi-use buildings. Justice courts should consult with other building occupants in creating their plans. The appellate courts must create a plan addressing the areas for both appellate courts. The Administrative Office of the Courts must create a plan for the space it occupies, and the Office of Guardian ad Litem must create plans for their offices. In buildings with multiple court levels, such as the Matheson Courthouse or the Provo Courthouse, the court levels should consult with each other as they create their plans.

A checklist is provided to guide courts in creating their plans. The checklist is found in Appendix A. Courts must complete the checklist and certify they have completed the checked items. In instances where one or more of the requirements do not apply to the circumstances of a particular court, the submission must include a brief explanation about why those requirements do not apply and were not addressed. Courts may submit any written materials they have created to implement their plans. Courts should consult with local partners, such as attorneys, law enforcement, corrections officials, and service providers, in creating plans. Courts should continue to keep partners informed about court operations and changes that occur. The safety of court personnel and patrons is the most important consideration through all risk phases of

recovery. In formulating plans each court should bear in mind that COVID-19 can be transmitted even by asymptomatic individuals.

Courts will be required to submit regular reports affirming compliance with their plans. A standard report form will be provided. The form will indicate the items that must be verified and the frequency of verification.

The Judiciary will continue to abide by its Pandemic Response Plan, and the guidelines of the Centers for Disease Control, the Utah Health Department, and the World Health Organization. The guidelines can be found at <https://www.cdc.gov/>, <https://health.utah.gov/>, <https://www.who.int/>.

**IMPORTANT CONCEPTS TO BE CONSIDERED THROUGH
YELLOW AND RED PHASES OF THE PLAN.**

- 1. Social Distancing.** Social distancing means maintaining a distance of at least six feet from others. It is imperative that social distancing be maintained throughout courthouses, including common areas, courtrooms, and workspaces. Floor markings, stanchions, and cones should be used in places where people might congregate, such as lines at security, waiting areas, or court counters.
- 2. Personal Hygiene.** Courts should encourage patrons and require personnel to frequently wash their hands to prevent the spread of COVID-19. Hand sanitizer with at least 60% alcohol content may be used when frequent hand washing is not feasible. Courts must stock all restrooms with the materials necessary for hand washing, and courts must provide hand sanitizer near high use touch points and areas where court personnel interact with court patrons. Courts must certify that hand sanitizer, soap, and towels are available and will continue to be available throughout all risk phases.
- 3. Sanitation.** Courts must ensure that high use touch points used by patrons and personnel are cleaned frequently. In courtrooms this includes chairs, tables, door handles, lecterns, counters and microphones. In workspaces this includes door handles, tables, copiers, printers, other shared equipment, chairs, benches, and desks. In other areas of the courthouse this includes security bins, door handles, handrails, computers, benches, elevator panels, restrooms, and counter areas. Courts should take steps to eliminate or minimize high use touch points, such as by propping doors open in certain areas, removing unnecessary furniture, closing break rooms, removing drink stations, and eliminating shared use of equipment. All areas in courthouses must be deep-cleaned every night. Courts will be required to submit regular reports on cleaning efforts.
- 4. Capacity Limits.** Each phase may involve limits on the size of gatherings. Courthouses must adhere to those limits in all areas, including courtrooms, meeting rooms, lobbies, breakrooms, and workspaces. The limits will be based on the amount of net occupiable

space – which excludes built-in furnishings – necessary to maintain social distancing. The capacity limits can be determined by dividing the square footage in a particular area by half and then dividing that number by 36. The capacity limits must be posted outside those areas.

5. **COVID-19 Screening.** Any person who exhibits symptoms of COVID-19 may not be admitted to a courthouse. The symptoms of COVID-19 can be found on the above websites and include: fever, chills, cough, shortness of breath or difficulty breathing, abnormal fatigue, abnormal muscle or body aches, new loss of taste or smell, sore throat, congestion, or runny nose. Any person who has had sustained close contact with someone who has COVID-19 – even if those persons themselves are asymptomatic – may not enter a courthouse until the person has self-quarantined for 14 days from the date of last contact. Any person who has had COVID-19 may not enter a courthouse until the person has not experienced symptoms for at least 72 hours without the use of fever-reducing medication or, if the person has been asymptomatic, until 10 days have passed since their positive test. The prohibitions apply to both personnel and patrons.

Courts must conduct COVID-19 screenings of patrons who enter courthouses. Courts must identify who will conduct those screenings. The screenings will include asking standard questions and may include using touchless thermometers if they are available. The list of standard questions is found in Appendix B. Courts must post notice of the requirements in conspicuous areas where people enter.

If a person is denied access to the courthouse, the person must exit through a path where contact does not occur with others. The person must be given information on how they may contact the court for further instructions. Court security must alert the presiding judge, TCE, or local court administrator when a person has been denied access.

Personnel will be required to conduct a self-check before coming to work. Personnel in any of the categories described above must contact their supervisor and must not report to work until the supervisor authorizes a return to work. The information about personnel and patrons must be kept confidential.

6. **Vulnerable Persons.** Courts must provide accommodations to vulnerable persons including employees, patrons, and judges. Vulnerable persons include those who are 65 or older and those of any age who have any of the following underlying health conditions:
 - chronic lung disease,
 - moderate to severe asthma,
 - serious heart conditions,
 - immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications,
 - severe obesity (body mass index [BMI] of 40 or higher),
 - diabetes,
 - chronic kidney disease undergoing dialysis, or

- liver disease.

Accommodations for patrons may include allowing them to appear remotely or having their case continued. Accommodations for employees may include allowing them to work remotely or having their work schedules altered or workspaces rearranged.

- 7. Face Coverings and Other PPE.** Face coverings are not a substitute for social distancing. Face coverings are to be used in conjunction with social distancing. Masks and face shields are the preferred face coverings, but other cloth materials that cover the nose and mouth may be used. The use of face coverings will be mandatory in certain circumstances, including for patrons entering the courthouse and whenever social distancing cannot be maintained. Employees and patrons will be encouraged to provide their own face coverings. Courts must have face coverings available for those who do not have one. Entrance will be denied to any patron who refuses to wear a face covering and a person may be removed from the courthouse if the person refuses to wear a face covering while in the courthouse. If a person is denied entrance or removed from a courthouse because of refusal to wear a face covering, the person must be provided information about how to contact the court for further instructions. Employees are required to wear face coverings in all areas except their private workspace as long as social distancing can be maintained. If an employee is unable to wear a face covering due to an underlying health condition, management may arrange to allow the employee to work remotely until further notice. Managers and supervisors should contact Human Resources to collaborate on an alternative approach if remote work for employees with underlying health conditions becomes problematic. Courts should also have gloves available for employees who want them. Courts must certify that sufficient personal protective equipment is available and will remain available throughout the Yellow and Red phases. Face coverings may be removed in workspace common areas provided social distancing can be maintained at all times.
- 8. Mail and Other Papers.** Courts must provide written directions to court personnel on how mail, packages, and other materials received from others will be received and distributed. Options include having the mail or other documents sit for a period of time before handling, or distributing face coverings and gloves and requiring frequent hand-washing.
- 9. Signage.** Courts must post notices at courthouse entrances and throughout courthouses informing patrons and employees of restrictions and requirements and guiding them as they navigate through the courthouse.
- 10. Contact Tracing.** Contact tracing is used to help reduce the spread of COVID-19. When a person tests positive for COVID-19, efforts are undertaken to determine where that person has been and the persons with whom the individual may have been near. When it is discovered that a person who has tested positive for COVID-19 has been in the courthouse, the court must immediately contact the local health authority to begin contact tracing to determine where that person may have traveled in the courthouse and who may have been in contact with that person. Courts should provide employees with their

contact tracing policy to provide assurances that steps will be taken in the event someone tests positive.

GREEN PHASE

Court operations are in a “new normal” during this phase.

Advised but not required:

- a. Consider using remote proceedings when it is the most effective use of time and resources;
- b. Employees may be offered more telework options;
- c. Courts will maintain a heightened awareness of hygiene and sanitation for patrons and personnel;
- d. Courts will continue to consider the needs and requests of vulnerable persons and provide reasonable accommodations;
- e. Business travel to an area where the CDC, WHO, or the Utah Department of Health recommends self-quarantine upon return is prohibited; and
- f. Personnel should notify supervisors when they will be traveling out of state for personal reasons. If the person travels to an area where the CDC, WHO, or the Utah Department of Health recommends self-quarantine upon return the person will be required to self-quarantine for 14 days upon return.

YELLOW PHASE

Personnel

1. COVID-19 Checks

Personnel must conduct a self-check for symptoms prior to leaving for work each day. Courts must create a process for employees to confidentially notify a supervisor the self-check was done and what the results were. Personnel who have been diagnosed with COVID-19 may not return to the workplace until the person has not experienced symptoms for at least 72 hours without the use of fever-reducing medication or, if the person has been asymptomatic, until 10 days have passed since the diagnosis. Personnel who are exhibiting any signs of COVID-19 must contact their supervisor and may not come to work without their supervisor’s consent. Personnel who have had sustained contact with someone diagnosed with COVID-19 may not come to work until 14 days have passed from the date of last contact, even if those individuals are asymptomatic. Courts may provide touchless thermometers for personnel to regularly check their temperature.

2. Workspaces

- a. Personnel may work in the courthouses. Social distancing must be maintained at all times. This may require reconfiguring workstations to ensure that all employees work at least six feet apart. Where possible, courts should continue to have some personnel work remotely. Courts should create teams to rotate between remote work and work at the courthouse to minimize the risk of a large number of employees being exposed to COVID-19 at the same time, or to at least create separate teams that do not interact with each other. The purpose is to help ensure the availability of employees in the event there is an outbreak of COVID-19 at the courthouse.
- b. Furniture and equipment should be rearranged or removed as appropriate to ensure social distancing.
- c. There may be no more than two people in an employee elevator at one time, except that members of the same family or household may ride together.

3. Accommodations

Courts must accommodate personnel who are impacted by school or daycare closures or who are taking care of family members who have COVID-19. Accommodations could include telework or alternating work schedules. Courts should also consider requests from personnel who travel to work by mass transit to have their work schedules adjusted to avoid times when mass transit vehicles might be crowded.

4. Work Hours

Courts should stagger work hours if possible to avoid having many employees arriving for work at the same time and to minimize the number of employees in workspaces at any given time.

5. Face Coverings

Face coverings are mandatory in courtrooms, hallways, stairways, elevators, restrooms, breakrooms, and entryways. Face coverings may be removed in places such as offices and cubicles provided social distancing is maintained. Face coverings may be removed in common areas such as breakrooms if social distancing can be maintained at all times. Employees are encouraged to wear face coverings in common areas and at their workstations, even where appropriately distanced.

6. Vulnerable Persons

Vulnerable employees should not return to the courthouse and should be given work they can perform remotely. Vulnerable employees may return upon their request after consultation between the employee and the employee's supervisor, assisted by their human resources department.

7. Markings and Signs

- a. Courts should consider creating one-way travel paths and waiting queues for areas such as hallways, restrooms, and breakrooms using signage and floor markings to guide personnel.

- b. Signs must be posted in restrooms and work areas reminding personnel of social distancing requirements and proper hygiene.

8. Meetings

Meetings may be conducted in person if social distancing can be maintained and everyone wears a face covering. Personnel are encouraged to continue remote meetings.

9. Testing

Courts should consult their local health authorities to determine whether arrangements can be made for regular testing of employees.

10. Travel

- a. Out-of-state business travel to an area where the CDC, WHO, or the Utah Department of Health recommends self-quarantine upon return is prohibited. In-state travel is restricted to that which is necessary.
- b. Personnel should notify supervisors when they will be traveling outofstate for personal reasons. If the person travels to an area where the CDC, WHO, or the Utah Department of Health recommends self-quarantine upon return, the person must self-quarantine for 14 days upon return.

Courthouses

1. Screening

Court security must screen everyone who enters the courthouse. Security may accomplish this by asking the standard questions or posting notice of the restrictions and asking the person whether the person read them. Security may use touchless thermometers if available.

2. Social Distancing

- a. Courthouses must facilitate social distancing between all persons.
- b. When possible, courts should create barriers of at least six feet between patrons and employees. Plexiglass may be used but is not a substitute for social distancing.
- c. Courts must use signage and markers to create travel paths and waiting areas as appropriate, such as dividing common areas with tape, barriers, stanchions, or cones, and providing directions to patrons about expectations. For areas in which patrons may be standing in line, such as court entrances or service counters, courts must place markers six feet apart where people must stand while waiting.
- d. There may be no more than two people in an elevator at one time, except that members of the same family or household may ride together.

3. Face coverings

- a. Patrons must wear face coverings in order to enter the courthouse and must continue to wear face coverings at all times while in the courthouse, unless a

judge permits removal during a court proceeding. Courts must post notice of the face covering requirement at entrances and provide face coverings to those who do not have one. If a person is denied entrance or removed from a courthouse because of refusal to wear a face covering, the person must be provided information about how to contact the court for further instructions. The presiding judge, court administrator, or TCE should be notified when a person is denied access.

- b. Personnel must wear face coverings while assisting patrons, such as at a front counter. Personnel may remove their face coverings when they are not assisting anyone, provided they comply with other provisions on face coverings and social distancing.

4. Contractors

Court contractors are required to wear face coverings and courts must have screening processes for contractors before they enter court buildings. In buildings where contractors occupy space, such as a café or a legal aid office, courts must ensure those contractors follow the requirements of their courthouse plans and require those contractors to submit their own plans.

5. Accepting Payments and Papers

Employees should be offered the use of gloves, with appropriate instructions on their use and removal, in order to accept payments and papers.

6. Juvenile Court Probation Officers

Juvenile court probation officers are encouraged to continue remote contacts but may begin in-person contact with probationers and families with their consent. During visits, all individuals must wear face coverings and social distancing must be maintained.

7. Ventilation Systems

Ventilation and filtration systems must be in working order to facilitate clean air and circulation.

Court Proceedings

1. In-Person and Remote Hearings

- a. Courts are encouraged to conduct remote proceedings as much as feasible. In-person proceedings may be conducted provided social distancing can be maintained. Courts must limit the number of people in the courtroom to those who are required to be present for that proceeding, subject to capacity limits. The court may allow remote participation by those who are able to participate remotely. If others wish to view the proceedings they should be given remote access. If possible, courts should provide an area in the courthouse where proceedings can be viewed remotely, provided social distancing can be maintained and touch areas are cleaned after use.

- b. Vulnerable persons may not be required to attend any court proceedings and, if feasible, courts may allow anyone who expresses health concerns to appear remotely.
- c. The Judicial Council and the Supreme Court will issue administrative orders as necessary to establish criteria for those hearings and to provide other guidance to courts.
- d. Courts should provide a computer in a room in the courthouse where those who do not have a computer can participate remotely. See Appendix E.
- e. The number of people in a courtroom may not exceed capacity limits, which is one person for each 36 square feet of net occupiable space, which excludes built-in furnishings. Courts should provide waiting areas where social distancing can be maintained.
- f. Courts must have signs or staff available to provide instructions and direct patrons through travel paths and to waiting areas.
- g. Courts should use signage, markers, stanchions, or cones to create travel paths. Patrons should be instructed on where they may walk, sit or wait.
- h. Furniture must be arranged as much as possible to facilitate social distancing.
- i. Courts should minimize the shared use of equipment.
- j. Surfaces and equipment must be sanitized after each hearing, or at least at regular intervals, to help ensure that individuals are not required to touch areas that have not been cleaned after use by others. Hand sanitizer must be available in each courtroom near high use touch points, such as tables and doors. Courts must identify who will be responsible for sanitation after hearings. Courts should eliminate high use touch points as much as possible.

2. Jury Trials and Juvenile Court Trials

Each court must comply with the requirements and guidelines developed for their court level. The district court and justice court plan is in Appendix C. The juvenile court plan is in Appendix D. If a provision in any of those plans conflicts with this plan, the provision in this plan must be followed.

3. Prioritizing Proceedings and Scheduling

- a. Courts must create plans prioritizing case types for in-person proceedings.
- b. Courts must schedule specific hearings at specific times, as opposed to large general calendars, to minimize the number of people in the courthouse at any given time and to avoid people congregating in waiting areas.
- c. Courts should consider using texting, paging, or other technology to allow people to wait for their proceedings outside the courthouse or in other areas where social distancing is possible and to be notified when their hearing will begin.

4. Notices to Attorneys and Patrons

- a. Court notices must inform patrons of prevention measures and court contact information by referring patrons to the web page where the court's plan can be found.

- b. Courts should notify prosecutors, defense counsel, and other participants that the court expects strict compliance with court schedules.

5. Face coverings

Face coverings are required in courtrooms, except that a judge may allow a person to remove their face covering when social distancing can be maintained, or in circumstances when it is necessary to effectively communicate and when it is necessary for identification or to observe a person’s facial reactions. Social distancing must be maintained if face coverings are removed. Courts should take recesses as necessary to provide breaks from wearing face coverings.

6. Interpreters

- a. When an interpreter is needed, the court should first consider allowing remote interpretation in order to facilitate social distancing. Remote equipment can include cell phones and headsets.
- b. If remote interpretation is not feasible, an interpreter may be in the courtroom and social distancing must be maintained. If necessary for effective interpreting, the court should not require the interpreter or the person for whom interpretation is being done to wear a face covering.
- c. If an observer, such as a victim, requires an interpreter and the courtroom has reached capacity limits, that person should be provided a room in the courthouse where the proceedings may be observed, and remote interpretation should be provided.

7. Exhibits

Judges should consider requiring parties to provide opposing parties with exhibits and handouts in advance of hearings to avoid the exchange of materials in the courtroom. If paper is to be transferred during a proceeding there should not be hand-to-hand transfer and should instead be placed in an area for others to retrieve. Hand sanitizer or gloves should be available in those areas.

8. Self-Represented Litigants

Courts must permit self-represented litigants to file documents by email. If a document is a pleading to initiate a case, the court should encourage the person to file the pleading by mail or in-person, but the court must accept the filing by email if the person chooses to do so.

RED PHASE

1. Continuation of Yellow Phase Restrictions

Subject to the provisions below, the restrictions and requirements in the yellow phase will apply when personnel and patrons are required to be in the courthouse.

2. Personnel

- a.** Personnel will work remotely except those who have been designated as essential to maintain a minimum courthouse presence for public service.
- b.** Personnel will be granted leave or required to use accumulated leave according to local human resources department policies as circumstances dictate.

3. Courthouses

All court patrons, including parties and attorneys, will interact with the court system remotely unless exigent circumstances require in-person contact. A person may file documents in existing cases electronically, including by email.

4. Court Proceedings

- a.** Courts must continue all mission-critical functions. All court hearings will be conducted remotely unless a party can persuade the court that doing so would be highly prejudicial to the person's case, or if there are other exigent circumstances that require an in-person hearing.
- b.** At their discretion, judges may continue any matter into the future except for in-custody criminal cases and mission-critical juvenile court cases.
- c.** The Judicial Council and the Supreme Court will issue administrative orders as necessary to establish criteria for those hearings and to provide other guidance to courts.
- d.** If exigent circumstances require an in-person hearing, the proceeding must be limited to those who are required to attend and the requirements in the Yellow phase apply. Social distancing must be maintained and surfaces and equipment must be thoroughly sanitized after each use. Anyone who is able to participate remotely must be allowed to do so.

Resources

Utah Judiciary Alerts Webpage includes:

- All state and local judicial orders
- Individual courthouse status
- Information regarding filing documents
- COVID-19 information
- Notices regarding domestic cases
- Community information flyers for partners and partner organizations
- Frequently asked questions

<https://www.utcourts.gov/alerts/>

Utah Judiciary Pandemic Influenza Response Plan

https://www.utcourts.gov/intranet/security/docs/Pandemic_Response_Plan.pdf

Governor Gary Herbert's Coronavirus Website

<https://coronavirus.utah.gov/>

Utah state and local orders and directives

<https://coronavirus.utah.gov/special-orders/>

CDC guidance on COVID-19

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

CDC guidance on self-care during a pandemic

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

CDC guidance for social distancing

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>

CDC guidance on vulnerable persons during a pandemic

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>

CDC guidance for businesses and workplaces

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>

Appendix

A

PANDEMIC RISK RESPONSE CHECKLIST FOR THE _____ COURT

(Please provide the district and court location)

The following is a checklist to guide courts in creating their pandemic risk operations plans. The plans will apply to the Red and Yellow phases as declared by an Administrative Order issued by the Judicial Council and Supreme Court. Every district or court must submit to the Management Committee a completed and signed checklist. Consider every item on the checklist and indicate whether the item has been implemented. If an item on the checklist was not implemented, provide an explanation in the space provided about why the item was not implemented. Other written materials are not required to be submitted to the Management Committee unless otherwise noted.

1.

[Yes] [No] The court is asking the Management Committee to permit the court to operate in the Yellow phase because the rate of COVID-19 spread in the county have been stable or decelerating for at least the last 14 days.

(Attach verification from the local health department verifying the stable or decelerating rate.)

2. Planning

[Yes] [No] A. Discussed proposed plan with local stakeholders including, but not limited to, sheriff, prosecutors, defense counsel, service providers, local Bar members, local health department, and DHS to identify and address issues that might arise from your plan.

If no, please explain: _____

[Yes] [No] B. Made plans to submit regular reports to the Management Committee and determined who will gather the information.

If no, please explain: _____

3. Personnel Safety

[Yes] [No] A. Provided direction to court personnel on self-checks and reporting results to management, and directions on staying home when COVID-19 symptoms are present, along with a policy to ensure confidentiality of personal information.

If no, please explain: _____

[Yes] [No] B. Identified protective steps to help keep employees safe, including:

- Arranged work spaces to maintain social distancing;
- Posted signs reminding employees of appropriate hygiene;
- Created barriers between staff and patrons to maintain social distancing;
- Eliminated or reduced high use touch points;
- Providing hand sanitizer near high use touch points when hand-washing is not available;
- Providing materials to sanitize equipment and work spaces;
- Reduced equipment sharing;
- Established a schedule for cleaning and who has the responsibility; and
- Created travel paths where feasible and warranted with signage and other areas marked to direct employees on appropriate use and distancing while moving around work areas.

If no, please explain: _____

[Yes] [No] C. Informed vulnerable employees they are not required to work at the courthouse and determined the work they can perform remotely.

If no, please explain: _____

[Yes] [No] D. Established procedures to allow vulnerable persons and those who frequently have sustained close contact with vulnerable persons to confidentially request accommodations.

If no, please explain: _____

[Yes] [No] E. Staggered work hours to reduce number of employees arriving and leaving at the same time.

If no, please explain: _____

[Yes] [No] F. Determined the employees who can work remotely and those who cannot and assigned duties accordingly.

If no, please explain: _____

[Yes] [No] G. Created employee teams to rotate shifts of working remotely and at the courthouse, or made other adjustments to schedules or workspace configurations to minimize interactions between teams.

If no, please explain: _____

[Yes] [No] H. Determined the employees who may need accommodations because of school or daycare closures and discussed potential solutions.

If no, please explain: _____

[Yes] [No] I. Designated an individual and set a schedule to frequently review information on the websites of federal, state, and county health organizations.

If no, please explain: _____

[Yes] [No] J. Created and distributed a policy requiring face coverings for personnel in areas where social distancing will not be possible.

If no, please explain: _____

[Yes] [No] K. Informed employees of travel policies.

If no, please explain: _____

4. Courthouse

[Yes] [No] A. Reviewed and changed courthouse configurations to facilitate social distancing and sanitation, including common areas, courtrooms, and workspaces.

- Designated hallways and portions of hallways for one-way traffic;
- Placed markers or other materials in waiting areas and queues indicating to individuals where they must wait or stand;
- Eliminated or reduced high use touch points, such as propped open doors where security is not a concern, removed lecterns, removed unnecessary furnishings and equipment, or eliminated or reduced number of shared equipment;
- Created barriers between patrons and personnel;
- Arranged furniture in waiting areas, meeting rooms, and courtrooms to maintain separation;
- Covered fabric on benches and other furniture that could not be removed from an area to provide for easier cleaning;
- Posted notice of the limits on the number of people in elevators;
- Reduced the use of common areas, such as by closing meeting rooms, breakrooms, and limiting restroom capacity; and
- Provided waste receptacles for discarding face coverings and other PPE.

If no, please explain: _____

[Yes] [No] B. Established a plan for screening individuals who enter facilities,

- Screening questions to be asked;
- Temperature checks, including who will administer them;
- Process for removing those who should not be allowed to enter;
- Process for reporting information to PJ, TCE, or local court administrator;

- Self-reporting requirements for exposure, symptoms, or high-risk factors;
- Posted notice that face coverings are to be worn in all areas of the courthouse;
- Designated the individuals who will frequently monitor common areas to facilitate social distancing and remind individuals as may be appropriate; and
- Identified areas to allow members of the public to maintain social distancing while waiting for their case to be called.

If no, please explain: _____

[Yes] [No] C. Determined the capacity limits of courtrooms, meeting rooms, and waiting areas – total net occupiable square footage, which is determined by dividing the total square footage in half then dividing that number by 36 – and posted notice of those limits.

If no, please explain: _____

[Yes] [No] D. Identified rooms to conduct proceedings such as jury selection and large dockets.

If no, please explain: _____

[Yes] [No] E. Consulted with those responsible for courthouse cleaning to develop plans for deep cleaning of courthouses every evening.

If no, please explain: _____

[Yes] [No] F. Providing a computer terminal in the courthouse for individuals who do not have a computer to participate remotely.

If no, please explain: _____

[Yes] [No] G. Created a plan for contact tracing for patrons and personnel.

If no, please explain: _____

[Yes] [No] H. Created a plan for screening contractors.

If no, please explain: _____

[Yes] [No] I. Created and communicated a process for how mail, packages, and other materials will be treated to reduce the risk of COVID-19 spread.

If no, please explain: _____

5. Court Proceedings

[Yes] [No] A. Determined the case and hearing types that will have scheduling priority.

If no, please explain: _____

[Yes] [No] B. Determined case and hearing types to be conducted remotely.

If no, please explain: _____

[Yes] [No] C. Considered the possibility of evening and weekend hearings (consult TCE or court administrator and H.R. before implementing).

If no, please explain: _____

[Yes] [No] D. Created a process and instructions for scheduling specific proceedings at specific times to eliminate mass calendars and to minimize contacts between individuals.

If no, please explain: _____

[Yes] [No] E. Identified the manner and means by which use of remote proceedings will be used in conjunction with in-person hearings.

- When witnesses will be allowed to testify remotely;

- Coordinated with the department of corrections, the county sheriff, or JJS to hold remote proceedings for in-custody individuals; and
- Determined what proceedings and matters may be handled remotely by senior judges and identify potential senior judges to employ (justice courts).

If no, please explain: _____

[Yes] [No] F. Developed a plan for wearing face coverings in the courtroom including when they may be removed and have face coverings on hand for those who do not have a face covering.

If no, please explain: _____

[Yes] [No] G. Developed plans to accommodate vulnerable persons, and persons who are frequently in sustained close contact with vulnerable persons, who request accommodations such as appearing remotely or postponing hearings.

If no, please explain: _____

[Yes] [No] H. Implemented a plan for texting, paging, or other technology that allows members of the public to wait outside the courthouse for their case to be called.

If no, please explain: _____

[Yes] [No] I. Determined who (e.g. attorneys, parties, witnesses, interested persons, spectators, media) will be allowed into courtrooms for each hearing and in what numbers.

If no, please explain: _____

[Yes] [No] J. Informed attorneys of expectations.

If no, please explain: _____

[Yes] [No] K. Modified court notices to direct patrons to website where court plan is located.

If no, please explain: _____

6. Other Risk Levels

[Yes] [No] Developed a plan for what changes might be necessary when a level is raised from a lower level to a higher level and vice versa.

If no, please explain: _____

Submitted by: _____
(district or juvenile presiding judge or judge of the justice court)

_____ (printed name)

Submitted by: _____
(district or juvenile TCE or justice court equivalent)

_____ (printed name)

Appendix

B

Screening Questions and Signage

These are examples of the subjects that must be covered in the screening questions and signage. The wording of the questions and signs are provided as examples, but can be modified by each court.

Screening Questions

- Have you ever tested positive for COVID-19?
- If yes,
 - Have you been symptom free for the last 72 hours without medication? , or
 - If you have not experienced any symptoms, has it been at least 10 days since you tested positive?
- Have you had sustained close contact with someone who has COVID-19?
- If yes, has it been at least 14 days since you last had contact with that person?
- Do you currently have any of these COVID-19 symptoms?
 - fever
 - cough
 - chills
 - shortness of breath or difficulty breathing
 - abnormal fatigue
 - abnormal muscle or body aches
 - new loss of taste or smell
 - sore throat
 - congestion and runny nose

Screening Signage

- **STOP!** You may not enter the courthouse if you are currently experiencing any of these COVID-19 symptoms:
 - Fever
 - Cough
 - Chills
 - Shortness of breath or difficulty breathing
 - Abnormal fatigue
 - Abnormal muscle or body aches
 - New loss of taste or smell
 - Sore throat
 - Congestion and runny nose
- You may not enter the courthouse if you have tested positive for COVID-19 unless:
 - you have gone at least 72 hours without experiencing any symptoms of COVID-19 without taking any medication for the symptoms, or
 - if you have not experienced any symptoms, it has been at least 10 days since you tested positive.
- You may not enter the courthouse if you have had sustained close contact with someone who has COVID-19 and it has been less than 14 days since the last contact.

Appendix

C



UTAH STATE COURTS

**Criminal and Civil
Trial Pandemic
Recommendations
for
District and Justice Court**

June 19, 2020

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I. Introduction

The purpose of this document is to establish minimum guidelines and recommendations for district and justice courts to conduct bench trials and jury trials while implementing COVID-19 preventative measures. Guidelines and recommendations for trial procedures are provided with the understanding that courts will adhere to:

- (i) the local pandemic risk operations plan that has been approved by the Management Committee of the Judicial Council,
- (ii) the Administrative Orders issued by the Judicial Council and Supreme Court, and
- (iii) the requirements detailed in the Risk Phase Response Plan.

Trials may resume in person once:

- (i) the COVID-19 risk level in the respective jurisdiction has reached a risk level at which in-person hearings can be conducted according to the Judiciary Risk Phase Response Plan, and
- (ii) the Management Committee of the Judicial Council has approved a district's or court's plan to resume operations. In the interim, it may be necessary to conduct all or portions of a trial remotely.

The health, safety and confidence of court staff and court patrons are essential at each step of the trial process.

II. Pre-Trial Considerations

- A. Trials conducted in person are considered to be the gold standard. When court facilities or other factors are not conducive to holding a trial in person, the court may consider conducting all or part of the trial virtually.
- B. When deciding whether to conduct all or part of a trial virtually, the court will take into account the current functionality of Webex Meetings and Webex Events.
 1. Meetings provides a "lobby" function, which allows the host to move participants into a virtual waiting room where participants cannot see or hear what is happening in the Meeting. Participants can be moved back into the Meeting as determined by the court. Webex Events does not currently offer a lobby function, although it is expected to be added sometime this summer. In a Meeting, all who are invited to participate can be seen and have the ability to mute and unmute themselves.
 2. Webex Events allows two levels of participation: panelist and attendee. Panelists can actively participate in the Event, and can be seen and heard. Panelists can mute and unmute themselves. Attendees may hear and view

the proceedings, but their camera is not activated and they cannot unmute their microphone. All participants have to register for an Event to receive the access codes. Registrants can be approved automatically, or the host can approve or deny each one manually.

- C. The court should review the trial process with interested parties to identify and resolve concerns well ahead of the trial.
- D. Depending on the length of the trial, one or more alternate jurors may need to be seated in case a juror is unable to complete the term of service due to illness or other circumstances.
- E. If interpreter services are required for any segment of the trial, courts must consider how proceedings can be interpreted for those located in the courtroom, potential jury members, witnesses and others seated outside of the courtroom. Courts must also consider how interpretation can be provided for the public observing the proceedings. More information about interpreter options is provided in Section VII.
- F. If there is the potential for multiple jury trials to take place simultaneously in one building, judges, court staff, security officers and transportation officers should collaborate and establish a plan of how to adhere to the approved local pandemic operations plan and the Risk Phase Response Plan.
- G. If any portion of the trial process is conducted in person, as allowed by the Risk Phase Response Plan, the court should have a written plan outlining areas in the courtroom to be cleaned, how the courtroom will be cleaned, when the courtroom will be cleaned, and who will be responsible for cleaning.
- H. Internet connections and bandwidth should be considered when planning for the possibility of virtual trials. Special attention should be given to internet connectivity when the jury panel, interpreters or witnesses are participating remotely.
- I. An internet connection check should be conducted in preparation for a trial when any portion of the trial will be conducted through virtual means. It should also be confirmed that all parties have the necessary equipment.
 - 1. Remote parties should have a minimum internet speed of 10 Mbps to allow quality audio and video connection through Webex. Justice courts and remote parties who are not connected to the courts' network may go to <https://fast.com/> to test internet speed. This test does not work accurately if connected to the AOC's network.

2. Any questions about a district court's internet connection should be referred to the AOC's help desk. Questions about a justice court's internet connection should be referred to personnel responsible for IT at the local level.
- J. Judges and judicial assistants should pay close attention to the court recording throughout the trial process to ensure an acceptable court record is being made. This may be challenging when using technology to allow members of the jury, witnesses, attorneys, and others to participate remotely. When utilizing technology to facilitate any portion of the trial, the court should consider having an additional judicial assistant assigned to monitor the record and manage the technology. The court may also want to consider using wireless microphones for attorneys.
- K. Depending on the type and length of the trial, the court may consider issuing a Decorum Order outlining expectations of those participating in person and those participating virtually.

III. Jury Selection

A. Jury Pool

The court may consider requesting a larger prospective jury pool to account for an increased number of prospective jurors who may ask to be excused due to COVID-19.

B. Jury Summons Packet

The juror summons packet should be sent 15-20 days before trial to allow for the additional time that may be needed to seat a jury. The following items should be included in the packet:

1. Cover letter explaining the contents of the packet (Appendix A) to:
 - a. Explain that the prospective juror is under oath as they complete the questionnaire.
 - b. Provide a link to the juror instruction video on YouTube.
 - c. Provide a link to a Google form prospective jurors can use to answer the questionnaire electronically if they choose (Appendix B).
 - d. Provide a personal letter from the judge emphasizing the measures the courts have taken to ensure juror safety, including information about the precautions that have been considered, and what safeguards have

been put in place in accordance with COVID-19 guidelines. (Appendix C).

- e. Refer to the separate COVID-19 Juror Questionnaire.
 - f. Provide the prospective juror their assigned number.
2. Questionnaire prepared by the judge and/or attorneys to consider for jury service.
 3. Additional questionnaire prepared by the judge and court staff about the best way to contact the prospective juror for possible remote voir dire, and to screen the prospective juror for possible health issues / exposure to COVID-19 (Appendix D).
 4. When applicable to the jury selection process, include an instructional step-by-step document on how to use and join Webex for remote voir dire.
 5. Return envelope with prepaid postage.
- C. Processing Questionnaire:
1. The judicial assistant will enter information from the completed paper questionnaire into the Google form.
 2. Gather information about how each prospective juror can be reached for possible remote voir dire.
 3. The judicial assistant will attempt to contact prospective jurors who have not responded to gather any missing information.
 4. Once compiled, the judicial assistant will send the results from the questionnaire to the judge and attorneys.
 5. Automatic exclusion of a particular segment of the community, such as individuals over age 60, would likely violate Taylor v. Louisiana, 419 U.S. 522 (1975). Instead, decisions about whether to excuse a prospective juror should be based on each individual juror's particular health concerns.
- D. Voir Dire (In Person)
1. To the extent possible, it is recommended that voir dire be conducted virtually. If any portion of voir dire is conducted in person the jury pool will be given staggered intervals and times to appear to ensure appropriate

social distancing. The prospective jurors will be sorted into their staggered intervals according to their assigned juror number.

2. Because of the staggered intervals, voir dire is likely to take much longer than normal. It is recommended that a separate day be scheduled before the trial to conduct voir dire.
3. The defendant has the right to have the public be present during voir dire. When conducting voir dire in person, cameras may be set up so that the public, including media, has the ability to observe the process. It is recommended that Webex Events be used for members of the public and media.
4. Depending on the preference of the judge and attorneys, it is recommended that prospective jurors who have been excused via stipulation should be notified the day before voir dire is conducted.
 - a. It is recommended that prospective jurors who are excused not appear in person to facilitate voir dire with the remaining prospective jurors.
5. Remaining prospective jurors will appear at staggered intervals, according to what each courthouse will accommodate while maintaining appropriate safeguards outlined in the Risk Phase Response Plan. As each group of prospective jurors appears, they will be sworn in by the judicial assistant.
6. If the judge and/or attorneys want to question any prospective juror privately, accommodations must be made to ensure proper social distancing.
 - a. It is recommended that individual voir dire take place in the courtroom. Other prospective jurors should be excused to another area such as the lobby, another courtroom, or a large conference room. This is to better accommodate recommended distancing and to keep the record complete.
 - b. Although a judge's chambers may accommodate recording of voir dire, it may be too small to allow for proper distancing. In addition, in-custody defendants would not be allowed to enter the judge's chambers for security reasons.
 - c. If individual voir dire is conducted in the jury room or a conference room and the location is not set up to record directly into FTR, or other recording system used by justice courts, the proceeding should be recorded on a mobile recording device and uploaded later. Each court

should confirm that it has access to a working mobile recording device.

7. Peremptory challenges should be limited at the discretion of the judge. A temporary suspension or limiting of peremptory challenges under Utah Rule of Criminal Procedure 18(d) and Utah Rule of Civil Procedure 47(e) will help manage a low juror summons response rate and possible higher than normal hardship excusals. In cases where the juror pool is low, a judge should have the discretion to limit peremptory challenges in order to seat a jury and allow the trial to move forward. To that end, amendments to Utah Rule of Criminal Procedure 18(d) and Utah Rule of Civil Procedure 47(e) are being considered.
8. Once the panel has been chosen, the remaining prospective jurors will be excused.
9. The jury panel is then sworn in. Instructions will be given to the panel about how and where they will be placed during the trial, such as the courtroom gallery, elsewhere on court premises, or in an entirely different location.

E. Voir Dire (Remote)

1. The jury pool may be given intervals and times to appear when voir dire is conducted remotely because it may be easier to manage several small groups appearing remotely as opposed to one large group. If the court elects to divide the jury pool into separate intervals, the prospective jurors may be sorted according to their assigned juror number.
2. Voir dire is likely to take much longer than normal. It is recommended that the court and attorneys schedule a separate day before the trial to conduct voir dire.
3. The defendant has the right to have the public, including media, present during voir dire.
 - a. Prospective jurors will be invited to participate in the proceedings via Webex Meetings. This will allow prospective jurors to be placed in the lobby until invited back into the courtroom. At this time, Webex Events does not have this capability.
 - b. When using Webex Meetings, if the defendant wants members of the public and media present during voir dire, members of the public and

media should be invited into the virtual courtroom. Their microphones must be muted and cameras must be turned off.

4. If Webex Meetings is used during remote voir dire, the chat feature **must** be turned off to eliminate communication between the judge, jury panel, public, media, and others.
5. Depending on the preference of the judge and attorneys, it is recommended that prospective jurors who have been excused via stipulation be notified the day before voir dire is conducted.
6. Remaining prospective jurors will appear via Webex Meetings.
7. The judicial assistant will start the meeting and start the recording. Each panel will be sworn in as appropriate.
 - a. It is recommended that a separate Meeting be set up for each staggered interval to allow the judicial assistant to account for all the prospective jurors.
 - b. The court may also consider bringing all remaining prospective jurors into the courtroom at the same time via Webex Meetings to administer the oath and address statutory concerns as it will save time.
8. If the judge and/or attorneys want to question prospective jurors privately, the judicial assistant can place the other prospective jurors in the virtual lobby during that time period. Each prospective juror can be admitted to the Meeting or sent to the lobby according to the judge's and counsel's preferences.
9. Peremptory challenges should be limited at the discretion of the judge. A temporary suspension or limiting of peremptory challenges under Utah Rule of Criminal Procedure 18(d) and Utah Rule of Civil Procedure 47(e) will help manage a low juror summons response rate and likely higher than normal hardship excusals. In cases where the juror pool is low, a judge should have the discretion to limit peremptory challenges in order to seat a jury and allow the trial to move forward. To that end, amendments to Utah Rule of Criminal Procedure 18(d) and Utah Rule of Civil Procedure 47(e) are being considered.
10. Once the panel has been chosen, the remaining jury pool will be excused.

11. The jury panel is sworn in and instructions are given to the panel as to how they will be placed during the trial, whether that is in the courtroom gallery, elsewhere on court premises or in an off-site remote location.
 - a. If the court conducts remote voir dire by staggering small groups, chosen jurors will have likely participated in different Webex Meeting groups.
 - b. The judicial assistant will contact all selected jurors and provide instructions as to how they will be seated during the trial, whether that be in the courtroom gallery, partially in the jury box, in another large room elsewhere on court premises or in an off-site location.
 - c. The jury panel can be sworn-in together on the day the trial begins.

IV. Courtroom Set-Up and Jury Placement

Several things need to be taken into consideration when setting up the courtroom and placing the jury and will vary by court location. These considerations include the current risk prevention recommendations, the size of courtroom, and the comfort level of the court and parties. For criminal trials, the judge, defendant (in accordance with Utah Rule of Criminal Procedure 17(a)), counsel, bailiff/security/transportation officers and judicial assistant(s) should be present in the courtroom. Witnesses, interpreters and jury members may appear virtually in order to achieve social distancing.

Various courtroom set-up schemes that involve remote and in-person jury participation should be considered to find a model that works best for the circumstances and facilities available. Judges and court staff should walk through the courtroom set-up and jury placement with the attorneys, security, transportation officers and other interested parties before the trial to identify potential conflicts that may arise.

A. Jury Seated Outside the Trial Courtroom

The court's Information Technology Department has designed a technological solution for the Matheson courthouse that allows the jury to be seated outside of the trial courtroom. [Virtual Jury Video] Similar arrangements may be set up elsewhere in the state. The key is to allow members of the jury to maintain social distance. Placement and configuration of the jury may vary based on court facilities. Alternate locations may include an adjacent courtroom, a large conference room, or an off-site public facility such as a city/county building, community building or school.

Cameras will be positioned to capture the witnesses, counsel, parties and the judge in the courtroom and streamed to members of the jury. Members of the jury will view courtroom proceedings on individual monitors while seated at least six feet apart.

Cameras will capture members of the jury and be displayed on a single large screen for those seated within the courtroom.

B. Items to consider:

1. Is there a room large enough inside the courthouse that will allow the jury to be seated and maintain appropriate social distancing?
2. If not, is there another facility in the community (school buildings, community centers, hotel conference rooms, etc.)?
3. If the jury is seated in another facility, is the internet connection at each location adequate?
4. If the jury is seated in another facility, what security measures need to be in place?
5. How does the jury submit written questions under Utah Rule of Criminal Procedure 17(h)? (Please refer to the Risk Phase Response plan for guidelines concerning the transfer of paper)
 - a. If questions from the jury are allowed by the judge and a juror wishes to submit a question for a witness, the juror may write the question on a piece of paper and place it in a collection tray.
 - b. The bailiff will retrieve the written question from the collection tray and deliver the question to the judge, scan the question and send it to the judge, or retype the question and email it to the judicial assistant who will then give the question to the judge for consideration.
 - c. The written question will be collected and preserved in the court file as per rule.
6. Except for recesses where the jury is permitted to leave, the jury will remain in this one location for the duration of the trial, including deliberation. The remote connection to the courtroom will be paused when the jury would ordinarily leave the courtroom.

C. Jury Seated Inside the Trial Courtroom

Decisions about the placement and configuration of how the jury will be seated will vary by court facility. A jury may be seated in the trial courtroom gallery and jury box, for example, to achieve the required level of social distancing and other precautions outlined in the Risk Phase Response Plan. Cameras will be used to capture the judge, witnesses, attorneys, and parties, who will be seated in the courtroom, for the public to view.

D. Items to consider:

1. Except for recesses where the jury is permitted to leave, the jury will need a space large enough to ensure social distancing during recesses and deliberation, such as a separate courtroom or large conference room.
2. When jurors are seated in the courtroom gallery, it may be necessary to rearrange counsel tables to allow visual contact between jurors and the defendant.
3. Depending on the courtroom setup, each judge will need to determine whether video of the jury may be viewed by the public and media.
4. Sidebar discussions may require the judge and counsel to exit the courtroom to engage in conversation while social distancing.

V. Public Access (Jury or Bench Trial)

- A. Public access to trial proceedings, including media access, will be managed through Webex Events until it is deemed safe to allow public observers into the courtroom.
1. Webex Events allows the public to observe trial proceedings from their place of choice.
 2. In some instances, the court may consider streaming the proceedings to another room in the courthouse or to another facility in the community to accommodate members of the public who do not have the technological resources or ability to otherwise access the proceedings.

VI. Presentation and Processing of Evidence (Jury or Bench Trial)

- A. Documents, video, and photos shall be shared electronically. Please refer to the guidelines on sharing of documents in the Risk Phase Response Plan.
- B. Video evidence should be presented electronically to facilitate smooth playback, and should not be embedded in electronic evidence presentations such as PowerPoint.
- C. Each attorney will compile their proposed exhibits in PDF format and share it with opposing counsel and the judicial assistant by email in advance of the trial.
- D. The judicial assistant will provide copies of all exhibits to the judge. All parties now have a copy of proposed exhibits.

- E. As exhibits are offered, argued, accepted, etc., the judicial assistant will print out those exhibits and mark them appropriately. These will be considered the 'original' exhibits.
- F. At the conclusion of the trial or hearing, the judicial assistant should have all offered exhibits printed and marked appropriately and can finalize the exhibits appropriately.
- G. This method will not work for video, audio, or physical evidence. Only documents and pictures can be converted to PDF format. There is no current electronic solution to share objects and large visual items presented as evidence. If such evidence is to be presented, attorneys will need to identify a method of delivery that is permitted by the court.

VII. Interpreters (Jury or Bench Trial)

- A. Items to consider
 - 1. Interpreters should be asked the same COVID-19 screening questions as prospective jurors if interpreting in person.
 - 2. Simultaneous interpretation is preferred to avoid unnecessary delays during a trial.
 - 3. If an attorney and his or her client need to meet privately and require interpreter services, the attorney, client, and interpreter may need to exit the courtroom and conduct their discussion in a room that can accommodate social distancing.
 - 4. Interpreters should not wear a face covering once interpreting begins if it interferes with the clarity of the interpretation.
- B. Remote Interpretation
 - 1. Webex does not currently allow for simultaneous interpretation. In order to facilitate simultaneous interpretation, a secondary line of communication must be established through the use of a conference line and cell phones or landlines.
 - 2. A secondary line of communication would be established as follows:
 - a. The proceeding begins on Webex. This also ensures the party can and does join by video.

- b. The judge (through the interpreter) asks the party if they have a telephone available.
 - c. The judge (through the interpreter) instructs the party and the interpreter to call the conference line.
 - d. The party and the interpreter call the conference line and simultaneous interpreting begins.
 3. The party must appear by video and have the means, such as a landline or second cell phone, in order for the secondary line of communication to be an option. If the party does not have the means necessary for the secondary line of communication, then the interpreter will have to render the interpretation in consecutive mode. This will require whoever is speaking to pause after every 2-3 sentences to allow the interpreter the necessary time and space to interpret. An interpreter cannot accurately interpret if they must speak over someone to render the interpretation.

C. In-Person Interpretation

Interpreters can appear in the same room with the party needing interpretation as long as social distancing protocols are maintained. The interpreter equipment should be utilized so that social distancing protocols can be maintained. If the interpreter equipment is not available, courts should consider using cell phones and a conference line for the interpreters and the party in order to create ad hoc interpreter equipment.

D. In-Person Interpreting Options:

1. Utilize the interpreter equipment, whether it is provided by the court or the interpreter.
 - a. The interpreter equipment must be sanitized before and after each use, in front of the party. Courtroom staff will be responsible to ensure this happens.
2. Utilize ad hoc interpreter equipment to create the ability for interpreters to maintain social distancing protocols. For example:
 - a. A cell phone and headphone, with microphone capability, for the interpreter (ideally the interpreter's personal cell phone and headphones)
 - b. A cell phone and headphone for the party (ideally the party's personal cell phone and headphones)

- c. A conference line for both the interpreter and the party to call from their cell phones. This will ensure the party does not gain the interpreter's personal contact information.
 - d. If the party does not have a cell phone, courts should consider providing the party with a laptop with a softphone application such as Jabber so that the interpreter could still render the interpretation simultaneously while keeping a safe distance from the party.
- 3. Consecutive mode of interpreting could be used as a last resort.
 - a. Interpreters should not stand beside the party. If space allows, maintain a distance of six feet and interpret in consecutive mode.
 - b. If a safe distance cannot be maintained, interpreters should position themselves slightly behind the party, and avoid positions where the interpreter and the party directly face each other.
 - c. If a victim requires an interpreter, the interpreter equipment or ad hoc interpreter equipment should be utilized. If crowd control measures prevent the victim from being in the courtroom where the proceeding is occurring, the victim should be placed in a room or courtroom next door. The interpreter equipment has the range to provide clear interpretation from the interpreter in the courtroom to the victim in the next room. If the ad hoc interpreter equipment is used, the victim could call the conference line from a location outside of the courthouse while simultaneously observing the proceeding via Webex.

VIII. Witnesses

- A. Witnesses should be asked the same COVID-19 screening questions as prospective jurors if testifying in person.
- B. Witnesses may be precluded from testifying remotely per rule Utah Rule of Criminal Procedure 17.5. A temporary amendment to this rule is being considered.
- C. Webex Events does not currently have a "lobby" function. Witnesses should be told they may not observe or listen to other testimony, and that they will be asked to join the proceedings when it is time for them to testify. If participating remotely via Webex Meetings, the witness may be placed in the lobby until it is time for them to testify.

IX. Jury Deliberation

- A. In cases where the trial is conducted with the jury seated in the trial courtroom, it is recommended that jury deliberations take place in a separate courtroom or large meeting room whenever possible, so jurors can be isolated and maintain social distancing.
- B. In cases where another courtroom or other large room is not available, deliberation may take place in the trial courtroom.
- C. When deliberation is held in the trial courtroom, all attorney materials must be removed from the courtroom and computers must be locked.
- D. When jurors have questions during deliberations, they may write the question on a piece of paper and place it in a collection basket distanced from other jurors. They will notify the bailiff who will retrieve the paper and deliver it to the judge. The bailiff, judge, and anyone else touching the paper should wear gloves and exercise other precautions outlined in the Risk Phase Response Plan.

X. Jury Payment and Qualified Jury Pool

- A. Jury payments should be made in accordance with the Court’s Accounting Manual Section 10-01.01. The term “appear” in the context of remote appearance means that a prospective juror was invited to attend and entered the virtual courtroom.
- B. Prospective jurors who are excused for cause prior to appearing for voir dire, may be returned to the jury pool of qualified jurors and could possibly be summoned again. Since it may require more prospective jurors to seat a jury, returning jurors to the pool who excused for cause will assist in keeping enough prospective juror names in the active pool.

XI. Jury Priority

It is anticipated that the number of cases ready for trial will exceed the number of court locations equipped with the technological resources needed to conduct a jury trial using these guidelines. Therefore, consistent with Utah Rule of Criminal Procedure 17(b), priority of jury trials by court location should be given in the following order:

- A. Misdemeanor cases in which the defendant is in custody: the case with the oldest filing date has the highest priority.
- B. Felony cases in which the defendant is in custody: the case with the oldest filing date has the highest priority.

- C. Felony cases in which the defendant is on bail or recognizance: the case with the oldest filing date has the highest priority.
- D. Misdemeanor cases in which the defendant is on bail or recognizance: the case with the oldest filing date has the highest priority.
- E. Civil cases: the case with the oldest filing date has the highest priority.

Each court location should make every reasonable effort to continue to use its available technological resources to reduce the anticipated backlog of jury trials. Those resources may need to be reallocated to other court locations depending on actual use and future need.

XII. Transportation and Security

- A. The court must work with transportation officers when defendants are in custody and need to be transported to the courthouse. The court and the holding authority must develop a transportation plan that accommodates social distancing.
- B. The court must work with security officers to ensure placement of officers will provide necessary security while practicing social distancing in a way that will not compromise the safety of others and will not alert the jury to the defendant's custody status.

XIII. Jury Meals and Snacks

- A. The court should consider whether jury meals will be brought into the courthouse or if members of the jury will be allowed to leave the courthouse and eat at a restaurant.
- B. All meals or snacks brought into the courthouse should be individually wrapped. Buffet style meals/snacks are not permitted.

XIV. Media Access to Trial Proceedings

- A. Media outlets may access trial proceedings through the same Webex feature as the public if they are observing but not recording the proceedings.
- B. If a media outlet wishes to film, photograph or record trial proceedings through Webex they must submit a media pool request form for the judge's approval.

Appendix A

Dear Prospective Juror:

You have been chosen by random selection for jury service. Trial by jury is a fundamentally important part of our system of justice. It is both an opportunity and an obligation of every American to serve on a jury when selected.

This form is used to obtain information about you to determine if you are qualified to serve as a juror. It also helps the attorneys and parties choose the jury for their case.

Please complete the entire form and submit it (or return the paper form) within ten days. If you are unable to complete this form, someone else may do it for you. But that person must indicate the reason for completing the form instead of you.

By completing this form and submitting it, you affirm that the answers are true, correct, and complete to the best of your knowledge.

Section 1: (Juror Information)

1. Full name:
2. Juror number (This can be found on the cover letter / summons.):
3. Age:
4. Gender:
5. Email address:
6. Do you have access to the internet?
7. Do you have access to a laptop, a computer with a camera and microphone, or a smartphone?
8. If someone else helped you fill out this form, please write that person's name below and explain the reason they helped you. If this does not apply, please go to the next question.
9. Please affirm the following statement by signing your full name below: "I declare under criminal penalty under the law of Utah that the statements in this form are true and correct."
10. Based on your answers, your jury service may be deferred (postponed). Jurors who are deferred will receive a new summons for later service. Any questions should be directed to [email] or [phone].

Section 2: (COVID-19 Risk Factors)

The safety of jurors and court employees remains the Court's highest priority. As the COVID-19 outbreak continues to evolve, the Court is following current recommendations from the Centers for Disease Control (CDC) and local and national health authorities.

To prevent the spread of COVID-19 and reduce the potential risk of exposure to jurors and our staff, we are conducting a simple screening questionnaire. Your participation is important to help us take precautionary measures to protect you and everyone in our courthouses.

1. Have you been diagnosed with COVID-19?
2. Have you had close contact with anyone who has been diagnosed with COVID-19 within the last 14 days?
3. Have you experienced any cold or flu-like symptoms within the last 14 days (including fever, cough, sore throat, respiratory illness, or difficulty breathing)?
4. Are you over age 60, or a person of any age with an underlying medical condition that puts you at a higher risk of developing serious health complications from COVID-19?
5. Do you live with or provide direct care for a vulnerable person?
6. Do you have children at home who require your direct supervision due to school and/or daycare closings? (NOTE: Only answer 'Yes' if there is NO ONE else in the household who can provide care during your jury service.)
7. Are you an essential healthcare worker who has been treating, or is currently treating, COVID-19 patients?
8. If ANY of the above questions apply to you, please enter "Yes".

Section 3: (Prospective Juror Background)

1. Where do you live?
2. How long have you lived there?
3. What other places have you lived?
4. What do you do for a living? If you are retired, what did you do for a living?
5. What is the extent of your education and area of focus if any?
6. ETC.

Section 4: (Case-specific Information)

1. Have you or a family member been the victim of a crime?
2. Have you or a family member ever struggled with substance abuse?
3. Have any of your family members ever been arrested or convicted of a crime?
4. Are any of your family members an employee of a police department?
5. Have you ever been a witness, a defendant, or a victim in a trial?
6. ETC.

SIGNATURE:

Appendix B

Jury Selection Form

***Required**

Your Background

Where do you live? * Answer:
How long have you lived there? * Answer:
What other places have you lived? * Answer:
How old are you? Answer:
What do you or did you do for work? Answer:
What is the extent of your education and area of focus, if any? Answer:
Are you married? * Answer:
If you are or have been in a long-term relationship, what does your significant other do for work? Answer:
What is the extent of your significant other's education and area of focus? Answer:

What publications do you regularly read? Answer:
What television programs do you regularly watch? Answer:
Do you have any mental or physical infirmity which would render you incapable of performing the duties of a juror? [Yes] [No]
If you answered Yes regarding a mental or physical infirmity, please briefly describe why it would prevent you from serving. Answer:
The Defendant's name is _____, are you related as 1 st cousin or closer to the defendant? [Yes] [No]
Do you have any social, legal, business, fiduciary or other relationship between another prospective juror or any party, witness or person alleged to have been victimized or injured by the defendant? [Yes] [No]
Have you been or are you a party adverse to the defendant in a civil action or you have complained against or been accused by the defendant in a criminal prosecution? [Yes] [No]
Have you previously served on a jury including a grand jury? [Yes] [No]
If you have previously served on a jury including a grand jury, please describe the

nature of the case and the outcome.

Answer:

Have you formed or expressed an unqualified opinion or belief as to whether the defendant is guilty or not guilty of the offense charged?

[Yes] [No] [Maybe]

Please rate your desire to serve as a juror.

Not willing [1] [2] [3] [4] [5] Hope to serve

Please check all that apply to you

[] Recently felt sick

[] Have existing health issues

[] Other: _____

If you selected other above, please describe the concern.

Answer:

[] Send me a copy of my responses.

Appendix C

[date]

To All Prospective Jurors

RE: Your Upcoming Jury Service During the COVID-19 Pandemic

Dear Prospective Jurors:

You received a Summons directing you to appear for jury service at 00:00 a.m. on Monday, July X, 2020 at [Courthouse Address].

This will be among the first jury trials I have undertaken since the start of the COVID-19 pandemic. I want to assure you that every reasonable precaution is being taken to protect the health and safety of the jury, the parties, lawyers, and court staff during jury selection and the jury trial.

So that you won't be surprised when you arrive, please be aware of the following:

1. Each prospective juror might have their temperature taken via a hand-held thermometer as they enter the courthouse. This is to ensure that no one with a fever or elevated temperature is admitted.
2. You will be expected to wear a face covering upon entering the building and to keep it on at all times while you are in the courthouse. Bring your own face covering. If you do not have a face covering, one will be provided to you.
3. Once you pass through security screening, you will be seated in a courtroom or other large room that has been set up to ensure maximum social distancing.
4. Latex gloves will be available for you to wear if you wish. Gloves are not required.
5. Smartphones, iPads, or similar electronic devices should be left outside the courthouse. You may leave them in your car, but do not bring them into the courthouse.
6. Hand sanitizer will be available at multiple locations inside the courthouse.
7. If you are selected to serve on the jury panel you will be seated in the [gallery, jury box, etc.] at least six feet away from other jurors and others.
8. Individual lunches will be provided to the selected jurors during the trial to minimize any travel in and out of the courthouse and to minimize your interaction at local restaurants.

If any of these apply to you, immediately contact XXX, Judicial Assistant, at the phone number on the Summons. They may ask you to provide documentation from your physician.

- You have been diagnosed by a licensed physician as having COVID-19 any time within the past 30 days.
- You are actively caring for a family member or loved one who has tested positive for COVID-19.
- You are self-quarantining and would still be in self-quarantine on July X.

If you have a scheduled surgical procedure, or if you have an obligation that would make it **extremely difficult** and create a **real hardship** on you to be here each day, please contact XXX by calling the phone number listed on the Summons.

The right to trial by jury is one of the cornerstones of our democracy, and a jury trial necessarily involves sacrifice from those citizens called upon to serve. Only those with extreme hardships should ask to be excused from jury duty.

It is vital that you appear for jury service on July XX. The Court is mindful of these challenging times and is taking every reasonable precaution to maintain your health as well as that of the parties, lawyers, and Court staff during this upcoming trial.

I look forward to seeing you on July XX.

Respectfully,

Appendix D

COVID-19 Juror Questionnaire

The safety of jurors and court staff are the Court's highest priority. The Presiding Judge is monitoring the COVID-19 situation closely and will ensure that the jury selection process follows the current recommendations from the Centers for Disease Control and local and national health authorities.

To prevent the spread of COVID-19 and to reduce the potential risk of exposure to jurors and our staff, we ask you to fill out a simple screening questionnaire. Your participation is important to help us protect you and everyone in our courthouses. You may either complete the form below and return it with your paper Jury Information Form, or you can answer the questions on our website: www.XXXXXXX.gov.

Thank you for your time.

NAME: _____

PARTICIPANT NUMBER: _____

PHONE NUMBER: _____

Supplemental Screening Questionnaire

1. Have you been diagnosed with COVID-19 within the last 14 days?
Yes / No
2. Have you had sustained close contact with anyone who has been diagnosed with COVID-19 within the last 14 days?
Yes / No
3. Have you had any cold or flu-like symptoms in the last 14 days (including fever, cough, sore throat, respiratory illness, or difficulty breathing)?
Yes / No
4. Are you over age 60, or a person of any age with an underlying medical condition that puts you at a higher risk of developing serious health complications from COVID-19?

Yes / No

5. Do you live with or provide direct care for a person vulnerable to COVID-19?

Yes / No

6. Do you have children at home who require your direct supervision due to school and/or daycare closings?

Note: Only answer YES if there is **no one else in the household** who can provide care during your jury service. If you answer “yes” to any of the above questions, your jury service will be deferred.

Yes / No

You will receive written confirmation of your deferral by mail or email. Any questions should be directed to [email] or [phone].

Signature: _____

Date _____

Appendix

D



UTAH STATE COURTS

Juvenile Court

Virtual and In-person Trials

Best Practices Documents

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Introduction

The Juvenile Trials Work Group developed best practices for virtual and in-person trials conducted in juvenile court. The common emphasis repeated at the beginning of each of the best practice documents is that *“Trials should ideally be conducted in person, if possible and when it can be done safely. If a trial can be reasonably delayed until an in-person opportunity becomes available, then the court should wait to conduct a trial.”*

This guide includes the best practice documents, along with sample notice and instruction documents which may be individually tailored and provided ahead of trial to parties and witnesses. The purpose of these guidelines is to provide recommendations for all parties regarding necessary preparations before the trial, during the trial, and after the trial. Examples of considerations and recommendations include issues related to notice to parties, public access, in-custody parties or witnesses, creation of a clear record, interpretation, submission of evidence, and attorney-client communication during trial.

Given the diversity of circumstances in our State, the Work Group recognizes that not every possible scenario can be anticipated and that each trial or evidentiary hearing will likely involve a hybrid of recommendations from both the virtual and in-person best practices. As such, the Work Group recommends that the judge and all parties to a case review these best practices at a final pretrial to establish a firm plan to conduct the hearing in the safest, most efficient way possible based on the unique circumstances in each case.

These best practice guidelines should be adapted to and used in compliance with the risk phase for each court location or district as determined by the Judicial Council.

JUVENILE TRIALS VIRTUAL Best Practices

Purpose/Scope

Trials should ideally be conducted in person, if possible and when it can be done safely. If a trial can be reasonably delayed until an in-person opportunity becomes available, then the court should wait to conduct a trial. However, when a trial is necessary and cannot be delayed, these are the best practices for conducting a completely virtual proceeding. The purpose of these best practice guidelines is to provide individual districts and court teams guidance on effectively conducting a virtual trial through the available Webex platforms while allowing flexibility for the unique circumstances and differences that exist between courtrooms across the state. A virtual trial will take more time than a regular trial and will require more work and planning to prepare for the proceeding. Additionally, parties and their attorneys will likely require more time and flexibility during the trial to communicate and consult with each other.

VIRTUAL PLATFORM OPTIONS FOR CONDUCTING A TRIAL

Webex Meetings

➤ Best Uses

Webex Meetings can be used for any hearing and is currently the best option for trials because of the ability to manage individual participants, including witnesses, during the hearing.

➤ Unique Features

- Offers a “lobby” function that allows moving witnesses into a virtual lobby that provides the court the ability to enforce the exclusionary rule. The lobby feature can also be used for sidebar and in camera meetings, and for the attorney-client communication.
- All participants have similar video and audio functions for full participation in the hearing.

Webex Events

➤ Best Uses

Webex Events may be used for trials that do not require multiple witnesses, but it is best suited for proceedings with multiple observers who may “attend” but are not entitled to participate in the hearing. Examples include adoption proceedings and hearings involving media or Judicial Performance Evaluation Commission (JPEC) observers.

➤ Unique Features

- Offers two participant categories: “panelists” who are allowed to fully participate in the proceeding and “attendees” who can view and hear the proceeding, but do not have an active camera and cannot unmute their microphone unless the host provides those functions to them.
- Participants have to register for an Event to receive the access code for the proceeding.

BEFORE THE TRIAL

I. Preparing for the Virtual Trial

- The judicial assistant should create the virtual hearing, either choosing the Webex Meetings or Webex Events platform depending on the needs for the hearing and preferences of the court. All juvenile court hearings should be titled consistently using the following format: Judge, Case #/Name, Hearing Description, Courtroom Name or Number [*e.g. Judge Jones, 1115555 YOGI BEAR children, Adjudication Trial, MOAJUVCRT1*].
- The hearing should be created on behalf of the judge or through a judge’s Webex account.
- The judicial assistant should send a shareable Webex Meeting invitation or a Webex Event invitation in addition to the notice of the hearing to the attorneys and pro se litigants, as applicable.

II. Notice to Parties

- The attorney or pro se litigant must provide notice of the virtual hearing to the parties, witnesses, and anyone else intending to participate in or observe the trial. The notice should include links to the Webex platform and directions on how to participate in the virtual hearing. The attorney or pro se litigant should then provide the parties and witnesses with a time to call into the hearing or appear virtually. Judicial teams may need to assist pro se litigants with providing notices of virtual hearings.
- Notices should include instructions to contact the local court to make alternative arrangements if participants do not have access to needed equipment.
- Although the Webex platform allows for individuals to appear by phone, parties and witnesses should be encouraged to use a web platform with a camera, if possible. If safe and feasible, attorneys and their clients should be in the same physical location and appear together during the trial to facilitate attorney-client communication.
- Participants in the trial should be encouraged to use a hard wired internet connection, if possible, as Wi-Fi connections and phone data may be unstable.
- The court should provide notice to attorneys and other participants in the trial detailing virtual trial etiquette and features of the Webex platform to facilitate the hearing. Notices should be developed to reflect the needs and requirements of each district and judge. Examples of what may be incorporated in the notice include:
 - Guidance on muting/unmuting an individual's microphone when not speaking
 - Guidance on using headsets or speakers to listen and communicate during the hearing
 - Instructions for participants to seek a quiet place that offers privacy and protects confidentiality to view and participate in the hearing
 - An outline on how to object to an action or statement during the trial (e.g. verbal objections or other virtual methods, such as “raising a hand”)
 - Instructions on sharing evidence before the trial with each party and the court via email to help facilitate the admission of evidence during the proceeding
 - Guidance on sharing screen content over the Webex platform during the proceeding

III. Patrons Without a Phone or Computer Access

Districts should be prepared to address how patrons without access to a phone or a computer can participate in a virtual trial. Options may include providing a private space in the courthouse with a phone/computer or making arrangements with partner agencies.

IV. Notice to Public and Access to Hearings

- There will be a juvenile court section on the Utah Courts public website stating: “If you are interested in observing juvenile court hearings, please contact the court clerk in the district where the hearing is held. Contact information for each courthouse is available at <https://www.utcourts.gov/directory/>.”
- If an interested person contacts the district to observe a hearing and the hearing is public, the judicial assistant will add them to the Webex Meeting invites for the hearing or send an invitation to register for a Webex Event.
- The judicial assistant will provide the person observing the hearing with the same information on the virtual hearing etiquette as outlined in the Notice to Parties section.

V. In-custody Trials

Districts should work with local detention centers, jails, and law enforcement to determine the best way to accommodate trials involving youth in detention or incarcerated parents. The ability to accommodate virtual trials in a facility and the current circumstances with transporting youth and parents from detention and jail need to be considered.

VI. Managing Webex Proceedings

Courtroom teams may consider using a second judicial assistant to help facilitate the hearing and provide virtual support during the proceeding. The person does not need to be in the courtroom during the trial and can assist from a different location to help maintain social distancing. To assist with managing the proceeding, the second judicial assistant must have “hosting rights” to control all Webex functions. Responsibilities of the second judicial assistant may include:

- Ensuring the hearing is being recorded
- Managing the participants, such as:
 - Unmuting/muting participants (unless the judge prefers to do this)
 - Moving users between the Webex lobby and the hearing
 - Expelling users at the direction of the judge
 - Locking the meeting
 - Helping manage the digital exhibits during the trial, including presenting them over the Webex platform as needed
 - Helping troubleshoot issues during the trial (witnesses, interpreters, attorneys sharing content)
 - Managing public comments and chats
 - Addressing technical problems via the private chat options

DURING THE TRIAL

I. Creating the Record

- During a virtual trial, the court record can be created through the FTR system (the in-court recording system) or through the Webex recording function. To avoid duplicate records and issues of inconsistencies between the recordings, only one record should be created. The best practice is to use the Webex recording function for a completely virtual trial. The Webex recording can then be pulled into FTR via the applicable software.
- In a hybrid trial, where there may be a judicial assistant in the courtroom, the FTR system should be used instead of the Webex recording. If the FTR system fails during the hearing, the judicial assistant should start the recording in Webex.
- If using the Webex recording, the judicial assistant managing the hearing should pause or stop the recording for off the record sidebars and recesses, and then resume recording after the hearing is back on the record.
 - If a recording is paused and then resumed later, the entire recording is saved in one recording file.
 - If a recording is stopped and then started again later, a separate recording file will be created. Separate recordings will be combined into one file when pulling the recording into FTR.
- Participants in the trial should be informed that the audio and video of the proceeding continue even if the recording is paused or stopped. As such, the participants should turn their audio and video off when the hearing recording is paused or stopped, unless they are participating in sidebar or in camera meetings.

II. Calling the Case

- Generally, persons who join the proceeding via the Webex platform will be identified by their registration information within the application. If someone who is not identifiable calls into the hearing, the judicial assistant or another designated individual should ask that individual to identify themselves. The individual that is hosting the Webex platform should then rename persons who are calling into the hearing to identify them to the court on the web application.
- The identity of callers will need to be verified by their attorney, caseworker, or another party if the judge is not familiar with their voice.
- For those who are appearing by video on the Webex platform, the attorney or caseworker should identify the parties appearing for the court.
- Additionally, the court may opt to perform a roll call of every individual at the beginning of the hearing to identify each person.

III. Virtual Recess

The court should consider the following when taking a recess:

- Make the recess time-specific.
- Recommend to the parties to turn their cameras off and to mute their microphones during the recess. Participants in the trial should be informed that the audio and video of the proceeding continue even if the recording is paused or stopped.
- If the recording is paused or stopped, the host should share a screen notifying the parties of the recess.
- During a longer recess, it may be best to require every party to log off from the hearing with instructions for logging back in at a specific time.

IV. Managing Multi-Day Trials

Depending on the need of the court and the number of witnesses, trials that span multiple days may be scheduled in different ways on Webex. The simplest method is to have one Webex Meeting or Event invite for the entire trial using the recurrence setting and allowing parties to reuse the link to join the trial each day. If there are multiple witnesses and concerns that one may return to the trial later under the same link, the court may send a different meeting invite for each day of the trial with a unique password to prevent unauthorized participants.

V. Interpretation During a Virtual Trial

When possible and in accordance with safety procedures, interpreters could appear in the same room with the party needing interpretation and participate in the same Webex hearing virtually. Whenever possible, simultaneous interpretation during the proceeding is preferred to avoid unnecessary delays during a trial. Webex does not currently allow for simultaneous interpretation. In order to facilitate simultaneous interpretation, a secondary line of communication must be established through the use of a conference line and cell phones or landlines.

Option 1 - this option is available if:

- A party appears by video on their computer or tablet and has a landline or a cell phone to establish a secondary line of communication.
- A party appears by video on their phone but has a landline or a second cell phone to establish a secondary line of communication.

A secondary line of communication could be established by:

- The interpreter and the party needing interpretation participate in the same Webex hearing, but appear virtually from separate locations. The interpreter and the party are muted during the proceeding.
- When the Webex proceeding begins, the judge (through the interpreter) asks the party if they have a phone available.
- The judge (through the interpreter) instructs the party and the interpreter to call the conference line. This will ensure the party does not gain the interpreter's personal contact information. Alternative options include the interpreter calling the party directly and entering *67 to hide their phone number or utilizing Google phone numbers.

Option 2

If the party does not have the means necessary for the secondary line of communication, then the interpreter will have to render the interpretation in consecutive mode. This will require whoever is speaking to pause after every 2-3 sentences to allow the interpreter the necessary time to interpret. An interpreter cannot accurately interpret if they have to speak over someone to render the interpretation.

American Sign Language interpreters will be able to sign by video in Webex as long as a clear and strong internet connection is maintained by both the interpreter and the party. The party should consider *locking the focus* in Webex on the ASL interpreter to ensure they always see the interpreter regardless of who is speaking. Locking focus on a participant can be accomplished by clicking the pin button located at the top center of the screen.

VI. Witnesses

Witnesses appearing and testifying virtually during a trial is not ideal and may require the court to be prepared for objections or other concerns, such as the credibility of a witness. Each judge should be aware of any potential issues regarding witness testimony and any objections should ideally be raised prior to trial.

Confrontation Clause (Delinquency or Adult Criminal Matters)

Judges should exercise caution in making blanket findings regarding the appearances of witnesses in delinquency proceedings. If parties do not stipulate to waive face-to-face confrontation in a physical trial setting, a judge should be prepared to make specific findings.

A judge should balance the various interests involved regarding the appearance and testimony of a witness in a delinquency proceeding before allowing the witness to appear virtually. Consideration of the pandemic response level in effect at the time of the ruling may be included in the court's analysis. Judges may also consider ordering the attorneys to fully brief any objections with specific arguments related to the witnesses, safety of the court, and any other relevant reasons that establish exigent circumstances that may override certain constitutional concerns.

Virtual Exclusionary Rule

The Webex Meetings platform has a function that allows witnesses to be removed from the proceeding and placed in a "lobby" until it is their time to testify. It may be helpful, however, to start the trial with all of the witnesses present until a party invokes the Exclusionary Rule. This allows the judge to address the witnesses and explain the requirements and purposes of the rule. The judge may admonish the witnesses to not communicate with the parties or other witnesses through electronic means or in-person during the trial before placing all of the witnesses into the virtual lobby. A witness may be moved from the lobby to the trial once the court is ready for their testimony.

If a witness is not testifying soon after the beginning of the proceeding or if it is a multi-day trial, the attorney should provide the witness with a time they would likely appear and notify the witness to call in or appear virtually at that time. When the witness appears, they can be placed immediately in the lobby until the court is ready for their testimony.

Expelling Witnesses from the Virtual Courtroom

After a witness is finished testifying, the host of the proceeding may need to expel (Webex term) the witness from the proceeding. Once expelled, the host will need to lock the meeting to prevent any witnesses from returning to the meeting via the same link. The court may consider admonishing the parties to avoid communicating with the expelled person.

VII. Child Testimony in Child Welfare Proceedings

The Webex platform may be used for the testimony of a child during these proceedings if a party invokes Rule 37A of the Utah Rules of Juvenile Procedure. If a party consents or is prohibited from being in view of the child during the testimony, precautions must be taken to ensure that the party's camera is turned off and that person's microphone is muted. If the court orders that a child's testimony be recorded outside of the courtroom, Webex may be used to create a separate recording which may be reviewed digitally to determine whether it may be admitted into evidence.

VIII. Submitting Evidence

- Courts should encourage parties to submit evidence via email to the court and other parties before the trial. Judges can review the evidence as it is admitted to the court during the trial, but sharing prior to the trial allows for parties to have documents, videos, and other files already available.
- Judges may advise or require attorneys to prepare and submit any potential evidence a certain number of days before the trial. If evidence is not ready by a specified time, the court may require attorneys to come to the trial prepared with digitized evidence that may be easily shared with other parties and the court.
- Webex platforms also allow parties to share and present their computer screens and individual files to others participating in the trial when they are given "presenter rights" by the host during the proceeding. This may be used to allow an attorney to share and publish evidence to everyone in the trial, including witnesses. Evidence shared this way may also be saved via Webex for purposes of admitting a file into evidence.
- All evidence during a virtual trial should be digitized and parties should be encouraged to take multiple photos or videos of any physical evidence to allow for it to be submitted virtually. If judges typically house the original exhibits at the courthouse, emailed exhibits that were admitted to evidence may be printed, marked, and kept as the "originals" in the courthouse.

IX. Attorney-Client Communication During a Trial

- If possible, and subject to social distancing practices and other considerations, attorneys and clients should appear at a virtual trial from the same location to facilitate attorney-client communication.
 - If appearing virtually from the same room, the attorney and the client should use one device to avoid audio interference from separate devices.
 - If appearing virtually from the same location but from different rooms (e.g. separate rooms at the law office), separate devices may be used without causing audio feedback.

- If attorneys and their clients cannot appear from the same location, it may be necessary for courts to provide the parties with additional breaks and opportunities to communicate privately. This may include additional recesses or breaks to communicate outside of the Webex platform.
- Attorneys and clients should take precautions in communicating on the Webex platform, such as the chat option, to avoid attorney-client privilege issues.
- The Webex lobby function may be utilized for attorney-client communication. The Webex host, such as a judicial assistant, would:
 - Move everyone to the lobby, other than the attorney and the client.
 - Pause or stop the hearing recording during the attorney-client communication while everyone else is in the lobby.
 - Notify the attorney that the host (judicial assistant) cannot be removed to the lobby and would turn the sound off on their device, mute their mic, and step away from the virtual hearing. The attorney would notify the host via the chat, a sign, or some other means when the attorney-client communication is finished.

In the alternative, the judicial assistant can transfer the meeting hosting rights to the attorney who can then move the judicial assistant to the lobby. When finished, the attorney would bring the judicial assistant out of the lobby and transfer the hosting rights back to the judicial assistant to resume the hearing.

 - In the near future, the Webex platform will have the “breakout” capability which may be utilized for a private conversation between an attorney and a client.

X. In Camera and Sidebar Meetings

The Webex lobby function may be utilized for in camera and off the record sidebar meetings. The host would move everyone to the lobby other than parties involved in the sidebar or in camera meeting. Webex recording should be paused during this time unless the discussions are on the record.

AFTER THE TRIAL

I. Accessing the Record

Many judges rely on the record of the hearing when drafting findings and orders. Webex recordings are generally available 24 hours after the hearing. The host of the hearing has an option to download, share, or delete the recording. Based on judicial preference, the host of the hearing may share the recording with a judge via email.

JUVENILE TRIALS IN-PERSON Best Practices

Purpose/Scope

Trials should ideally be conducted in person, if possible and when it can be done safely. If a trial can be reasonably delayed until an in-person opportunity becomes available, then the court should wait to conduct a trial. The purpose of these best practice guidelines is to provide individual districts and court teams guidance on how to best conduct a trial in-person while recognizing the unique circumstances and differences that exist between courtrooms across the state.

In response to the COVID-19 pandemic, the Court shall conduct the hearing consistent with all current Utah Supreme Court and Utah Judicial Council administrative orders and the Risk Phase Response Plan, as well as, applicable government and public health orders and guidelines as outlined in the Risk Phase Response Plan. If the local or state guidelines are in conflict with the Utah Supreme Court and Utah Judicial Council Administrative Order, the Administrative Order shall govern.

BEFORE THE TRIAL

I. Preparing the Courthouse and Courtroom Areas

When scheduling a trial at the courthouse, judicial teams should notify and consult with other court levels and teams in the building to prevent multiple trials from occurring at the same time to minimize large group gatherings.

Additional measures must be implemented in courthouses, as outlined in the Risk Phase Response Plan (RPRP). Examples of these measures include:

- Posters or signs about social distancing practices and proper hygiene procedures
- Frequent cleaning and hand sanitizer stations near high touchpoints and in areas where court personnel interact with patrons
- Floor markings for social distancing in courtrooms, galleries, and other common spaces
- Sufficient space in courtrooms to maintain social distancing measures during a trial
 - The number of people in a courtroom may not exceed capacity limits as outlined in the RPRP for each phase of the plan. The capacity limits can be determined by dividing net square footage that can be occupied (excluding built-in furnishings) by 36. 
 - Each district team should determine how to best reconfigure the courtroom space to comply with social distancing.
- Signage to notify trial participants of any specific arrangements, potentially including a map of where parties are to sit or where the trial may be viewed from the gallery
- Other relevant measures per the RPRP plan guidelines such as minimizing high use touchpoints and limiting the number of people in certain spaces

All actions must be in compliance with the current Utah Supreme Court and Utah Judicial Council administrative orders, and the Courts' Risk Phase Response Plan.

II. Notice to Parties

Parties, including any witnesses or additional attendees, should be notified beforehand of the new courthouse and courtroom procedures. The notices may contain information on:

- Contacting the local court if a participant is unable to attend the hearing in-person and accommodations for vulnerable persons.
- Restrictions on entering the courthouse and any additional screenings that may take place such as health questionnaires and temperature checks.
- Social distancing requirements.
- The need to bring a face covering and personal water. Face coverings should not be limited to face masks and may include other alternatives as long as they cover the mouth and nose.
- Courts must provide face coverings to those unable to provide one for themselves. Entrance to the courthouse will be denied and a person may be removed from the courthouse if the person refuses to wear a face covering. If a court patron does not bring a face covering and the courts are unable to provide one, the patron must be given instructions on how to proceed.
- Any additional cleaning measures implemented in the courthouse while also encouraging individuals to clean any areas they use with supplies that are provided by the court. Cleaning supplies should be supplied to the parties to disinfect the areas they use.

III. Vulnerable Persons

Courts must provide accommodations to court patrons who are considered vulnerable persons as defined in CDC guidelines and as outlined in the courts' Risk Phase Response Plan. Accommodations may include allowing remote appearances, providing a private space in the courthouse with a phone/computer for the virtual appearance, or continuing the case.

IV. Health Screenings and Courthouse Procedures

- Courts must conduct COVID-19 screenings of those who enter courthouses and identify who will conduct screenings. Courts must post notice of screening requirements and questions in a clearly visible area where persons enter a courthouse. For specific guidance on restrictions to entering a courthouse and screening questions, refer to the *Risk Phase Response Plan*.
- Court security must alert the applicable court if a person is denied access to the courthouse. The court, through a court security officer, another designated individual, or a posted sign, must provide information regarding who the hearing participant should contact for further instructions. Under these circumstances, judicial teams should either continue the hearing or provide an alternative means for the person to appear.
- If it is determined that a person who has tested positive for COVID-19 has been in the courthouse, the court must immediately contact the local health authority to begin contact tracing to determine where that person may have traveled in the courthouse and who may have been in contact with that person.
- To minimize contact between people in a courthouse, courts should schedule individual hearings at specific times or blocks of time to allow parties to arrive at their scheduled hearing.
- To prevent crowding in courtrooms or waiting areas, court teams may notify participants when a trial is starting by contacting them by phone or text when a courtroom is clear.

V. Access to Hearings and Notice to the Public

To accommodate public access to juvenile court hearings and in accordance with social distancing guidelines, courts need to determine how many members of the public are able to attend a hearing depending on the number of participants involved. If the courtroom cannot safely accommodate members of the public, notice of an alternative means of viewing the proceeding should be provided.

VI. In-custody Trials

Districts should work with local detention centers, jails, and law enforcement to determine the best way to accommodate trials involving youth in detention or incarcerated parents. The ability to accommodate virtual trials in a facility and the current circumstances with transporting youth and parents from detention and jail need to be considered.

DURING THE TRIAL

I. Attorney-Client Communications

To facilitate attorney-client communications during a trial, accommodations should be made to allow them to confer privately while also maintaining social distancing. This may include frequent opportunities for an attorney to leave the courtroom with the client to confer privately. Other types of in-courtroom communication may be considered, such as note passing or text messaging to prevent physical contact. Attorneys and parties should be prepared to communicate by any alternative means.

II. Witnesses

Attorneys should be encouraged to schedule specific times for witnesses to appear in order to prevent too many people from being at the courthouse or in the courtroom at one time. Attorneys may be allowed to text upcoming witnesses of changes in their scheduled time to testify.

Witnesses should be encouraged to appear in the courtroom for an in-person trial. If a witness needs an exception to appearing in-person, attorneys should file a motion to allow individuals who are unable to attend or who are part of a vulnerable group to testify remotely. If a person is unable to testify in person in a delinquency proceeding, the court should be prepared to address any issues and make findings regarding the Confrontation Clause.

III. Exhibits

- To prevent the physical sharing of exhibits, attorneys should be encouraged to share any potential exhibits via email with each party and the court before the trial. When possible, all exhibits should be shared and submitted by document or photograph to limit the sharing of physical items with courtroom staff. The court's copy will be marked when offered.
- Media files presented during the trial that need to be marked as an exhibit should be provided to the court on a CD/Flash Drive before the trial.
- The attorney should prepare a courtesy copy of the exhibits to provide to witnesses who take the stand, when necessary.
- The court should make disposable gloves available if there are physical exhibits that need to be handled by the parties before being admitted into evidence. If a physical, non-document item must be submitted into evidence, it should be given to the judicial assistant in a plastic bag or another similar container.
- The court should be mindful of pro se litigants and make appropriate arrangements to provide and receive exhibits.

IV. Interpretation During an In-person Trial

If conducted safely, interpreters could appear in the same room with the party needing interpretation. The interpreting equipment should be utilized in compliance with the social distancing protocols. If the interpreting equipment is not available, courts should consider utilizing cell phones or a conference line for the interpreter and the party, in order to create ad hoc interpreter equipment.

In-Person Interpreting Options:

- Utilize the interpreting equipment, which may be provided by the court or the interpreter.
 - The interpreting equipment must be sanitized before, in front of the party, and after each use. Depending on whether the court or the interpreter supplies the equipment, the party using the equipment or the bailiff should clean the equipment after each use. Courtroom staff should ensure that equipment cleaning occurs after each use.
- Utilize ad hoc interpreting equipment to create the ability for interpreters to maintain social distancing protocols. This can be accomplished by:
 - A cell phone and headphones, with microphone capability, for the interpreter (ideally the interpreter's personal cell phones and headphones).
 - A cell phone and headphones for the party (ideally the party's personal cell phone and headphones).
 - A conference line for both the interpreter and the party to call from their cell phones. This would ensure the party does not gain the interpreter's personal contact information. Alternative options include the interpreter calling the party and entering *67 to hide their phone number or utilizing Google phone numbers.
 - If the party does not have a cellphone, the court should consider providing the party with a laptop containing a softphone application, such as Jabber, so that the interpreter could still render the interpretation simultaneously while keeping a safe distance from the party.
- Utilize the consecutive mode of interpreting as the last option.
 - Interpreters should not stand beside the party. If space allows for it, the interpreter should maintain a distance of three feet (more preferably six feet) and interpret in consecutive mode.
 - If a safe distance cannot be maintained, interpreters should position themselves slightly behind the party, and avoid positions where the interpreter and the party directly face each other as much as possible.

American Sign Language interpreters will be able to safely render the interpretation by signing a safe distance from the party. The interpreter cannot be located so far away that the party has trouble clearly seeing the signing.

Interpreters may not be required to wear a face covering once interpreting begins if it interferes with the clarity of the interpretation.

V. Additional Viewing Options for Persons Not Participating

To minimize the number of people entering the courthouse or the courtroom, additional options to view or listen to the trial should be made available. This may include the use of Webex Events that allow interested individuals to watch the hearing without disrupting the proceedings. The court should consider the use of a second judicial assistant to facilitate the Webex platform while the trial is proceeding to minimize disruptions.

AFTER THE TRIAL

I. Notification of Subsequent COVID-19 Diagnosis

If clients, witnesses, or other trial participants are diagnosed with COVID-19 within two weeks of the conclusion of a trial, they should notify the court and the health department of their participation in an in-person court proceeding. The court must immediately contact the local health authority to begin contact tracing to determine where that person may have traveled in the courthouse and who may have been in contact with that person.

II. Cleaning the Courtroom

Districts must ensure that courtrooms and waiting areas are thoroughly cleaned after trials.

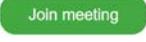
APPENDIX A

Juvenile Virtual Trials

Notice and Instructions for Appearing Remotely

Notice and Instructions for Appearing Remotely

A [trial/hearing type] has been scheduled in case [case #] for [00:00 a.m./p.m.] on [month-day-year] and will be conducted remotely via Webex. You are to join the virtual courtroom promptly at [00:00 a.m./p.m.] If you are appearing as a witness, you will be told what time to appear by the subpoenaing party. The host will move you to the virtual lobby until it is time for your testimony. You will hear no sound while in the virtual lobby.

Click on the  link found in the email below to appear by video from any laptop or mobile device. For additional instructions for attending remotely, see [First Time Webex User](#), Webex by [Computer](#), and Webex by [Mobile Device](#).

Because evidence may be presented during the virtual hearing, all attendees are encouraged to appear by video if possible. If you are unable to appear by video, you may appear by phone using these [instructions](#). You will need the *Meeting number (access code)* and *Meeting password (for phones)* found in the email below. If safe and feasible, attorneys and their clients are encouraged to be in the same physical location and appear together during the trial to facilitate better attorney-client communication.

If you do not have access to a phone or another device to appear remotely, please contact the court at [xxx-xxx-xxxx].

Participant Responsibilities & Best Practices for Remote Attendance

- The virtual hearing is a court proceeding and therefore an extension of the courtroom; appropriate conduct and attire are required.
- The Court creates an official record of the proceedings which may be provided to a party upon request. **NO INDIVIDUAL OR INDEPENDENT RECORDING** of the proceedings is permitted. Any person determined to have recorded or attempted to record proceedings may be held in Contempt of Court which may result in a monetary fine and imposition of jail.
- Participants should MUTE their mic at all times until prompted to speak, unless there is an objection or some other reason to speak out of turn. Participants who want to speak may “raise their hand” in Webex so the host can address them.
- Participants must use a private, quiet room free of interruptions and are strongly encouraged to use headphones to help reduce audio feedback problems. Also, video meetings need good, consistent lighting; avoid rooms with bright windows and/or back-lighting.
- Participants should have a hard wired internet connection whenever possible, as using Wi-Fi connections and phone data may be unstable.
- Participants must place their mobile devices on a solid surface with the camera at eye level. Do not hand-hold mobile devices and do not lay phones or tablets flat on a desk or tabletop.
- If you will be presenting evidence, you should email digital copies and/or pictures of all exhibits to opposing parties, or their counsel, and to the court at [xxxxxxxx@utcourts.gov] [number of days or hours] prior to the hearing. You must follow all pretrial and decorum orders. Follow these [content sharing instructions](#) to present evidence during the virtual trial. Come prepared with all evidence digitized for content sharing.

Troubleshooting:

- If you receive a message “meeting has not yet started”, try again shortly.
- Weak Wi-Fi signals can cause video disruptions. **Hard-wiring into your modem is recommended.**
- If you have trouble joining or if you don’t have access to equipment, please contact the clerk’s office at [xxx-xxx-xxxx (option x)] or [xxx@utcourts.gov]. You may not appear in person unless explicitly permitted by the court to do so.

APPENDIX B

Juvenile In-person Trials

Notice and Instructions for Appearing In Court

Notice and Instructions for Appearing In Court

A [trial/hearing type] has been scheduled in case [case #] for [00:00 a.m./p.m.] on [month-day-year] and you are required to appear. If you are appearing as a witness, you will be told what time to appear by the subpoenaing party.

In response to the COVID-19 pandemic, the Court shall conduct the hearing consistent with all current Utah Supreme Court and Utah Judicial Council administrative orders and the Risk Phase Response Plan, as well as, applicable government and public health orders and guidelines as outlined in the Risk Phase Response Plan. If the local or state guidelines are in conflict with the Utah Supreme Court and Utah Judicial Council Administrative Order, the Administrative Order shall govern.

If you are unable to appear in court due to COVID-19 related concerns, please contact the court at [xxx-xxx-xxxx].

Participant Responsibilities & Best Practices:

- You will **not** be allowed to enter the courthouse if you:
 - Exhibit symptoms of COVID-19 (fever, chills, cough, shortness of breath or difficulty breathing, abnormal fatigue, abnormal muscle or body aches, new loss of taste or smell, sore throat, congestion, or runny nose).
 - Have been diagnosed with COVID-19 **until** you have not experienced symptoms for at least 72 hours without the use of fever-reducing medication **or**, if you have been asymptomatic, **until** 10 days have passed since the positive test.
 - Have had sustained close contact with someone who has COVID-19 **until** you have self-quarantined for 14 days from the date of last contact.
- If you develop symptoms or are exposed to someone in the days prior to the hearing, please contact your attorney and the court clerk by phone at [xxx-xxx-xxxx (option x)] or email [xxxxxxxx@utcourts.gov] for further direction. **DO NOT** appear in person.
- If you are diagnosed with COVID-19 within two weeks of the conclusion of a trial, please notify the court and the health department of your participation in an in-person court proceeding.
- If you are in a “vulnerable persons” category of higher risk for the COVID-19 virus or need special consideration, please contact the court clerk at [xxx-xxx-xxxx (option x)].
- All persons entering the courthouse will be subject to health screening which may include a series of questions and a contactless temperature reading. Only persons satisfactorily screened may enter the courthouse. All others will be given instructions on making alternative arrangements to appear in court.
- You must follow the Courts’ administrative orders, when inside the courthouse and courtroom, including:
 - Wearing a face covering over your nose and mouth. A complimentary face covering may be requested at [A Mask for Every Utahn](https://coronavirus.utah.gov/a-mask-for-every-utahn/) (<https://coronavirus.utah.gov/a-mask-for-every-utahn/>). **You are strongly encouraged to bring your own face covering. Entrance to the courthouse will be denied to any patron who refuses to wear a face covering.**
 - Practicing social distancing of at least six feet at all times. Please watch for visual markings and listen for instructions from court staff and security personnel.
 - Washing or in the alternative, sanitizing your hands
- We are increasing the frequency in which we sanitize common areas and will make supplies available for additional sanitizing at counsel tables, the witness stand, and conference rooms.
- You are encouraged to bring a water bottle and a pen/paper as these will not be provided during this time.
- Attendance may be limited to parties to the case, their attorneys, and witnesses. Non-party observers and support persons may contact the court to request remote appearance.
- If you will be presenting evidence, please email digital copies and/or pictures of all exhibits to the opposing party/counsel and to the court at [xxxxxxxx@utcourts.gov] at least [number of days] in advance. Be prepared to display or provide copies for the witness to refer to. The court’s copy will be the original. When a picture cannot be submitted in lieu of physical objects, a clear zip lock bag or container should be used to display the object.

Appendix

E

Addressing Technology Challenges for Self-Represented Parties

Some self-represented parties face technology challenges including lack of access to the internet, financial hardships which restrict their access to technology, and discomfort with technology. Requiring parties to use technology to participate in court processes may create barriers to their access to the courts. This document describes ways in which courts can remove barriers for these parties.

Short-Term Solutions

- Courts could allow parties to use a court phone in a private location to call in to their hearing. There could be a cost to the court if it is a toll call.
- Courts may have spare hardware that could be repurposed for public Webex use, such as a laptop or a PC, and a camera and microphone. Any computer used by the public should have security software such as DeepFreeze, which will restore the computer's default setup on restart.
- The spare hardware described above could be placed in a public conference room to allow patrons privacy. Some things to consider:
 - Whether the room can be secured or monitored by court staff.
 - Whether the hardware can be physically secured.
 - Whether social distancing can be maintained.
- Not all patrons will have the ability to use the technology. Courts will need to designate a staff person to provide technical support.
- Courts will need to provide cleaning supplies and determine who will be responsible for cleaning the equipment.
- Depending on demand, courts may need to design a scheduling system and develop procedures.
- A party may need to access technology in a courthouse other than the one in which their case is being handled. For example, a person in Price may need to access technology to participate in a hearing being held in Salt Lake City.

Long-Term Solutions

Even after the courts move to lower risk levels, there may be vulnerable persons who do not feel comfortable going into a courtroom with other people and who face technology challenges. Courts should determine the ongoing need for a workstation, kiosk, or conference room to provide access.