

# Supreme Court Advisory Committee on Remote Hearings

## Survey of the Vermont Bar: Summary Results

Survey Conducted June 2022

### 1. In which division / court / docket do you practice?

ANSWER CHOICES	RESPONSES	
Civil	60.92%	265
Criminal	38.16%	166
Family	36.09%	157
Juvenile	23.45%	102
Probate	31.26%	136
Environmental	9.20%	40
Judicial Bureau	9.89%	43
Total Respondents: 435		

Question 1 did not ask for comments.

### 2. As a general matter, should remote hearings be used in civil proceedings?

ANSWER CHOICES	RESPONSES	
No. The Judiciary should return to pre-pandemic practice.	8.14%	25
Yes. All proceedings should default to remote.	19.22%	59
Yes, but selectively. Certain categories of hearings should default to remote unless an in-person hearing is requested.	46.25%	142
Yes, but selectively. Certain categories of hearings should default to remote unless in the interest of justice an in-person hearing is appropriate.	26.38%	81
TOTAL		307

#### Summary (87 comments)

Most commenters acknowledged a need for both in-person and remote hearings. Most respondents said evidentiary hearings should default to being in person, unless a remote hearing is requested.

Some commenters said hearings should always default to remote, with in-person hearings available as an option. A small handful of commenters advocated for the opposite: that hearings should always be in-person, with exceptions made on a case-by-case basis. Other topics were related to the following:

- The need for witnesses to appear virtually when they are providing brief, non-controversial, and/or non-contested testimony, especially in situations where travel time and cost for the witness may be deemed excessive.
- Technology utilized for remote hearings
- Judicial neutrality and fairness, including the ability to assess the credibility of parties and witnesses
- Time
- Money

Sample of comments:

- “[Remote hearings] take longer, someone’s technology always fails or has glitches.”
- “It is very difficult to get witness testimony and exhibits properly shared and reviewed during remote hearings, especially in contested cases.”
- “The remote process permits witnesses from far-flung locations to not have to travel to the county where the [litigant] is located. This includes law enforcement, hospital staff and physicians, EMT and other first responders, and other community witnesses. Often, they have very brief and non-controversial and non-contested testimony to provide.”
- “Remote hearings have allowed confidential hearings to truly be confidential and eliminates folks waiting in the hallways and seeing each other before their confidential hearings.”
- “One cannot effectively cross-examine an adverse witness via a remote platform. Cross is the most critical step in seeking truth”
- “The quality of pro-se defendants' participation (often can't see faces, can't see exhibits) is not equal in quality to the plaintiffs' participation.”

### 3. Should the following civil hearings be conducted remotely?

	NO, SHOULD BE IN- PERSON	NO, SHOULD BE IN-PERSON ABSENT SPECIAL CIRCUMSTANCES	YES, PRESUMPTIVE REMOTE IS ACCEPTABLE	YES, ALWAYS REMOTE	TOTAL	WEIGHTED AVERAGE
Status Conference	1.67% 5	3.34% 10	50.84% 152	44.15% 132	299	3.37
Pre-Trial Conference	5.78% 17	9.86% 29	51.02% 150	33.33% 98	294	3.12
Discovery Scheduling Conference	2.06% 6	3.09% 9	54.30% 158	40.55% 118	291	3.33
Rent Escrow Hearing	11.11% 22	26.26% 52	44.44% 88	18.18% 36	198	2.70
Stalking Hearing	30.15% 60	33.17% 66	30.15% 60	6.53% 13	199	2.13
Motion for Writ of Attachment	12.39% 27	25.23% 55	42.66% 93	19.72% 43	218	2.70
Motion for Preliminary Injunction	18.30% 43	33.62% 79	35.32% 83	12.77% 30	235	2.43
Motion for Trustee Process	11.27% 24	24.88% 53	45.07% 96	18.78% 40	213	2.71
Motion for Default Judgment	8.80% 22	14.80% 37	50.00% 125	26.40% 66	250	2.94
Oral Argument on Motions	12.87% 35	23.53% 64	43.75% 119	19.85% 54	272	2.71
Motion in Limine	12.20% 30	23.17% 57	44.31% 109	20.33% 50	246	2.73
Bench Trials	39.26% 106	32.59% 88	21.11% 57	7.04% 19	270	1.96
Jury Draw	66.27% 167	26.59% 67	3.97% 10	3.17% 8	252	1.44
Jury Trials	67.84% 173	26.27% 67	3.14% 8	2.75% 7	255	1.41
Small Claims Merits Hearing	25.62% 62	27.27% 66	33.06% 80	14.05% 34	242	2.36
Small Claims Financial Disclosure Hearing	10.65% 23	19.44% 42	49.07% 106	20.83% 45	216	2.80
Small Claims Trustee Process Hearing	10.63% 22	22.71% 47	43.96% 91	22.71% 47	207	2.79
Small Claims Contempt Hearing	21.33% 45	30.33% 64	32.23% 68	16.11% 34	211	2.43
Hearings under one hour, regardless of type	9.05% 21	30.17% 70	44.40% 103	16.38% 38	232	2.68
Hearings under 30 minutes, regardless of type	6.69% 16	18.41% 44	51.88% 124	23.01% 55	239	2.91

### Summary (50 comments)

On balance, commenters were more likely to respond critically than favorably to remote options, but they often acknowledged benefits of a hybrid model on a case-by-case basis.

Several commenters discounted length of proceeding as a factor in determining the hearing method. Many said the deciding factor should be whether the hearing involved evidence and indicated a preference for in-person hearings for those hearings that do.

Other issues reported include concerns in cases in which there was a potential liberty interest for parties was at stake, and the difficulty of direct or cross examination of someone in a mask.

#### Sample of comments:

- “I have considerable concerns about the perception of the public that we are not carrying out our function of dispensing justice in our cases if we are "phoning it in" for too many cases. The judiciary needs to be open and accessible for all citizens and defaulting to online systems that are not always reliable and that do not allow full citizen participation is not a route that I want Vermont to take.”
- “We are completely losing sight of the importance of meeting face to face with clients, opposing counsel, judges, clerks ... Remember when many matters were worked out in the Court's hallways?”
- “Overall - technology is going to improve the lives of those involved in litigation from both a mental health standpoint, as well as a financial one. With the right preparation, attorneys are just as effective virtually as they are in person.”
- “All hearings should default to remote. This addresses statewide access to justice issues in more remote portions of the state and allows attorneys to provide services in areas where attorneys are difficult to find, regardless of location.”

## 4. As a general matter, should remote hearings be used in criminal proceedings?

ANSWER CHOICES	RESPONSES	
No. The Judiciary should return to pre-pandemic practice.	24.28%	59
Yes. All proceedings should default to remote.	5.35%	13
Yes, but selectively. Certain categories of hearings should default to remote unless an in-person hearing is requested.	43.62%	106
Yes, but selectively. Certain categories of hearings should default to remote unless in the interest of justice an in-person hearing is appropriate.	26.75%	65
TOTAL		243

### Summary (49 comments)

Most commenters mentioned the problematic parts of remote hearings in criminal proceedings, specifically as it related to evidentiary hearings.

Most commenters advocated for a hybrid model, with consensus that evidentiary proceedings should be held in person whenever possible in order to maximize the fair delivery of justice.

Most commenters advocated for in-person hearings for higher-stakes proceedings (e.g. those in which a liberty interest is at stake), and evidentiary proceedings, while conceding that remote hearings are beneficial for status conferences, counsel-only proceedings, when the court is taking testimony from a witness, and in exceptional circumstances involving accessibility issues.

Sample of comments:

- “Some hearings can be remote, but the default should not be remote. Hearings should default to in-person and the parties can request to have a remote hearing. While the judiciary has been fond of saying that participation in hearings is easier when it is remote, it is important to note that many many people can only participate by telephone, without video. Oftentimes, litigants are participating in these hearings while at work, caring for children, or engaging in other aspects of their life. When this occurs, little attention is often being paid to what is being discussed during the hearing. Significantly, attorneys are often doing more than participating in the hearing when they are remote. They are reading emails, answering others' questions, etc. It is quite common for me to hear a lawyer say, I am sorry judge, what was the question or which case was called. There are certainly times when a remote hearing is possible, but this should be left to be decided by the parties. Frankly, the remote hearings are viewed quite negatively by members of the public who have been "back to work" for a significant period of time.”
- “Public defenders carry large caseloads and would benefit from remote hearings which are more time efficient. Plus, both sides will have an easier time getting witnesses, who have busy schedules, to appear. Finally, remote hearings also prevent the need for rescheduling due to bad weather.”
- “Remote hearings ensure that all can participate in our legal system and have access to due process. It is also very very helpful for attorneys, since we do not have to rush to hearings in different courtrooms and courthouses. It gives me more time to work on my cases, instead of worrying about parking, traffic, lines at the courthouse, etc. The remote access insures access for all, it also encourages speedy resolution of cases, because the logistics are simplified.”

## 5. Should the following criminal hearings be conducted remotely?

	NO, SHOULD BE IN- PERSON	NO, SHOULD BE IN-PERSON ABSENT SPECIAL CIRCUMSTANCES	YES, PRESUMPTIVE REMOTE IS ACCEPTABLE	YES, ALWAYS REMOTE	TOTAL	WEIGHTED AVERAGE
Arraignments	23.56% 45	23.04% 44	42.93% 82	10.47% 20	191	2.40
Bail Hearing	29.35% 54	26.63% 49	34.78% 64	9.24% 17	184	2.24
Hold without Bail Hearing	38.80% 71	29.51% 54	22.95% 42	8.74% 16	183	2.02
Status Conference	6.19% 12	6.70% 13	50.00% 97	37.11% 72	194	3.18
Calendar Call	9.14% 17	8.06% 15	43.55% 81	39.25% 73	186	3.13
Pre-Trial Conference	14.36% 27	16.49% 31	41.49% 78	27.66% 52	188	2.82
Motion to Suppress	31.72% 59	31.72% 59	29.03% 54	7.53% 14	186	2.12
Motion to Dismiss	28.19% 53	30.32% 57	31.91% 60	9.57% 18	188	2.23
Motion in Limine (non-evidentiary)	18.03% 33	20.77% 38	49.18% 90	12.02% 22	183	2.55
Daubert Hearing	28.18% 51	33.15% 60	30.94% 56	7.73% 14	181	2.18
Change of Plea Hearing	25.53% 48	26.60% 50	39.36% 74	8.51% 16	188	2.31
Sentencing	40.43% 76	32.98% 62	22.87% 43	3.72% 7	188	1.90
VOP Rule 5 Hearing	24.56% 42	26.90% 46	36.26% 62	12.28% 21	171	2.36
VOP Merits Hearing	35.80% 63	32.39% 57	24.43% 43	7.39% 13	176	2.03
Probation Status	10.67% 19	17.42% 31	46.07% 82	25.84% 46	178	2.87
Competency Hearing	34.44% 62	32.22% 58	27.22% 49	6.11% 11	180	2.05
Bench Trials	56.32% 107	25.26% 48	16.32% 31	2.11% 4	190	1.64
Jury Draw	70.53% 134	21.58% 41	6.32% 12	1.58% 3	190	1.39
Jury Trials	75.26% 143	20.00% 38	3.68% 7	1.05% 2	190	1.31
Treatment Court	33.14% 57	31.40% 54	24.42% 42	11.05% 19	172	2.13
Hearings under one hour, regardless of type	19.11% 30	34.39% 54	35.67% 56	10.83% 17	157	2.38
Hearings under 30 minutes,	16.35% 26	24.53% 39	42.77% 68	16.35% 26	159	2.59

### Summary (40 comments)

Many commenters said arraignments, jury selection, evidentiary hearings, and proceedings involving cross examination should be held in-person.

Most commenters said there were benefits of remote proceedings in certain cases, but agreed that in-person options should always be available, if not the default, for proceedings where the court or jury is asked to weigh significant amounts of complex evidence and gauge party and witness credibility.

#### Sample of comments:

- “Changes of plea and sentencing hearings should be remote provided the parties have filed the appropriate paperwork and it is an agreed upon sentence.”
- “Status hearings and pretrials should be preemptively remote with in-person upon request by either party. Substantive hearings should be preemptively in-person but remote upon request of defendant.”
- “Presumptive remote should be the default for most hearings so long as it means people can chose to attend in person for those hearings.”
- “In-person hearings are more valuable in criminal cases, but the short/pro forma non-evidentiary hearings should still default to remote.”
- “The judge and the participants should always be in person as much as possible. Everyone else (except for maybe the defense attorney) can be remote if they so choose.”

## 6. As a general matter, should remote hearings be used in family proceedings?

ANSWER CHOICES	RESPONSES
No. The Judiciary should return to pre-pandemic practice.	10.53% 24
Yes. All proceedings should default to remote.	15.35% 35
Yes, but selectively. Certain categories of hearings should default to remote unless an in-person hearing is requested.	50.88% 116
Yes, but selectively. Certain categories of hearings should default to remote unless in the interest of justice an in-person hearing is appropriate.	23.25% 53
TOTAL	228

### Summary (44 comments)

The majority of responses were in favor of remote hearings in family proceedings. Many commenters acknowledged the value of both remote and in-person hearings, but disagreed about which type of hearing should be considered the default.

Commenters who stated they practice specifically in the RFA docket were split on whether remote hearings are fair and safe for both parties. One commenter said, “Remote hearings are probably more comfortable for domestic violence survivors,” and another said, “I think [RFA] hearings should be held in person because a defendant who loses an RFA hearing faces restrictions on liberty and immediate potential criminal liability.”

Many others commented on the importance of giving parties options in the interest of increasing access to justice.

#### Sample of comments:

- “I practice in the mental health docket of the Family Division. These proceedings in particular work very well remotely and are ideally suited for remote proceedings.”
- “Remote hearings eliminate the chance of awkward meetings between family members, [and] eliminate the prospect of violence, (which can be triggered by seeing someone in court) and remote ensures litigants have their say.”
- “Remote events are much cheaper for our clients and more efficient for many of the shorter conferences/hearings and even for some of the longer hearings.”

- "If it switches back to in-person as the default, I will be forced to give up all cases except those in the county I practice and the adjacent county. I feel so strongly that if we go back to mostly in-person and in-person as the default, I will stop practicing any contested family law. There are precious few of us out-there and certainly not enough to meet the need."
- "I do parentage and child support hearings for the Office of Child Support, most, all of which, can be done, and have been done well going on about two years now. Sometimes, though rarely now that Webex has been in use for a while, there are technology problems which hinder things, such as party's participation, but generally not. The ability to view and send parties and the Court documents by email, including during hearings, facilitates doing business. I suspect that doing hearings remotely allows for a greater rate of participation by parties."
- "Unless either an in person hearing is requested OR in the interest of justice an in-person hearing is appropriate. Even in hearings where the proceeding defaults to in person, remote options need to continue to be offered as reasonable accommodations to those with disabilities, and to facilitate access to justice for individuals who face barriers to in person participation, such as low-income litigants who cannot afford transportation to court, or cannot afford / obtain approval for leave from work for the time necessary to appear in person at a hearing."



## 7. Should the following family hearings be conducted remotely?

	NO, SHOULD BE IN-PERSON	NO, SHOULD BE IN-PERSON ABSENT SPECIAL CIRCUMSTANCES	YES, PRESUMPTIVE REMOTE IS ACCEPTABLE	YES, ALWAYS REMOTE	TOTAL	WEIGHTED AVERAGE
Uncontested Divorce Hearings	3.23% 6	5.38% 10	51.08% 95	40.32% 75	186	3.28
Relief from Abuse Hearings	28.49% 53	34.41% 64	27.96% 52	9.14% 17	186	2.18
Status Conferences	2.03% 4	2.54% 5	45.69% 90	49.75% 98	197	3.43
Case Management Conferences	5.32% 10	4.26% 8	45.21% 85	45.21% 85	188	3.30
Child Support Hearings	16.57% 30	23.20% 42	43.65% 79	16.57% 30	181	2.60
Parentage Hearings	20.67% 37	29.61% 53	34.64% 62	15.08% 27	179	2.44
Contested Divorce Hearings	35.75% 64	32.40% 58	23.46% 42	8.38% 15	179	2.04
Child Support Contempt Hearings	29.21% 52	31.46% 56	29.78% 53	9.55% 17	178	2.20
Mental Health Status Conferences	20.65% 32	21.94% 34	39.35% 61	18.06% 28	155	2.55
Applications for Involuntary Treatment	34.90% 52	33.56% 50	22.15% 33	9.40% 14	149	2.06
Applications for Involuntary Medication	35.86% 52	31.72% 46	22.76% 33	9.66% 14	145	2.06
Hearings under one hour, regardless of type	12.50% 20	25.00% 40	45.00% 72	17.50% 28	160	2.67
Hearings under 30 minutes, regardless of type	9.94% 16	22.36% 36	44.10% 71	23.60% 38	161	2.81

### Summary (32 comments)

Several commenters indicated that the length of hearing should not be a factor in determining whether the hearing will be conducted remotely.

Several commenters advocated for remote as default, but those commenters also noted that in-person hearings would still be necessary in some cases, with emphasis on the benefits of having evidentiary hearings being in-person.

Several commenters mentioned cumbersome technology and connectivity issues.

### Sample of comments:

- “As noted, I think the mental health cases are ideally suited to remote proceedings. The patients can participate and view the hearings if they choose right from the psychiatric hospitals and units with the need for transport and the difficulties and delays that can bring. As well, it spares potentially long distance travel and excessive time commitment for community witnesses, many of whom often have only very brief testimony to provide and testimony that is often not even challenged as to credibility or accuracy. For instance, many mental health patients may end up hospitalized in the Brattleboro Retreat. In-person hearings can require police officers, hospital emergency department staff, community mental health screeners, and others to travel several hours one way to Windham court in Brattleboro for the briefest of testimony. In short, a whole day

can be taken up getting to and from the court in Brattleboro from Burlington or other far reaches of the State to give very brief testimony, time these first responders could be spent doing their important daily jobs. This lengthy travel can also serve as an enormous disincentive for disinterested community members who may have witnessed a mental health crisis in public from being willing to come forward and testify as well.”

- “Evidentiary hearings should presumably be in person - the stakes are too high, the technology often times too cumbersome or unreliable for remote hearings. Especially with pro se litigants. I've had issues with connectivity, wrong WebEx links, no sound, no video, and significant interruptions in the presentation and cross examination of evidence.”

## 8. As a general matter, should remote hearings be used in juvenile proceedings?

ANSWER CHOICES	RESPONSES
No. The Judiciary should return to pre-pandemic practice.	20.00% 37
Yes. All proceedings should default to remote.	13.51% 25
Yes, but selectively. Certain categories of hearings should default to remote unless an in-person hearing is requested.	42.70% 79
Yes, but selectively. Certain categories of hearings should default to remote unless in the interest of justice an in-person hearing is appropriate.	23.78% 44
<b>TOTAL</b>	<b>185</b>

### Summary (34 comments)

Commenters were evenly split on this question in terms of a preference for hearings to default to remote, hearings to default to in-person, and no one size fits all juvenile proceedings.

Those who preferred default remote most frequently cited lack of access to reliable transportation for juveniles and juvenile-involved parties, as well as practical concerns about the numerous participants involved in juvenile cases and the benefit of increasing the ability for all participants to access the event. Access to justice was important to these respondents above all other issues.

Those who preferred in-person for most or all juvenile proceedings noted that juveniles and other participants can be challenging to communicate with remotely. Several participants mentioned specific types of proceedings that they believe should always be done in person, including TPR hearings, delinquency hearings, and CHINS merits hearings.

Commenters who believe cases should be handled based on evidence and what is at stake in the proceeding commented, for example, on how in in-person hearings it is easier to determine the credibility of a party or witness.

### Sample of comments:

- “I feel even more strongly about juvenile proceedings continuing to default as remote for juvenile hearings. Prior to pandemic, many attorneys exercised no effort to connect with their assigned clients & remote has required them to do so. The parties in these cases are so vulnerable and almost always in crisis. Being able to appear remotely is essential for them. Transportation is an enormous challenge and many cannot get a ride. But, they can borrow a phone. Not appearing in court around DCF, especially during a crisis, is extremely helpful. More people participate in these hearings. I have been able to take court-appointments in counties desperately needing more juvenile attorneys. I will not be to do this. I cannot afford to travel outside of the county I live in for the court-appointed rate to provide representation in these cases. It will inhibit individuals access to justice and to attorneys. If people want to attend in person, they can. There is absolutely no reason to make in-person the default and return to the pre-pandemic way of life. We need to increase broadband in the state and provide more opportunities for people to participate in the judicial process.”

- “Just this morning I was in a Juvenile Court matter in which it took almost two hours to sign, circulate and file paperwork which could have been completed in two minutes in person. More importantly, these cases profoundly affect peoples' lives, and holding proceedings over Webex is dehumanizing.”
- “Remote hearings have been overwhelmingly convenient, but I am concerned that children do not recognize the significance of the case sometimes--or that it even is a "real" court hearing. I would suggest conducting preliminary hearings in person to emphasize the significance (and it would be in one block, so attorneys wouldn't be expected to come to court too often). Status conferences, pre-trials, and post-disposition hearings should remain remote.”

## 9. Should the following juvenile hearings be conducted remotely?

	NO, SHOULD BE IN-PERSON	NO, SHOULD BE IN-PERSON ABSENT SPECIAL CIRCUMSTANCES	YES, PRESUMPTIVE REMOTE IS ACCEPTABLE	YES, ALWAYS REMOTE	TOTAL	WEIGHTED AVERAGE
Status Conferences	5.81% 10	5.81% 10	51.74% 89	36.63% 63	172	3.19
Pretrial Conferences	7.78% 13	9.58% 16	49.10% 82	33.53% 56	167	3.08
Temporary Care Hearings	23.46% 38	33.95% 55	29.01% 47	13.58% 22	162	2.33
Merits Hearings	35.98% 59	29.88% 49	24.39% 40	9.76% 16	164	2.08
Disposition Hearings	29.01% 47	26.54% 43	30.86% 50	13.58% 22	162	2.29
Youthful Offender Hearings	31.85% 50	25.48% 40	32.48% 51	10.19% 16	157	2.21
TPR Merits Hearings	41.88% 67	30.63% 49	21.25% 34	6.25% 10	160	1.92
Hearings under one hour, regardless of type	17.48% 25	28.67% 41	35.66% 51	18.18% 26	143	2.55
Hearings under 30 minutes, regardless of type	15.49% 22	22.54% 32	40.14% 57	21.83% 31	142	2.68

### Summary (34 comments)

Several commenters said the length of hearing should not be a factor in this decision.

Many commenters mentioned the need for evidentiary hearings to be in person. The value of personal connection, or lack thereof, was raised multiple times as well.

### Sample of comments:

- “Juvenile hearings require special attention given the focus on the abused, neglected or delinquent child. In person hearings can make a real difference to the child.”
- “The benefits of improved attendance outweigh any notions that a hearing held at the courthouse might be taken more seriously or make parties more accountable. Attorneys can spend more time connecting with clients on the issues and litigating, rather than coordinating transportation for an indigent family. Many families are struggling to make a living and having to take public transportation for these hearings sets them back a day’s pay and could even cost them their jobs. Remote should be the future for the family and juvenile court. In-person hearings can be permitted upon request when appropriate (e.g. contested hearings where witness veracity is in question).”

- “More of the families have access to a computer or a phone than have access to reliable transportation to get to court. However, it is also important to be able to actually communicate with your client face to face especially when first getting to know them.”
- “The ability to have community providers, and other professionals participate remotely is a great resource. The professional (therapist, doctor, in-home care provider, social services agency) can participate via Webex without having to use the entire day waiting in the Courthouse to testify. Parents who may reside out of state, or children who are in an out of state residential placement may participate remotely which improves access to the courts and the court process.”
- “The parents and children deserve to know that the law cares about their issues and that they are considered important. Remote hearings convey the message that the issue and litigants are unimportant.”

## 10. As a general matter, should remote hearings be used in probate proceedings?

ANSWER CHOICES	RESPONSES
No. The Judiciary should return to pre-pandemic practice.	8.12% 16
Yes. All proceedings should default to remote.	25.38% 50
Yes, but selectively. Certain categories of hearings should default to remote unless an in-person hearing is requested.	45.18% 89
Yes, but selectively. Certain categories of hearings should default to remote unless in the interest of justice an in-person hearing is appropriate.	21.32% 42
TOTAL	197

### Summary (27 comments)

Some commenters were generally in favor of remote hearings being used in probate proceedings, while others expressed concerns about technology and other issues.

Evidentiary hearings were mentioned as cases in which in-person hearings may be more beneficial on balance, especially if contested.

### Sample of comments:

- “Certain evidentiary hearings should be in-person unless certain rules are put into place to ensure that lawyers aren’t coaching their clients or witnesses while the client/witness is testifying. Perhaps requirement that both lawyer and their client/witness be on camera at the same time. Otherwise, I absolutely prefer the convenience of remote hearings.”
- “Often in Probate proceedings, we are working with elderly people who do not have access to technology, or who are unable to correctly work the technology.”
- “In Guardianship and intra-family Probate disputes, I believe eyeball-to-eyeball with the Judge has a gravitas that “ZOOM” cannot duplicate and that can forge compromises and resolutions.”
- “In person hearings tell the parties that they and their issues are important.”
- “For probate matters, many of the clients are out of state or outside of the local area. The remote hearings are very convenient for all, especially with the ability to simply call in for the participants who are not as tech-savvy.”

## 11. Should the following probate hearings be conducted remotely?

	NO, SHOULD BE IN-PERSON	NO, SHOULD BE IN-PERSON ABSENT SPECIAL CIRCUMSTANCES	YES, PRESUMPTIVE REMOTE IS ACCEPTABLE	YES, ALWAYS REMOTE	TOTAL	WEIGHTED AVERAGE
Status Conferences	3.21% 6	2.14% 4	51.34% 96	43.32% 81	187	3.35
Guardianship Hearings Minor - Voluntary	12.35% 21	16.47% 28	50.59% 86	20.59% 35	170	2.79
Guardianship Hearings Minor - Involuntary	25.44% 43	39.64% 67	24.85% 42	10.06% 17	169	2.20
Guardianship Hearings Adult - Voluntary	12.85% 23	19.55% 35	49.72% 89	17.88% 32	179	2.73
Guardianship Hearings Adult - Involuntary	25.70% 46	40.78% 73	24.58% 44	8.94% 16	179	2.17
Adoption Hearings	25.48% 40	30.57% 48	31.85% 50	12.10% 19	157	2.31
Uncontested Will Hearings	4.55% 8	5.68% 10	46.59% 82	43.18% 76	176	3.28
Motion Hearings	10.99% 20	21.43% 39	44.51% 81	23.08% 42	182	2.80
Hearings under one hour, regardless of type	10.63% 17	22.50% 36	42.50% 68	24.38% 39	160	2.81
Hearings under 30 minutes, regardless of type	9.32% 15	18.01% 29	39.75% 64	32.92% 53	161	2.96

### Summary (30 comments)

There was a consensus among commenters that probate hearings should be conducted remotely with two exceptions:

- Contested evidentiary hearings.
- Cases in which a party requests an in-person hearing.

Commenters were clear that time length should not be a determinant factor of remote hearings. A couple of commenters said adult guardianship hearings should be held in person, unless otherwise agreed by the parties so that the judge could cross examine those involved to determine qualifications and merits, and being able to identify potential coercion.

### Sample of comments:

- "It has been enormously helpful and efficient to have most probate matters (very few of which involve evidentiary hearings) conducted online-- much better for the interested parties and attorneys and keeps costs down."
- "Title 14 adult guardianships and adult voluntary guardianships should be in person to ensure the probate judges have adequate opportunity to converse with parties about whether the guardianship is the least restrictive alternative to providing the person with support in decision making, and, in the voluntary cases to ensure that no undue coercion is occurring and the person in fact has the understanding necessary to qualify for an adult voluntary guardianship."

## 12. As a general matter, should remote hearings be used in environmental proceedings?

ANSWER CHOICES	RESPONSES
No. The Judiciary should return to pre-pandemic practice.	13.71% 17
Yes. All proceedings should default to remote.	27.42% 34
Yes, but selectively. Certain categories of hearings should default to remote unless an in-person hearing is requested.	40.32% 50
Yes, but selectively. Certain categories of hearings should default to remote unless in the interest of justice an in-person hearing is appropriate.	18.55% 23
TOTAL	124

### Summary (20 comments)

Commenters generally agreed that status hearings should remain remote unless a party requests otherwise. Several commenters said evidentiary hearings and witness testimony in contested cases should be in person.

#### Sample of comments:

- “Environmental court does a great job with remote proceedings, and did statuses remotely by phone well before the pandemic. It really does save time and money and is more efficient. The judges in the Environmental Division might be good to talk to about how they decide whether to hold proceedings remotely or in person. They navigate these issues very well.”

## 13. Should the following environmental hearings be conducted remotely?

	NO, SHOULD BE IN-PERSON	NO, SHOULD BE IN-PERSON ABSENT SPECIAL CIRCUMSTANCES	YES, PRESUMPTIVE REMOTE IS ACCEPTABLE	YES, ALWAYS REMOTE	TOTAL	WEIGHTED AVERAGE
Status Conferences	1.92% 2	2.88% 3	46.15% 48	49.04% 51	104	3.42
Pretrial Conferences	2.97% 3	8.91% 9	40.59% 41	47.52% 48	101	3.33
Enforcement Conferences	7.37% 7	13.68% 13	43.16% 41	35.79% 34	95	3.07
De Novo Appeal Conferences	7.45% 7	14.89% 14	40.43% 38	37.23% 35	94	3.07
Merits Hearings	25.77% 25	28.87% 28	26.80% 26	18.56% 18	97	2.38
Motion Hearings	10.42% 10	25.00% 24	40.63% 39	23.96% 23	96	2.78
Hearings under one hour, regardless of type	8.43% 7	20.48% 17	39.76% 33	31.33% 26	83	2.94
Hearings under 30 minutes, regardless of type	7.23% 6	14.46% 12	38.55% 32	39.76% 33	83	3.11

### Summary (18 comments)

Commenters generally agreed that anticipated length of hearing should not determine whether it should be remote or in person. Commenters also said hearings should be in person if a party specifically requests it, or if it is an evidentiary hearing.

#### Sample of comments:

- "Any party should be able to request an in person hearing. All status conferences, case manager conferences, non-evidentiary hearings should remain remote. No exhibits should need to be filed ahead of time if in person."
- "Remote works GREAT with the environmental practice."

## 14. As a general matter, should remote hearings be used in Judicial Bureau proceedings?

ANSWER CHOICES	RESPONSES
No. The Judiciary should return to pre-pandemic practice.	18.98% 26
Yes. All proceedings should default to remote.	35.04% 48
Yes, but selectively. Certain categories of hearings should default to remote unless an in-person hearing is requested.	29.20% 40
Yes, but selectively. Certain categories of hearings should default to remote unless in the interest of justice an in-person hearing is appropriate.	16.79% 23
TOTAL	137

### Summary (23 comments)

Commenters were split between a preference for remote and in-person hearings.

Those favoring in-person hearings mentioned the importance of cross examining the officer, as well as being able to talk to the officer before the trial. A handful of commenters mentioned the importance of the Judicial Bureau being in-person because it is where a large majority of the public will experience the Judiciary for the first time.

Commenters in favor of remote hearings mentioned the ease of access for the defendants, the fact that many defendants are out of state, and that people should be able to request an in-person hearing if they want one.

#### Sample of comments:

- "Many law enforcement officers won't talk before the hearing date and WebEx breakout rooms are not ideal for 10-20 people meeting with an officer."
- "I think of the Judicial Bureau as most likely to involve unrepresented folks, and they should be given an in-person forum."
- "I think that it should be easy to have defendants, and their witnesses, testify remotely. Many of the defendants are out of state."



## 15. Should the following Judicial Bureau hearings be conducted remotely?

	NO, SHOULD BE IN-PERSON	NO, SHOULD BE IN-PERSON ABSENT SPECIAL CIRCUMSTANCES	YES, PRESUMPTIVE REMOTE IS ACCEPTABLE	YES, ALWAYS REMOTE	TOTAL	WEIGHTED AVERAGE
Civil Violation Merits Hearings	17.80% 21	22.88% 27	31.36% 37	27.97% 33	118	2.69
Civil Violation Motion Hearings	13.91% 16	15.65% 18	37.39% 43	33.04% 38	115	2.90
Municipal Complaint Motion Hearings	15.32% 17	18.02% 20	32.43% 36	34.23% 38	111	2.86
Hearings under one hour, regardless of type	15.74% 17	16.67% 18	33.33% 36	34.26% 37	108	2.86
Hearings under 30 minutes, regardless of type	14.81% 16	13.89% 15	33.33% 36	37.96% 41	108	2.94

### Summary (20 comments)

There was a split between those in favor of remote and in-person hearings, but the majority of commenters expressed support for a hybrid system. This support ranges from stating that all cross-examinations should be in person, to in-person trials only having to occur when a party requests one.

Commenters in favor of in-person hearings reference the special nature of last-minute negotiations and resolutions that occur minutes before the hearing. Having both parties show up in person is key to resolving cases.

Commenters in favor of remote hearings mentioned workflow efficiency of remote work: being able to handle cases from all over the state, being able to reach out to ticketing officers right up until the court case, and witnesses and defendants more consistently showing up to hearings.

### Sample of comments:

- "All judicial bureau hearings should be in person. Perhaps more than any other type of proceeding, these hearings are subject to last minute negotiations and resolution. Having both parties show up in person is key to resolving these cases."
- "I fairly regularly have hearings in the Judicial Bureau. I've observed that the remote hearings have caused me to change my workflow. I'm apt to contact ticketing officers ahead of time to determine if we have a resolution to the case or if we need a hearing. If we do have resolutions, I'm also apt to try to file agreements ahead of time, which can have the effect of cancelling the hearing. Again, I've also taken ticket cases from areas of the state I wouldn't normally travel to for a hearing, and this has been a great help to my clients. I do a lot of work with commercial drivers, and sometimes it's hard for out of state drivers to find representation. If I'm able to keep doing this, I'll be able to help more people in more parts of the state. It also seems like the hearings move along fairly well. With all these, I'd also just like to point out how work flow has changed for me. I'm able now to work substantively on various tasks until about 5 minutes before a scheduled hearing. This has increased my ability to get things done during a normal work day, and has cut down greatly on my need to work after hours or on weekends. I get outside more and spend more time with family and friends, because now I have time since I'm not getting caught up. I've also had situations where I'm expected to be in hearings back-to-back in two different units or counties, and I'm able to do that pretty easily this way. I recall one day when my day looked like this Hearing in Burlington > Hearing in Rutland > Hearing in Burlington > Hearing in Woodstock > Judicial Bureau > Teach at Vermont Law School. There's no way I could have done this in the old times. that day I got a little screen fatigue, but I could get all those things done and didn't have to ask any court to cancel anything or get special permission to appear remotely for one or another; I just got them done. there have also been times when I'm in a larger hearing block, like arraignments or criminal status conferences, and I can get other work done while I'm waiting. It happens that you might wait 20-30 minutes for a case to be called. If you're able to be remote,



you can be on one screen and getting things done on another screen while you wait. While it's nice to be in person - and there are certainly times when in-person hearings are warranted or might be requested - it would be unfortunate to throw out the gains we've made in remote practice. I also observe that the people who yell the loudest about needing to be in-person seem to be the attorneys who can't figure out how to manage practicing remotely effectively, or who refuse to do that. It's a different skill and a different way to practice. “

- "Unless an in person contested hearing with exhibits is requested, being fully remotely is great"

## 16. Should witnesses be allowed to appear remotely in hearings that are in person?

ANSWER CHOICES	RESPONSES	
No. All witnesses should be in-person.	7.75%	29
Rarely. In exceptional circumstances regarding scheduling conflicts, travel distance, illness, weather or similar reasons for unavailability.	25.94%	97
Yes, somewhat. Depending on the circumstances, experts or certain witnesses should appear remotely.	30.75%	115
Yes, very flexible. Barring defendants' constitutional objections, witnesses should be allowed to appear remotely.	28.88%	108
Yes, very flexible. Court should allow witnesses to appear remotely regardless of parties' agreement.	6.68%	25
<b>TOTAL</b>		<b>374</b>

### Summary (46 comments)

There was a split between support for remote and in-person hearings. Commenters generally agreed it is case dependent. A majority of commenters agreed expert witnesses should be allowed to appear remotely.

The criteria provided for requiring an in-person witness include witnesses in jury trials, witnesses in contested and or complex evidentiary hearings, when witness testimony is integral to a party's case, when credibility of a witness needs to be established, and when a party objects to a remote witness.

Most commenters said remote witnesses were acceptable unless one of the above criteria are met. Responses referenced specific concerns about addressing ways to prevent coaching or coercion in remote witness testimonies.

Many commenters mentioned the benefits of remote witnesses, including:

- Expert witnesses can be remote.
- Cost effective, in both time and money.
- Witnesses are more reliably showing up to hearings who otherwise could not.
- Easier for more out-of-state testimony.
- Prevents other parties to use the cost of travel (time and money) to dissuade a potential witness from testifying.

### Sample of comments:

- "Remote hearings have allowed much better success getting people to agree to appear because the disruption of their day is more limited and it is less stressful."
- "Remote appearance of witnesses is a very poor substitute for in person. It is also very difficult to work with documents with a remote witness. Witnesses sometimes are being coached by others in the room; they sometimes don't bother turning on their camera and can't be made to; they refer to documents that aren't part of the record."
- "If the hearings are in person, it would be better to have witnesses there in person, too. However, if the witness would rather appear remotely or a party specifically requests remote participation of

a witness, that should normally be allowed. This should be resolved well before the hearing, however, so that no one is taken by surprise by the manner of a witness' appearance in court.”

### 17. Do you have experience using an interpreter in a remote hearing?

ANSWER CHOICES	RESPONSES	
Yes - spoken language	22.91%	85
Yes - American Sign Language	2.43%	9
No	74.66%	277
TOTAL		371

Question 17 did not ask for comments.

### 18. Based on your experience with the involvement of an interpreter, do you feel it is acceptable to hold an evidentiary hearing remotely if the interpreter and the party requiring an interpreter aren't in the same place?

ANSWER CHOICES	RESPONSES	
No. Interpretation can't be carried out satisfactorily unless the interpreter and the party requiring an interpreter are in the same place.	20.81%	36
Very rarely. Remote interpretation should be permitted only as a last resort.	19.65%	34
Yes, somewhat. Although it is preferable to have the interpreter and the party requiring interpretation in the same place, the difficulties in making arrangements for such warrant making an exception.	32.95%	57
Yes. There is no reason to not allow remote interpretation.	21.39%	37
Yes, when awaiting an in-person interpreter will cause significant delay.	5.20%	9
TOTAL		173

#### Summary (31 comments)

Comments were split, but most commenters expressed a general concern about using remote interpreters. Concerns about remote interpreters included:

- Interpreting for a party and its limitations on receiving confidential counsel between client and attorney.
- Technical issues that make it hard for people to hear each other.
- Effective interpretation for ASL.
- Ensuring that a party who requires interpretation receives effective and reliable access and interpretation.
- Interpreters and attorneys having to be skilled to successfully navigate remote hearings effectively.

Those in favor of remote interpreters mentioned:

- Cost effective - saves time and money.
- Increases availability and access to interpreters of all languages and dialects because it allows them to attend court from anywhere.
- Can meet the high volume demands of the Court.

- There's a very limited number of interpreters for the entire State and remote interpreters help make that more of a non-issue.

Sample of comments:

- “I had a case with this recently, and I don't think that if the parties had both been in the same place, it would have made a difference. They could see each other on video, and we could see them as well. Also, my client was in another state and is disabled, so trying to get both my client and the interpreter in the same place would have been very difficult.”
- “An attorney and interpreter with experience should have no difficulty using remote interpreted testimony. I have encountered some Vt attorneys, usually less experienced counsel, who do not know how to use an interpreter. For example I have experienced some counsel in Vt who have said things like: “Ask the witness where she was positioned at the time of the crash.” These problems can be avoided with proper CLE training on use of interpreters.”
- “We had to adjourn the hearing and reconvene in person due to the difficulty of having that many participants and difficulty with the interpretation.”
- “I have done several status conferences and civil trial with some remote witnesses and an interpreter for my deaf client. It was difficult.”

**19. If you have participated in hybrid hearings, do you believe there are benefits to continuing to allow hybrid hearings?**

ANSWER CHOICES	RESPONSES	
No	13.47%	40
Yes	56.23%	167
Not applicable	30.30%	90
TOTAL		297

**Summary (107 comments)**

A majority of comments were favorable to hybrid hearings. Comments mentioned cost-effectiveness, time savings, efficiency, providing greater access to the courts, and making it easier for parties and witnesses to access hearings. Many commenters mentioned benefits in cases with expert witnesses. A handful of commenters mentioned benefits when a party is incarcerated, and in juvenile cases.

Commenters opposed to hybrid hearings mentioned challenges in complex, contested, and evidentiary hearings. Some commenters also mentioned challenges with cross-examination, and in presenting exhibits and evidence. Several commenters felt hearings should either be fully remote or fully in person.

Sample of comments:

- “Convenience and cost savings for those appearing remotely, and decrease in need for continuances if one party isn't available in person for a hearing.”
- “While it is nice not to have travel to court, I again repeat that call evidentiary hearings should be in-person absent consent by all parties.”
- “As a public defender it is sometimes easier for clients to participate because of travel distances but other times, they do not have good internet or devices available to them. Other times in person makes an impression on a juvenile teen who may not take things seriously. But when a SA is remote it can lose the effect.”
- “Hybrid hearings are difficult. It's better to have an all-remote or all in-person hearing. Occasionally, it works to have a remote witness with an in-person hearing, but that should be a rarity.”
- “I can't think of any benefits. Every hybrid hearing I have participated in has been a disaster. Not everyone can see everyone, not everyone can hear everyone, people talk over each other more so than in person making a train wreck of the transcript, exhibits are problematic -- because parties appearing in person did not efile in advance. But most importantly -- our courts are currently outfitted in a way that technologically supports some people in person, and some people

remote -- except for incarcerated remote arraignments, which still aren't great, but don't see this changing.”

## 20. If you have participated in hybrid hearings, do you believe there are detriments to continuing to allow hybrid hearings?

ANSWER CHOICES	RESPONSES	
No	32.10%	87
Yes	42.07%	114
Not Applicable	25.83%	70
TOTAL		271

### Summary (86 comments)

Concerns about hybrid hearings fell into three main categories:

- Technical difficulties
- Witness testimony and cross-examination
- Presenting evidence and exhibits effectively

*Technical difficulty* concerns mainly dealt with:

- Not being able to hear people.
- Litigants not being able to talk privately with counsel during hearings, or it at least being a laborious process.
- Not being able to see all parties at once.
- Increased disruption in court because participants did not know how to use their devices, because they did not understand when it was their turn to talk.
- Lack of access to technology and a lack of technological aptitude, making remote access difficult for some.
- Some commenters mentioned a desire to be able to see litigants, witnesses, and other attorneys on video as opposed to just hearing them over the phone. Others express concern over the loss of in-person negotiations, discussions, and resolutions that happen outside of the hearing.

Concerns about *witness testimony and cross-examination* in hybrid hearings mainly dealt with establishing credibility. Most commenters were concerned about the inability to observe the witness in person and make sure that they aren't being coached, coerced, reading off notes, or having unidentified or unauthorized people in the room.

Concerns relating to *presenting exhibits*, focused on the difficulty of presenting exhibits across multiple mediums. Many commenters noted remote access requires e-filing exhibits prior to the hearing. Commenters said this often does not happen and leads to more issues with presenting evidence in a hybrid hearing.

Several commenters suggested these detriments provide in-person participants with an advantage over the remote participants.

### Sample of comments:

- “Someone's technology always fails or glitches, even mine, even though I have supposedly a secure, stable, fast connection maintained by the State of Vermont and in Montpelier (and not in a rural spot). It has been exhausting. But that is not the worst of it. Remote witnesses are playing with their phones or other computers, texting, emailing, and no one, no one is taking court

seriously anymore. The judiciary lost prestige and authority in the public's mind when it went remote.”

- “We (defendant's counsel) were in person, as was Plaintiff, but Plaintiff's counsel wasn't. Plaintiff and her counsel couldn't always see each other. The cameras in the courtroom and the screen in the courtroom didn't always keep up with who was speaking.”
- “Remote participants aren't aware of everyone in the courtroom and are thus at a disadvantage.”
- “Remote cross examination is not very effective, there is also no real way to make certain remote witness is alone, not reading documents, etc.”
- “Exhibits are more difficult, as is getting the advice of counsel if the party or attorney are not in the same room. Also, it is likely more difficult to get a sense of the participant's veracity.”
- “It is impossible for the Judges to assess credibility via telephone. Technical difficulties are extremely frustrating and remote/hybrid hearings are often very inefficient. Pre-filing of exhibits is onerous and prohibitive, especially for pro se parties.”

## **21. If hybrid hearings continue, which types of hearings are best suited?**

### **Summary (121 comments)**

There vast majority of commenters noted that non-evidentiary hearings were best for hybrid hearings. Others mentioned status conferences, uncontested matters, and less complex evidentiary hearings.

Juvenile cases were noted as well-suited for hybrid hearings. Family, civil, and small claims were also mentioned.

Most commenters had concerns about having complex evidentiary hearings, parties with many witnesses, and jury trials in a hybrid hearing.

### Sample of comments:

- “Overall, hybrid is helpful for all hearings. However, parties that are participants should generally be required to appear in person unless it is one of the hearings mentioned above.”
- “Non-evidentiary; Only hearings where the lawyer does not need to communicate with the client. Bail hearings should NOT be hybrid. Access to justice and fair play does not occur in these hybrid hearings.”

## **22. Are there types of hearings where hybrid hearings should not be permitted? Should those be in person or remote?**

### **Summary** (102 comments)

A majority of commenters agreed that there were some types of hearings in which hybrid should not be permitted. The two largest categories were trials and evidentiary hearings.

Other categories mentioned include if there were exhibits, sentencing, RFAs, changes of plea, rent escrow, potential loss of liberty or real or personal property, ability to face accuser, involuntary guardianship, juvenile cases, TPR, and bail hearings.

### Sample of comments:

- “Bench and jury trials, and all evidentiary hearings in criminal court should be in person. Some witnesses, such as experts, may appear remotely. However, attorneys, defendants and most witnesses (lay witnesses, police officers, etc.) should be required to be in person.”
- “I think a jury trial should be in person because otherwise there is no way to know if the jury members are actually paying attention to what is happening in the court room.”
- “Any evidentiary type hearing or trial. The process goes smoother when both lawyers are present, or both are remote.”
- “Courts should always allow a party to schedule one or two witnesses remotely if necessary, if reasonable efforts have been made to try to get the witnesses to appear in person and if technology allows.”
- “Jury Trials. Unfair to make the Jury come into the building to hear a case but the rest of the participants get to do so remotely.”

## **23. If hybrid hearings are permitted, should parties be required to make a written request and meet certain criteria? If so, what criteria?**

### **Summary** (88 comments)

Nearly half the commenters felt there should be criteria for a written request for a hybrid hearing. Criteria included only if by agreement, if distance was a factor, if there was a scheduling conflict, if someone was ill, for good cause, demonstrable hardship, and not merely because it's convenient to appear remotely.

Some commenters thought the person asking to appear remotely should certify they have reliable internet and the technical ability to participate remotely, including the ability to appear by video, not just by phone.

### Sample of comments:

- “I think witnesses should have an oath assuring they are not being influenced by sources where they are (other people, the internet).”
- “No, it should be up to the party to decide whether they want to come in person or be remote. No criteria needed, only notice to the other party.”
- “If remote or hybrid hearings are to be permitted, I think it should be by written request with specific reasons articulated. There is such value added when attorneys are forced to be together as human beings and interact to solve issues.”
- “Hard to answer not knowing what type of hybrid hearings would continue. If hybrid evidentiary contested hearings are permitted -- the party requesting to appear remotely should have to make a written request, and have show it won't be burden on the judiciary and other parties for them to participate remotely; and they must have a real reason for needing to participate remotely other than cost to the client.”

**24. Presuming remote hearings will be used in some instances post-pandemic, should there always be the opportunity for a party to request the court to require in-person attendance at a hearing?**

ANSWER CHOICES	RESPONSES	
Yes	85.37%	245
No	14.63%	42
TOTAL		287

**Summary** (73 comments)

A vast majority of commenters agreed a party should be able to make the request to require in-person attendance, but that the judge always retains discretion about whether to grant the request.

Concerns about allowing someone to compel parties to appear in person included using the request as a delaying tactic, or a form of intimidation.

Sample of comments:

- “I think there may be "in between" categories where the parties could request, or present reasons why a presumption should be overcome. I think the rules will work better if there is some flexibility. Not every motion to suppress is of the same magnitude, etc.”
- “Absolutely. Circumstances vary case to case and the court should always be open to requiring in person attendance if circumstances warrant.”
- “Concern that local party will take advantage and try to require out of state party to come in person when it may not be necessary to do so. Depends on what is at stake.”
- “Yes, with the caveat that I know several attorneys who simply prefer that everyone be in person. There should be some standard that requires an actual need for in-person hearing before requiring the other participants to also attend.”
- “Yes, there are always circumstances that may give rise to the need to be in person. i.e. language barriers, high speed internet barriers, etc.”

**25. Regardless of your views on the future of remote hearings, please rate how compelling you find the following reasons in favor of remote hearings**

	NOT COMPELLING	SOMEWHAT COMPELLING	VERY COMPELLING	TOTAL	WEIGHTED AVERAGE
Saving client/attorney time and money	5.91% 22	24.46% 91	69.62% 259	372	2.64
Easier hearing schedule	7.82% 29	28.57% 106	63.61% 236	371	2.56
Access to expert witnesses in other locations	5.72% 21	38.15% 140	56.13% 206	367	2.50
Convenience for witness	9.41% 35	38.71% 144	51.88% 193	372	2.42
Closer views of participants' faces	60.00% 222	28.11% 104	11.89% 44	370	1.52
Ability of family members to observe hearing	59.23% 215	30.58% 111	10.19% 37	363	1.51
Greater media / public access to hearings	68.61% 247	24.72% 89	6.67% 24	360	1.38
Increased efficiency for attorneys	12.97% 48	28.65% 106	58.38% 216	370	2.45
Allows attorneys to work from home	33.33% 123	29.27% 108	37.40% 138	369	2.04
Environmentally sound / less travel	19.19% 71	36.76% 136	44.05% 163	370	2.25
Forward-looking re technology	35.25% 129	30.05% 110	34.70% 127	366	1.99
Health / avoidance of exposure to illness	19.14% 71	31.81% 118	49.06% 182	371	2.30
Potential savings on courthouse facilities	31.08% 115	34.86% 129	34.05% 126	370	2.03
Efficiencies for court staff	21.47% 79	37.50% 138	41.03% 151	368	2.20
Access for litigants without transportation	6.22% 23	30.27% 112	63.51% 235	370	2.57
Access for litigants without child care	8.97% 33	29.35% 108	61.68% 227	368	2.53
Access for disabled litigants / lawyers	7.61% 28	29.08% 107	63.32% 233	368	2.56
Reduction of antagonism between litigants in certain cases	42.19% 154	30.68% 112	27.12% 99	365	1.85
Reduction of anxiety for litigants in certain categories of cases	34.52% 126	34.25% 125	31.23% 114	365	1.97

**Summary (43 comments)**

Commenters mentioned additional reasons in favor of remote hearings including safety, efficiency, health, inclusion, equity, getting witnesses to participate, being able to work from home, being able to expand their practice because of less car time for attorneys, accessibility for attorneys and litigants, and more privacy for litigants.



Sample of comments:

- “There are so many compelling reasons for remote hearings to be the new normal, as aptly identified here in the questionnaire. If someone wanted to make the case for an in-person hearing in a particular case, they should have to meet an extremely heavy burden to overcome all the compelling advantages and benefits remote hearings clearly afford.”
- “I have had cases - especially RFA cases - where my client feels much safer not seeing the other party in Court. That is a compelling argument to me. The argument that remote hearings increase access cuts both ways: for litigants who have poor technology skills or lack access to internet, devices, etc., remote hearings can be a barrier.”
- “Many of these reasons have no basis in reality. It is absolutely \*not\* easier to schedule a hearing today than it was in 2019. Witness faces are not in better view; also body language is lost. I have handled at least 100 remote hearings by now and only ONCE did a member of the media attend. I have NEVER seen a member of the public, but the public OFTEN attended court in the past. Regarding access to litigants: I had a high volume criminal practice for years and I can count on one hand how many times child care, transportation, etc. prevented someone from coming to court in rural Orange County. And, if they did, we worked it out.”
- “Litigation is not convenient. If remote access produces a better product, results with more integrity, and a process that is fair to everyone without diminishing or degrading the process that is all well and good. Except for non-evidentiary hearings, or hearing where all parties agree to go remote, I have not seen a proceeding where remote access to the court produces a superior product or a product with more integrity than an in person hearing.”

**26. Regardless of your views on the future of remote hearings, please rate how compelling you find the following reasons against remote hearings**

	NOT COMPELLING	SOMEWHAT COMPELLING	VERY COMPELLING	TOTAL	WEIGHTED AVERAGE
Loss of formality of proceedings	42.03% 153	33.52% 122	24.45% 89	364	1.82
Decreased quality of lawyering	53.44% 194	26.45% 96	20.11% 73	363	1.67
Challenges sharing exhibits	18.51% 67	41.99% 152	39.50% 143	362	2.21
Decreased ability of judges to connect with litigants	24.31% 88	37.85% 137	37.85% 137	362	2.14
Loss of settlement opportunities	34.35% 124	32.69% 118	32.96% 119	361	1.99
Decreased importance of courthouses	57.34% 207	25.48% 92	17.17% 62	361	1.60
Decreased interactions for lawyers	33.52% 122	34.07% 124	32.42% 118	364	1.99
Some litigants' lack of video access	12.74% 46	41.00% 148	46.26% 167	361	2.34
Some litigants' lack of phone access	19.83% 72	37.47% 136	42.70% 155	363	2.23
Greater media / public access to hearings	72.24% 255	20.11% 71	7.65% 27	353	1.35

**Summary (34 comments)**

The two biggest reasons against remote hearings mentioned were exhibits and technology issues. Other issues included barriers to public attendance at hearings, loss of settlement opportunities, parties being less respectful proceedings, varying quality of judicial management of virtual courtrooms, distracted witnesses and attorneys, and a loss of connection between attorney and client

### Sample of comments:

- “Exhibit sharing suffers. First, you have to give exhibits to adverse counsel that you may not use or want to use to impeach credibility that will now not be a surprise; second, more layers of technical glitches - not just the courthouse set up, but internet failure, WiFi deficiency; third, lawyering can be impersonal in and of itself - removing opportunities for lawyers to interact with each other and/or their clients in hearings/trial/conferences, etc., reduces necessary humanity to the practice of law.”
- “If tech hurdles like internet access and exhibit sharing can be overcome, there really aren't that many downsides to remote or hybrid proceedings. Maybe you can't see body language or observe interactive behaviors as well, which might be important for some in gauging credibility. I wonder if that has been an issue.”
- “Remote hearings has increased the quality of lawyering in my opinion. I feel very strongly about this as remote hearings do not allow for the posturing and they require attorneys to be prepared! They can't wing it as easily. For court appointed cases, it has forced attorneys to actually exert some effort to get in touch with their clients. I also very much disagree that it has reduced the opportunity to settle cases. It has reduced the opportunity for last-minute, pressured settlement. That is a good thing! That was awful for parties and for myself as an attorney. I would prepare my case for a hearing after trying desperately to get opposing counsel to engage in settlement talks. My client would spend a bunch of money and then I'd show up at court to be cornered by opposing counsel to settle at the exact moment when my client was most vulnerable. This doesn't happen any longer. No more pressure cooker settlements in family law. Also, the docket runs way more on-time and when it doesn't, we aren't just hanging out. I can do substantive work instead of being forced to use that time to be pressured into settling by opposing counsel. If we are going to settle, we're going to do it before the hearing. Calmly in a thorough manner. When we have hearings, we have actual hearings where attorneys are expected to present evidence and know the rules. This has absolutely raised the skillset and quality of attorneys. The bad lawyers hate it. They can't play games. The clients are more relaxed and I think they see the judges in a light that encourages more connection with litigants.”
- “The loss of connection between the client and the attorney during a hearing is probably my biggest concern. The ability to communicate privately with your client is important at a hearing. Passing notes, etc. I have tried to allow clients to text me during hearings, which helps. Some judges have even allowed me to do that when in person and my client is remote, which is appreciated.”

## 27. What is your opinion about the technology the Judiciary uses to support remote hearings?

ANSWER CHOICES	RESPONSES	
I like the technology.	61.21%	202
I like the technology but could use training on it.	20.91%	69
My clients generally like the technology.	23.33%	77
I do not like the technology.	15.76%	52
I do not like the technology but could use training on it.	3.03%	10
My clients generally do not like the technology.	5.15%	17
Total Respondents: 330		

### Summary (70 comments)

Most commenters had negative views of the technology, specifically about Webex. Many commenters expressed a preference for Zoom.

The most common issue raised by commenters related to exhibits, followed by a need for more training opportunities. Commenters also mentioned hearing notices, password issues, inability to hear or see the judge and other participants, and the unequal distribution of staff support around the state.

Sample of comments:

- “With every client I talk to them about how to access Webex on their phone or other device. It’s truly a rare client who doesn’t have a device to be able to access the hearings. I walk them through downloading the free app and always let them know if they can’t get on for some reason to text me, and then I ask the court to call them. This has worked almost every single time. It just takes about 3-4 minutes of coaching and then we’re all on the same page.”
- “But the courtrooms need better technology so if people are participating remotely they can actually see everyone, and see different angles of the courtroom -- not just a tiny head by the bench, and an inability to see attorney at the tables.”
- “Zoom is the lingua franca of video conferencing. If Joe Anybody knows how to use one video conferencing platform, it’s Zoom. The Court should be using it, because it’s the most familiar to the most people.”

**28. What is your opinion about the efficiency of remote hearings?**

	AGREE	DISAGREE	TOTAL
Remote hearings save me time.	91.78% 324	8.22% 29	353
Remote hearings save my clients' time.	91.18% 310	8.82% 30	340
Remote hearings help cases move more efficiently.	73.31% 250	26.69% 91	341
Remote hearings are a source of case processing delay.	20.92% 68	79.08% 257	325

**Summary (45 comments)**

Commenters said remote hearings are both more and less efficient than in-person hearings.

The most common reason mentioned for remote hearings being more efficient were travel time savings. The most common reason cited for remote hearings being less efficient was technology glitches.

Sample of comments:

- “They save me time until I’m under the gun to do arraignments in 3 counties at once. Clients generally prefer them, as they can remain where they are, at home, at work etc., without travel time. When the tech isn’t working, well, at all, or for the client, they are definitely a source of delay.”
- “I honestly cannot answer either agree or disagree to any of these. Remote hearings save both my clients and me travel time and wasted time at court waiting for our turn, for sure. But they often require more preparation, particularly of exhibits which must be in special form and efiled long before the hearing. I also often need to take time to educate my clients in the manner of remote access. Preparation time is sometimes longer for remote hearings. Remote hearings can help some cases move more efficiently, especially with things like case manager’s conferences, status conferences, and other short proceedings which would otherwise take a LOT more time, including the time to get to and from court. But technological problems have held up hearings, delayed hearings, and caused hearings to be entirely cancelled and rescheduled. There is always time every remote hearing which must be devoted to making sure everyone can see and hear, that folks are muted (or not), and to other technological issues. Consequently, I routinely assume that we will have between 15 minutes and half an hour less time available for the actual hearing than the schedule provides. The best answer I can come up with for each of the factors listed above is, “It depends.”.

## 29. Please add any comments you'd like to offer regarding remote hearings in general.

### Summary (93 comments)

Commenters provided summarizing remarks for and against remote hearings, with a large majority expressing a favorable view of remote hearings in general.

#### Sample of comments:

- “I think that remote hearings have the potential to increase access to justice and also the potential to decrease the quality of justice. A nuanced approach to this issue carries the promise and potential of making our court system better. The pandemic disrupted our services, but created a unique opportunity for reflection, integration of new ideas, and improvement.”
- “Remote hearings prevent the personal aspects of the practice of law that often facilitate decorum, respect for adverse parties, promote matter resolution, and again, removes the critical humanity involved in settling disputes.”
- “They are a game changer. My clients can now attend from out of state and I am able to resolve cases even when my clients are incarcerated out of state because I can WebEx them into resolve their cases to get concurrent time.”
- “Remote hearings reduce litigants respect for the judiciary because judges cannot control the behavior of witnesses or litigants. Remote hearings also allow for and promote unprofessional attorney behavior.”
- “I strongly favor continuing with remote hearings in most cases (absent confrontation limitations, as I said). My firm has, in the past two years, built a practice in many counties; frankly, this practice would be logistically impossible without most hearings being remote.”
- “There are both significant benefits and drawbacks to remote hearings. I would have difficulty saying if one clearly outweighs the other. I personally very much appreciate being able to appear remotely, and when remote hearings go smoothly they are great, but they are also rife with risks as previously noted.”
- “One of the biggest losses with remote hearings has been the ability to confer with peers in the hallways in-between hearings. A lot of work gets done moving cases along in those times. Also a lot of good work sharing information and encouraging collegiality happens during those times. That is lost with remote hearings.”

### 30. In which county do you primarily practice?

ANSWER CHOICES	RESPONSES	
Addison	5.12%	17
Bennington	5.12%	17
Caledonia	2.71%	9
Chittenden	32.53%	108
Essex	0.30%	1
Franklin	4.52%	15
Grand Isle	0.60%	2
Lamoille	3.31%	11
Orange	0.30%	1
Orleans	2.41%	8
Rutland	9.04%	30
Washington	15.96%	53
Windham	6.33%	21
Windsor	11.75%	39
TOTAL		332

### 31. How many years have you been in practice?

ANSWER CHOICES	RESPONSES	
Less than 5 years	9.43%	35
6-10 years	11.05%	41
11-15 years	15.90%	59
16-20 years	10.24%	38
More than 20 years	53.37%	198
TOTAL		371