

This document is one of a number of Toolkit items designed to help courts in their planning to return to full capacity while continuing to mitigate risk to protect the public and staff. While every effort has been made by SCAO staff to compile as much helpful and accurate guidance as possible, we understand that during the months ahead courts will be responding to their individual situations with creativity and innovation. Moreover, we know that advice from outside authorities continues to change to reflect analysis of additional data. Anticipating occasional updates to these documents as new information becomes available, the SCAO welcomes ongoing input on these documents, and in particular, sharing insights and experiences that can be added so that other courts can benefit from each other's work. Comments can be sent to CourtServices@courts.mi.gov.

Guidance on Conducting Remote Hearings with Self-Represented Litigants

This resource is intended to assist courts with self-represented litigants' participation in remote court hearings. It includes ways that SRLs can resolve their case remotely and three steps courts can take to facilitate remote court hearings for SRL.

The Michigan Supreme Court entered [Administrative Order No. 2020-6](#), which provides the following, in part:

. . . [T]he Court authorizes judicial officers to conduct proceedings remotely (whether physically present in the courtroom or elsewhere) using two-way interactive videoconferencing technology or other remote participation tools under the following conditions:

- any such procedures must be consistent with a party's Constitutional rights;
- the procedure must enable confidential communication between a party and the party's counsel;
- access to the proceeding must be provided to the public either during the proceeding or immediately after via access to a video recording of the proceeding, unless the proceeding is closed or access would otherwise be limited by statute or rule;
- the procedure must enable the person conducting or administering the procedure to create a recording sufficient to enable a transcript to be produced subsequent to the activity.

I. Ways that SRLs Can Resolve Their Case Remotely

A. Telephone

[Administrative Order No. 2020-6](#) provides for remote hearings, which may include telephonic appearances. Additionally, SRLs can generally participate in most hearings (with court permission) through telephonic means in accordance with MCR 2.004, 2.402, 3.708, 6.006, and 6.901. A telephone hearing might be a more convenient option for resolving informal hearings on traffic citations, holding status conferences, and hearings unlikely to be controversial like routine pro confesso hearings in divorces.

While many people will be able to take advantage of telephonic appearances, some litigants might be unable to do so for lack of a phone, service, or minutes. Courts should be mindful of these limitations, allow multiple means for litigants to communicate their inability to participate, and prepare alternative participation options, such as appearing in person in the courtroom if the court is open, the courtroom is staffed, and there will be fewer than 10 people in the courtroom at any time.

Additionally, if the court determines that a party failed to appear by telephone due to technical difficulties, or if the court does not know the reason for the failure to appear, the court should not issue a bench warrant and should consider lack of access to be “good cause” if the party files a motion to set aside default or otherwise attempts to revisit the matter of the hearing.

To assist with these challenges, SCAO created a [list of statewide resources](#) and recommends that courts add any local resources that would help SRLs access court remotely. Additionally, SCAO created a [chart](#) that is intended to assist courts with deciding when to hold remote hearings via telephone and videoconferencing. While the chart includes statutory and court rule authority for remote hearings, [AO 2020-6](#) authorizes remote court hearings consistent with the provisions in the order, until further ordered by the Michigan Supreme Court. Finally, to facilitate remote hearings and improve case processing, courts may collect contact information for parties and witnesses using the new “Contact Information” form ([MC 505](#)) and the new “Notice of Hearing with Remote Participation” form ([MC 506](#)).

B. Zoom and Other Videoconferencing

Especially for individuals who have Internet access, Michigan courts should allow SRLs to attend court remotely using Zoom or another videoconferencing system. One way to expand Internet access for SRLs is for counties and courts to offer public Wi-Fi to SRLs during the pandemic by allowing individuals to access their Wi-Fi network from their parking lot. For example, the [City of Holland](#) temporarily established free access to their high-speed Wi-Fi network from the civic center’s parking lot.

While many people can take advantage of Zoom and other videoconferencing appearances, some litigants are unable to do so for lack of equipment or Wi-Fi/Internet access required to attend videoconferences. Courts should be mindful of these limitations, allow multiple means for litigants to communicate their inability to participate, and prepare alternative participation options, such as appearing in person in the courtroom if the court is open, the courtroom is staffed, and there will be fewer than 10 people in the courtroom at any time.

Additionally, if the court determines that a party failed to appear by videoconferencing due to technical difficulties, or if the court does not know the reason for the failure to appear, the court should not issue a bench warrant and should consider lack of access “good cause” if the party files a motion to set aside default or otherwise attempts to revisit the matter of the hearing.

To assist with these challenges, SCAO created a [list of statewide resources](#) and recommends that courts add any local resources that would help SRLs access

court remotely. Additionally, SCAO created a [chart](#) that is intended to assist courts with deciding when to hold remote hearings via telephone and videoconferencing. While the chart includes statutory and court rule authority for remote hearings, [AO 2020-6](#) authorizes remote court hearings consistent with the provisions in the order, until further ordered by the Michigan Supreme Court. For additional information, see the [FAQ Regarding Expansion of Remote Proceedings](#). For a list of the proceedings that can be conducted via videoconferencing and the authority, conditions, and restrictions for each hearing type, see the [Standards, Guidelines, and Best Practices for Virtual Courtrooms](#) and the [Standards for Videoconferencing Technology](#). JIS has additional instructions about using [Zoom](#). Finally, to facilitate remote hearings and improve case processing, courts may collect contact information for parties and witnesses using the new “Contact Information” form ([MC 505](#)) and the new “Notice of Hearing with Remote Participation” form ([MC 506](#)).

C. Online Dispute Resolution

The expanded use of ODR will assist SRLs and courts with resolving cases remotely during and after the COVID-19 pandemic. Michigan already has several ODR options (see below), and courts should work toward expanding ODR in appropriate case types.

- FOC Family Outreach Programs
 - [Ottawa County Friend of the Court](#)
 - [Washtenaw County Friend of the Court](#)
 - [Jackson County Friend of the Court](#)
- MI-Resolve Program for resolving disputes that are typically filed as a small claims or landlord/tenant case (regarding disputes over money but not occupancy) in the district courts (via Dispute Resolution Centers and Court Innovations). This is available for individuals who may or may not already have a case filed in court, and it can be done with or without a mediator. [MI Resolve will be expanded statewide in the near future](#).
- Courts have the authority to order most civil and domestic relations cases to ADR under MCR 2.410, 2.411, and 3.216.
- [Community Dispute Resolution Program centers](#) statewide are available to mediate by teleconference or Zoom.

If courts already have access to these programs, they should encourage SRLs to use the programs. If courts do not have access to these programs, then courts should consider implementing these programs in their court. While access to technology might be an issue, as long as these interventions remain voluntary, limitations on SRLs’ access to technology needed for ODR are less of a concern. To assist with these challenges, SCAO created a [list of statewide resources](#) that includes ODR options for SRLs to use and for courts to refer SRLs to.

D. Coordinate with Michigan Legal Help and the State Bar of Michigan

Michigan Legal Help has useful information and FAQs on their website for SRLs, and courts can refer SRLs to these resources. Below are some of the resources.

1. **[How will the COVID-19 \(Coronavirus\) Emergency Affect My Legal Problem?](#)**
2. **How COVID-19 Might Impact a Criminal Case or Traffic Case**
 - [How Will District Court Criminal Hearings Be Affected?](#)
 - [How Will Circuit Court Criminal Hearings Be Affected?](#)
 - [How Will Traffic Hearings Be Affected?](#)
 - [What If I Already Have a Hearing Scheduled for My Criminal Court Case or Traffic Case?](#)
 - [What If I Need to File Court Papers?](#)
3. **COVID-19 (Coronavirus) and Personal Protection Orders**
 - [In-Person Hearings](#)
 - [What If I Already Have Another Kind of PPO Hearing Scheduled?](#)
 - [How Can I Get a PPO During This Emergency?](#)
 - [What If I Need to File Other Court Papers?](#)
4. **COVID-19 (Coronavirus) and Eviction Cases**
 - [Eviction Moratorium](#)
 - [The CARES Act's Impact on Eviction](#)
 - [What If I Need to File Court Papers?](#)
5. **How COVID-19 (Coronavirus) Might Impact Your Family Court Case**
 - [Courts Will Still Have Certain Types of Family Court Hearings](#)
 - [What If I Already Have a Hearing Scheduled for a Different Type of Family Court Case?](#)
 - [What If I Need to File Court Papers?](#)
 - [Custody, Parenting Time, and Child Support](#)

Additionally, the Michigan Legal Help website has information on and a DIY tool to assist people in creating a [Statutory Will](#) and hopes to have a durable medical power of attorney available soon. These documents are important during the COVID-19 crisis as they can expedite decision making and avoid probate filings.

MLH recently created resources regarding “[What to Expect at a Virtual Hearing.](#)” MLH is adding electronic signature to all of its DIY Tools to make them easier to file electronically. They are also working to separate documents into proper bundles to facilitate e-filing. If your court is accepting filings via e-mail for PPOs or otherwise, consider reaching out to MLH at michiganlegalhelp@mplp.org to let them know so they can help educate the public about those resources.

In addition to expansion of resources to help SRLs access legal help in response to COVID-19, there are legal resources available to Michigan's COVID-19 first responders. For example, the State Bar of Michigan created a [program](#) where medical workers and first responders will be paired with an attorney who will assist with free medical powers of attorney, financial powers of attorney, and simple/statutory wills.

II. Three Steps for SRL to Participate in Remote Court Hearings

A. Create a [Court Webpage](#) Regarding COVID-19

Courts might consider dedicating a portion of their websites to explaining new policies and procedures in response to COVID-19. The website should list the pro bono legal services and legal-aid services available in their community. MLH's [Guide to Legal Help](#) can meet this need. The website should also list free access to Wi-Fi, such as the court's parking lot or public library, if available.

The website should include a SRL resource section for using Zoom or other videoconferencing technology. To assist with these challenges, SCAO has created an [FAQ Regarding Expansion of Remote Proceedings](#), which includes instructions for using Zoom, and the Judicial Information Services created the [Using Zoom and Virtual Courtroom Resource Center](#). SCAO also created a [statewide SRL webpage](#), and courts can refer litigants to the webpage or incorporate the statewide webpage into the court's website.

B. Identify which hearings can be accomplished via telephone and which should be accomplished via Zoom

Courts should weigh the benefits and needs of each hearing forum and each SRL to determine the method for the remote hearing. Match each proceeding with the remote appearance medium that (1) works for the SRL, (2) complies with due process standards and other laws, and (3) reliably achieves the purpose of the proceeding. In many instances, a phone conference will satisfy the purpose of a court event; and in other instances, a video conference may be required or preferable. Courts should offer a toll-free option for SRL. For additional information on toll-free numbers for Zoom, click [here](#). To assist with these challenges, SCAO created a [chart](#) that is intended to assist courts with deciding when to hold remote hearings via telephone and videoconferencing. While the chart includes statutory and court rule authority for remote hearings, [AO 2020-6](#) authorizes remote court hearings consistent with the provisions in the order, until further ordered by the Michigan Supreme Court. The [Standards, Guidelines, and Best Practices for Virtual Courtrooms](#) provides additional information. SRLs can generally participate in most hearings (with court permission) through telephonic means under MCR 2.004, 2.402, 3.708, 6.006, and 6.901. Telephonic testimony must be able to be heard on the court recording, if any. The Michigan Supreme Court's [website](#) includes which counties and judges have active live-stream hearing capabilities.

C. Notice of Hearing with Remote Participation

The court should notify litigants of any hearing that is scheduled for telephone or videoconferencing. To assist with these challenges, courts may collect contact information for parties and witnesses under [AO 2020-13](#) using the new "Contact Information" form ([MC 505](#)) and the new "Notice of Hearing with Remote Participation" form ([MC 506](#)). Click [here](#) for guidance on completing MC 506. Under [AO 2020-09](#), notices of hearing should be served via electronic means to the greatest extent possible.