STATE OF MAINE JUDICIAL BRANCH
PANDEMIC MANAGEMENT ORDER

Order Issued February 17, 2021

Order Regarding Remote Child Protective Custody Proceedings

This order governs child protective custody proceedings and supersedes PMO-SJC-7 and PMO-TC-1 with regard to these proceedings.

PMO-SJC-10(A). PRESUMED REMOTE COURT PROCEEDINGS

1. Parties, counsel, guardians ad litem, and any other person granted access by the court shall attend the following proceedings remotely, unless otherwise ordered by the court:

   a. Uncontested judicial reviews;

   b. Uncontested permanency planning hearings;

   c. Case management conferences and pretrial conferences; and

   d. Any other uncontested proceedings not listed in PMO-SJC-10(B)(1).

2. Upon motion or on the court's own initiative, the court may permit or require one or more persons to participate in person in one of the above proceedings, and the court may also continue the proceeding to allow for in-person participation. In making this determination, the court shall consider the health and safety of the court staff and parties; the due process rights of the parties; the ability of parties to participate remotely; judicial branch resources; and any other factors the court deems relevant.

3. A motion to participate in person shall be filed at least 14 days before the scheduled hearing date, or within 48 hours after receiving notice of the hearing date, whichever is later, unless otherwise ordered by the court.

PMO-SJC-10(B). PRESUMED IN-PERSON COURT PROCEEDINGS

1. Witnesses, guardians ad litem, and other nonparties granted access by the court may attend any proceeding remotely, unless otherwise ordered by the court. Parties and their counsel shall attend the proceedings below in person, unless otherwise ordered by the court:

    a. Summary preliminary hearings or waivers of summary preliminary hearings;

    b. Contested or uncontested jeopardy hearings;

    c. Contested judicial reviews;

    d. Contested or uncontested hearings concerning termination of parental rights; and

    e. Any other contested proceedings.

2. Upon motion or on the court's own initiative, the court may permit or require one or more persons to participate in person in one of the above proceedings, and the court may also continue the proceeding to allow for in-person participation. In making this determination, the court shall consider the health and safety of the court staff and parties; the due process rights of the parties; the ability of parties to participate remotely; judicial branch resources; and any other factors the court deems relevant.

3. A motion to participate in person shall be filed at least 14 days before the scheduled hearing date, or within 48 hours after receiving notice of the hearing date, whichever is later, unless otherwise ordered by the court. If a party objects to the motion, the objecting party must file a written opposition no later than 3 days after the motion is filed, unless otherwise ordered by the court.

PMO-SJC-10(C). CONDUCTING PROCEEDINGS

1. The court will send invitations for video or telephonic conferences and initiate the remote proceedings.

2. *Exhibits*:

   a. Parties shall (1) mark, copy, and exchange exhibits with the other parties, and (2) submit paper copies of exhibits with the court by the deadline set by the court, or 7 days before the hearing (regardless of format), whichever is earlier.

   b. During a remote video hearing, the court may permit rebuttal exhibits to be uploaded electronically to the video conference platform. Electronically filed exhibits must be in a standard, non-proprietary format: MP4 for video; MP3 or MP4A for audio; PDF for documents; and JPG for photographs. Exhibits in other electronic formats may be filed only with leave of the court. A paper copy of any exhibit offered in rebuttal, if not previously filed with the court, must be filed within 5 days after the final hearing.

3. The court shall hold a hearing for every judicial review, whether the review is contested or uncontested. Proposed judicial review orders shall be circulated among the parties at least 48 hours before the start of the scheduled hearing.

4. All court rules of procedure and process, including the rules of evidence, apply in all hearings, regardless of format.

5. When persons participate remotely in a hearing, those persons are required to comport themselves as though the hearing or conference were occurring in person. Standards, including decorum, demeanor, and dress code, still apply. Those participating shall behave as if they were inside the courthouse.

6. Each witness must be alone in a quiet room while testifying and may not use a virtual background unless a virtual background is necessary for the safety and security of the witness or party. Each witness is ordered, subject to contempt of court, to turn off all electronic devices except for the device enabling participation in the hearing and to refrain from exchanging any electronic messages with anyone while testifying.

7. There shall be no public access to child protection proceedings unless authorized by order of the court, consistent with 22 M.R.S. § 4007(1).

Dated: February 17, 2021

For the Court:

Hon. Andrew M. Mead
Acting Chief Justice