Supreme Court of Illinois

May 22, 2020

ILLINOIS SUPREME COURT AMENDS RULES TO SUPPORT USE OF REMOTE HEARINGS IN COURT PROCEEDINGS

Chief Justice Anne M. Burke and the Illinois Supreme Court announced today the repeal of Supreme Court Rule 185, creation of new Rule 45, and amendments to Rule 46 and Rule 241. These rules all relate to the use of remote hearings via telephone or video conferencing in the courts and the official recording of these court proceedings. The rule changes are effective immediately.

"The Illinois Courts were exploring new policies for expanding remote appearances in civil cases before the pandemic hit," Chief Justice Anne M. Burke said. "COVID-19 accelerated the adoption of those policies for both civil and criminal cases and created an opportunity for our courts to use technology to improve the administration of justice, increase efficiency and reduce costs."

The Illinois Supreme Court Rules can be found here:
http://www.illinoiscourts.gov/SupremeCourt/Rules/default.asp

Repealed Supreme Court Rule 185 involved the use of telephone or video conferences in civil cases and was formerly contained in Article II – Rules on Civil Proceedings in the Trial Court. New Rule 45 recognizes that telephone and video conferences can be used effectively and appropriately in other types of proceedings beyond civil cases.

New Rule 45 states "the court may, upon request or on its own order, allow a case participant to participate in a civil or criminal matter remotely, including by telephone or video conference. Use of telephone or video conferences in criminal or juvenile delinquency matters shall be undertaken consistent with constitutional guarantees applicable to such proceedings."

This new Rule covers all non-testimonial court appearances and intentionally provides wider latitude for a court to conduct court proceedings remotely by allowing any case participant to request a remote appearance for any reason and by allowing a court to make that decision on its own even if no request has been made by a case participant.

Amended Supreme Court Rule 46 allows for recording of court proceedings by "stenographic means or by an electronic recording system, including video conferencing services, approved by the Supreme Court." Rule 46 for the first time allows for the recording from video conference hearing to be used by the official court reporter to make the transcript that becomes the official record of the proceeding.

Amended Rule 241 addresses civil testimony and states "The court may, upon request or on its own order, for good cause and upon appropriate safeguards, allow a case participant to testify or otherwise participate in a civil trial or evidentiary hearing by video conferencing from a remote location."

The use of video technology to conduct testimony under oath in civil trials, as addressed in amended Rule 241, increases accessibility to the courts, aids in the efficient administration of justice, avoids delays in trials, and more efficiently administers testimony for case participants who face an obstacle to appearing personally in court such as illness, disability, or distance from the courthouse. A court has broad discretion to determine if video testimony is appropriate for a particular case.

The Supreme Court has additionally announced the creation of a Remote Court Proceedings Guidance Document, which will provide courts with guidelines and best practices to aid Illinois courts operating virtual courtrooms as a method of serving the public during the COVID-19 pandemic and beyond.

The Remote Court Proceedings Guidance Document can be found here.

The Supreme Court Commission on Access to Justice has created an Illinois Supreme Court Policy on Remote Court Appearances in Civil Proceedings, which is intended to help courts implement, expand, and encourage the use of Remote Court Appearances in civil cases by any or all Case Participants, including judges.

Illinois Supreme Court Policy on Remote Court Appearances in Civil Proceedings can be found here.

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