



STANDING ORDER FOR CHINS, JUVENILE, & YOUTHFUL OFFENDER CASES

V.R.F.P. 17(b) provides that in Children in Need of Care or Supervision (CHINS) and Termination of Parental Rights (TPR) proceedings remote or hybrid hearings may be held as follows:

Rule 43.1 of the Vermont Rules of Civil Procedure applies to status conferences and pretrial conferences in proceedings under Rules 2 and 3 of these Rules. All other proceedings under Rules 2 and 3 will be in person except that for good cause based on the factors in V.R.C.P. 43.1(h) the court may permit a particular party, counsel, witness, guardian ad litem, or other person to participate by audio or video conference on its own initiative under V.R.C.P. 43.1(d)(1)(B), or in response to a motion or stipulation filed pursuant to V.R.C.P. 43.1(d)(2). The testimony of a party may not be taken by video or audio conference without that party's consent.

The court is mindful of the need to maintain flexibility for counsel and parties concerning personal appearances. While in person attendance is generally favorable, physical appearance for some hearings may interfere with commitments to other courts for counsel, employment or schooling for the parties, and may impose undue hardship based on transportation or health concerns for some participants. In accordance with V.R.C.P. 43.1(d)(1), and in consideration of the factors noted under V.R.C.P. 43.1(h), the court adopts the following standing orders applicable to evidentiary hearings in CHINS and TPR proceedings:

1. Evidentiary hearings scheduled for more than one-hour of hearing time shall be held in person unless all parties agree to a remote or hybrid hearing, with the court's approval. All other hearings may be held in a remote or hybrid format;
2. Individual parties and/or attorneys may appear in person for any remote or hybrid hearing without requesting permission to do so. However, parties without reliable internet connectivity or video capabilities on an electronic device are strongly encouraged to attend hearings in person; and
3. Guardians ad litem may appear remotely for any hearing without prior approval of the court, irrespective of whether the juvenile appears in person.

The court retains authority to direct the appearance of some or all parties, and/or their counsel, to appear in person if the factors set forth under V.R.C.P. 43.1(h) require such, or where parties or

counsel have been unable to effectively participate in hearings based on connectivity or technological limitations, or where there are concerns over decorum and civility in the proceedings.

V.R.F.P. 17(c) provides more limitations on the use of hybrid or remote hearings for Juvenile Delinquency and Youthful Offender matters:

(1) Status Conferences and Pretrial Conferences. V.R.C.P. 43.1 applies to status conferences and pretrial conferences in proceedings under V.R.F.P. 1 and 1.1. Remote participation satisfies the attendance requirement under V.R.F.P. 1(e).

(2) All Other Proceedings. All other proceedings V.R.F.P. 1 and 1.1 will be in person except that for good cause based on the factors in V.R.C.P. 43.1(h) the court may permit a particular party, counsel, witness, guardian ad litem, or other person to participate by audio or video conference on its own initiative under V.R.C.P. 43.1(d)(1)(B), or in response to a motion or stipulation filed pursuant to V.R.C.P. 43.1(d)(2). Any remote witness testimony allowed in a merits proceeding will be by video conference and must be in accordance with the provisions of V.R.Cr.P. 26.2.

Noting the considerations applicable to CHINS and TPR proceedings, in accordance with V.R.C.P. 43.1(d)(1) and in consideration of the factors noted under V.R.C.P. 43.1(h), the court adopts the following standing orders applicable to Juvenile Delinquency and Youthful Offender proceedings, finding good cause to support a permissive view of remote or hybrid hearings given the particular circumstances of the jurisdictions:

1. All preliminary hearings shall be in person, absent a motion and good cause for the excusal of personal appearance (e.g. juvenile is in residential treatment or in DCF custody and placed outside of the area);
2. Merits stipulations and uncontested disposition hearings where the juvenile or youth is able to appear by Webex video may be conducted in a remote or hybrid manner;
3. Youthful offender consideration hearings and pretrial motions in juvenile or youthful offender cases where the youth is able to appear by Webex video may be conducted in a remote or hybrid manner;
4. A juvenile or youth, through counsel, may request remote or hybrid appearance for contested merits or disposition hearings at the pretrial hearing or no later than 10-days prior to the scheduled hearing in a manner consistent with V.R.C.P. 43.1(d)(2), otherwise such hearings shall require in person participation, as prescribed by V.R.F.P. 17(c)
5. Guardians ad litem may appear remotely for any hearing without prior approval of the court, irrespective of whether the juvenile appears in person.

The court retains authority to direct the appearance of some or all parties, and/or their counsel, to appear in person if the factors set forth under V.R.C.P. 43.1(h) require such, or where parties or counsel have been unable to effectively participate in hearings based on connectivity or technological limitations, or where there are concerns over decorum and civility in the proceedings.

So ordered.

Electronically signed on Wednesday, October 25, 2023 pursuant to V.R.E.F. 9(d)



Rory T. Thibault
Superior Court Judge