

**STATE OF VERMONT
SUPREME COURT
DECEMBER TERM, 2020**

Order Promulgating Amendments to Administrative Order No. 49

Pursuant to the Vermont Constitution, Chapter II, § 30 and Administrative Order No. 48, it is hereby ordered:

1. That ¶ 5(d) of Administrative Order No. 49 be amended as follows (new matter underlined; deleted matter struck through):

~~(d) In scheduling and conducting hearings, courts should schedule hearings for remote participation to the maximum extent possible considering the nature of the hearing, the constraints of the above rules, the available technology, and participants' access to adequate means for remote participation.~~ Mandatory Remote Hearings. Except for jury trials, and absent good cause as noted below, all evidentiary and nonevidentiary hearings in the Superior Court must be scheduled for remote participation by parties, witnesses, and other participants, subject to the parties' opportunity to file an objection as set forth in ¶ 5 above. This requirement does not apply to evidentiary hearings in either the criminal division or juvenile delinquency proceedings, and does not apply to any criminal or juvenile delinquency hearings where the defendant's or the juvenile's presence is required by law. Notwithstanding the above, the court may on its own initiative set a hearing for partial or total in-person participation for good cause.

2. That the following Explanatory Note be added:

Explanatory Note—December 22, 2020 Amendment

The December 22 amendment establishes a presumption that, other than jury trials, evidentiary proceedings in the criminal division or in juvenile delinquency matters, criminal division proceedings where the defendant's presence is required by law, and juvenile delinquency proceedings where the juvenile's presence is required by law, hearings in the Superior Court will be scheduled for remote participation by parties, witnesses, and other participants. Previously, this Administrative Order urged that hearings be scheduled for remote participation "to the maximum extent possible." In light of the rising incidence of COVID-19 throughout Vermont, this Order seeks to minimize gatherings of people within courtrooms by providing that, within constitutional limitations and the limitations of the applicable rules, courts must set hearings for remote participation unless there is good cause to schedule the hearing for partial or full in-person participation. Good cause may include factors such as limited available staffing or technology to support a remote hearing or the specific nature of the hearing. Once a remote hearing is noticed, parties may object to participating remotely, or to other parties or witnesses

participating remotely. In ruling on such objections, the court must consider the factors outlined in V.R.C.P. 43.1, including the available technology in the court, the participants' access to adequate means for remote participation, and the nature of the hearing.

3. That this order is effective immediately and extends until March 31, 2021, unless extended by order of this Court.

4. That the Chief Justice is authorized to report this order to the General Assembly in accordance with the provisions of 12 V.S.A. §1, as amended.

Done in Chambers at Montpelier, Vermont this 22nd day of December, 2020.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice