



Judicial Council of California

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INVITATION TO COMMENT

SP23-10

Title

Court Technology: Minimum Standards for Courtroom Technology to Permit Remote Participation in Court Proceedings (Senate Bill 133)

Proposed Rules, Forms, Standards, or Statutes

Adopt minimum standards for courtroom technology necessary to permit remote participation in court proceedings

Proposed by

Information Technology Advisory Committee
Hon. Sheila F. Hanson, Chair

Action Requested

Review and submit comments by January 12, 2024

Proposed Effective Date

April 1, 2024

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Executive Summary and Origin

Senate Bill 133 (Stats. 2023, ch. 34) requires the Judicial Council to adopt by April 1, 2024, and the trial courts to implement by July 1, 2024, minimum standards for courtroom technology necessary to permit remote participation in court proceedings. The Information Technology Advisory Committee recommends adoption of these proposed standards to satisfy the statutory mandate.

Background

SB 133 requires the Judicial Council to adopt, by April 1, 2024, minimum standards for courtroom technology necessary to permit remote participation in court proceedings. These standards must include “hard-wired or other reliable high-speed internet connections in the courtroom for the judicial officer and court reporter, and monitors, dedicated cameras, speakers, and microphones so the judicial officer, court reporter, and court interpreter can appropriately see and hear remote participants, as well as to ensure that remote participants can appropriately

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see and hear the judicial officer and other courtroom participants.” (Code Civ. Proc., § 367.76(o); Welf. & Inst. Code § 679.5(n).) Trial courts must implement these standards by July 1, 2024.

The Proposal

The Information Technology Advisory Committee (ITAC) recommends adoption of the proposed standards to satisfy SB 133’s mandate. As required by the statute, these standards identify the minimum courtroom technology necessary to permit participation in remote proceedings. The standards include the two provisions explicitly required by the statute, as well as additional provisions needed to permit remote participation in proceedings that satisfy the other statutory requirements for remote proceedings. (See, e.g., Code Civ. Proc., §§ 367.75, 367.76.) When drafting the standards, the committee drew from the work of ITAC’s Advancing the Hybrid Courtroom Workstream and its final findings and recommendations¹ and solicited the Workstream’s feedback. The committee also solicited feedback from the Trial Court Presiding Judges Advisory Committee, the Court Executives Advisory Committee, and Facilities Services.

The standards set forth specific objectives the courts must meet, such as the requirement that “[c]ourt technology must allow the judicial officer and all other courtroom participants to see and hear, and be seen and heard by, remote participants.” The committee chose this format rather than specific technical specifications in order to ensure a baseline standard necessary for participation in remote proceedings. The committee therefore focused on the objectives courts must meet to enable the judicial officer, court reporter, court interpreter, and all other participants to successfully participate in remote proceedings.

The standards state the statutory consequence for failing to implement the standards by the July 1, 2024, deadline and clarify which proceedings this consequence applies to. Under Code of Civil Procedure section 367.76(f)(2) and Welfare and Institutions Code section 679.5(k)(2), if the standards cannot be met in a proceeding listed in Code of Civil Procedure section 367.76(a)(1) (civil commitment and other specified proceedings) or Welfare and Institutions Code section 679.5(b) (juvenile justice proceedings) that will be reported by an official reporter or official reporter pro tempore, the court reporter must be physically present in the same room as the judicial officer for that proceeding.

The standards must be met only in a courtroom in which a court is conducting a remote proceeding. This satisfies the statutory mandate to “permit remote participation in proceedings” that satisfy the other requirements of SB 133. (Code Civ. Proc., § 367.76(o); Welf. & Inst. Code § 679.5(n).) Courts are not required to have this equipment in courtrooms when they are not conducting remote proceedings. The introductory sentence of the standards conveys this principle.

¹ Information Technology Advisory Com., *Report of the Advancing the Hybrid Courtroom Workstream: Findings and Recommendations* (Nov. 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=12422512&GUID=2201DBD5-407E-4906-BB84-C7EFCAC38665>.

The standards reflect several key considerations. First, the statutes requiring these standards are part of a larger statutory scheme concerning remote proceedings, which sets forth various requirements for the conduct of remote proceedings. (See, e.g., Code Civ. Proc., §§ 367.75, 367.76.) While the standards themselves are part of this statutory scheme, they set requirements for what court-provided technology must be able to do, rather than how remote proceedings must be conducted. The proposed standards therefore concern the technology and equipment that courts must have in the courtroom, and not how or when it may be used.

It is also important to note that implementation of these standards will not preclude a remote participant from choosing to appear via audio rather than video when permitted by the court (and provided it is not a civil commitment or juvenile justice proceeding where audio-only participation is prohibited, unless it falls under one of the exceptions in the statutes governing remote proceedings in those matters). Nor do the standards control whether a particular remote participant takes advantage of the available technology.

Second, the standards apply only to court-provided technology and do not apply to technology provided by remote participants. The statute requires the council to adopt standards for “courtroom technology,” and the proposed standards therefore focus on technology and equipment used in the courtroom or otherwise provided by the court. The standards define “court technology” to mean “the court-provided technology, equipment, and platforms used in courtrooms or by judicial officers or court staff to participate in remote proceedings and that is necessary to meet these standards” and specify that each standard applies to “court technology” or “court-provided” equipment. The standards do not require courts to control or provide equipment for remote participants because this is beyond the scope of the statutory mandate.

Alternatives Considered

The committee did not consider taking no action because the council is required by law to adopt minimum standards for courtroom technology necessary to permit remote participation in court proceedings. As discussed in the explanation of the proposal, the committee considered several alternatives when drafting the proposed standards and concluded that the current proposal best satisfies the statutory mandate.

Fiscal and Operational Impacts

The committee anticipates that courts might have to purchase and install equipment to meet these standards by the statutory deadline, and that judicial officers and court staff might require training on how to use any new equipment. However, because the council is required by law to adopt minimum standards for courtroom technology for remote proceedings and courts are required to implement those standards, these impacts cannot be avoided.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Is it clear that the standards set requirements for what court-provided technology must be able to do, rather than how remote proceedings must be conducted?
- Is it clear that the standards apply only to court-provided technology and do not apply to technology provided by remote participants?
- Would it be preferable to say in subdivision (d) of the standards “must be capable of allowing” instead of “must allow” to make clear within the standards that this does not preclude participation via audio where it is otherwise permissible?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training) or revising processes and procedures (please describe)?
- Would the proposal provide cost savings? If so, please quantify.
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Minimum Standards for Courtroom Technology to Permit Remote Participation in Court Proceedings, at pages 5–6
2. Link A: Senate Bill 133
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB133

Minimum Technology Standards

Effective July 1, 2024, in a courtroom in which the court is conducting a remote proceeding, the court must comply with the following minimum technology standards.

(a) As used in these standards:

- (1) “Court technology” means the court-provided technology, equipment, and platforms used in courtrooms or by judicial officers or court staff to participate in remote proceedings and that is necessary to meet these standards.
- (2) “Participants” means judicial officers, court staff, parties, attorneys, witnesses, jurors, court reporters, and court interpreters.
- (3) “Remote proceeding” has the meaning provided in California Rules of Court, rule 3.672.

(b) The court must have a hard-wired or other reliable high-speed internet connection in the courtroom for the judicial officer and court reporter.

(c) The court must provide monitors, dedicated cameras, speakers, and microphones so the judicial officer, court reporter, and court interpreter can see and hear remote participants.

- (1) Court-provided microphones must have a mute or off function.
- (2) Court-provided microphones must allow a participant to hear, and be heard by, all other participants when necessary.
- (3) Court-provided monitors must allow participants to see and identify the participant who is speaking.
- (4) Court technology must provide participants with the capability to alert the court to behavior that is disruptive and may not be visible to all.
- (5) Court technology must provide the ability for the judicial officer or designated courtroom staff to mute or remove from the remote proceeding any remote participant or any unauthorized person who joins the remote proceeding.
- (6) Court technology must allow remote participants to be identified either visually or audibly during the proceeding.
- (7) Court-provided speaker equipment must be of sufficient clarity so that the judicial officer and all other participants may hear one another when necessary.

- (d) Court technology must allow the judicial officer and all other courtroom participants to see and hear, and be seen and heard by, remote participants.
- (e) Under Code of Civil Procedure section 367.76(f)(2) and Welfare and Institutions Code section 679.5(k)(2), on or after July 1, 2024, if these standards cannot be met in a proceeding listed in Code of Civil Procedure section 367.76(a)(1) or Welfare and Institutions Code section 679.5(b) that will be reported by an official reporter or official reporter pro tempore, the court reporter must be physically present in the same room as the judicial officer for that proceeding.

Statutory References

Code of Civil Procedure section 367.76(o): By April 1, 2024, the Judicial Council shall adopt, and trial courts shall implement by July 1, 2024, minimum standards for the courtroom technology necessary to permit remote participation in proceedings subject to this section. Those standards shall include, but not be limited to, hard-wired or other reliable high-speed internet connections in the courtroom for the judicial officer and court reporter, and monitors, dedicated cameras, speakers, and microphones so the judicial officer, court reporter, and court interpreter can appropriately see and hear remote participants, as well as to ensure that remote participants can appropriately see and hear the judicial officer and other courtroom participants.

Code of Civil Procedure section 367.76(f)(2): Beginning July 1, 2024, when the court conducts proceedings [defined in Code Civ. Proc., § 376.76(a)(1)] that will be reported by an official reporter or official reporter pro tempore, the reporter shall be physically present in the same room as the judicial officer if the court cannot provide the technology standards described in subdivision (o).

Welfare & Institutions Code section 679.5(n): By April 1, 2024, the Judicial Council shall adopt, and trial courts shall implement by July 1, 2024, minimum standards for the courtroom technology necessary to permit remote participation in juvenile justice proceedings. Such standards shall include, but not be limited to, hard-wired or other reliable high-speed internet connections in the courtroom for the judicial officer and court reporter, and monitors, dedicated cameras, speakers, and microphones so the judicial officer, court reporter, and court interpreter can appropriately see and hear remote participants, as well as to ensure that remote participants can appropriately see and hear the judicial officer and other courtroom participants.

Welfare & Institutions Code section 679.5(k)(2): Beginning July 1, 2024, when the court conducts proceedings [defined in Welf. & Inst. Code, § 679.5(b)] that will be reported by an official reporter or official reporter pro tempore, the reporter shall be physically present in the same room as the judicial officer if the court cannot provide the technology standards described in subdivision (n).