Rule 4.220. Remote video proceedings in traffic infraction cases

(a) Authorization for pilot project

(1) With the approval of the Judicial Council, a superior court may establish by local rule a pilot project through December 31, 2015, to permit arraignments, trials, and related proceedings concerning the traffic infractions specified in (b) to be conducted by two-way remote video communication methods under the conditions stated below.

(2) To obtain approval of the Judicial Council to conduct a pilot project for remote video proceedings under this rule, a court must submit an application to the council that includes details on what procedures and forms the court intends to institute for processing cases in the pilot project.

(b) Definitions

For the purposes of this rule:

(1) "Infraction" means any alleged infraction involving a violation of the Vehicle Code or any local ordinance adopted under the Vehicle Code, other than an infraction cited under article 2 (commencing with section 23152) of chapter 12 of division 11 of the Vehicle Code, except that the procedures for remote video trials authorized by this rule do not apply to any case in which an informal juvenile and traffic court exercises jurisdiction over a violation under sections 255 and 256 of the Welfare and Institutions Code.

(2) "Remote video proceeding" means an arraignment, trial, or related proceeding conducted by two-way electronic audiovisual communication between the defendant, any witnesses, and the court in lieu of the physical presence of both the defendant and any witnesses in the courtroom.

(3) "Due date" means the last date on which the defendant's appearance is timely under this rule.

(c) Application

This rule establishes the minimum procedural requirements and options for courts that conduct a pilot project for remote video proceedings for cases in which a defendant is charged with an infraction as defined in (b) and the defendant's request to proceed according to this rule is for a trial or related proceeding that is set for a date after January 31, 2013.

(d) Designation of locations and presence of court clerk

(1) The court must designate the location or locations at which defendants may appear with any witnesses for a remote video proceeding in traffic infraction cases.

(2) The locations must be in a public place, and the remote video proceedings must be viewable by the public at the remote location as well as at the courthouse.

(3) A court clerk must be present at the remote location for all remote video proceedings.

(e) Scope of court pilot project and request by defendant

The following procedures and required forms in this section must be included in the court's pilot project for remote video proceedings. In addition to following the standard provisions for processing traffic infraction cases, the defendant may request to proceed by remote video proceeding as provided below.

(1) *Arraignment and trial on the same date*

The following procedures apply to a remote video proceeding when the court grants a defendant's request to have an arraignment and trial on the same date:

(A) The defendant must review a copy of the *Instructions to Defendant for Remote Video Proceeding* (form TR-500-INFO).

(B) To proceed by remote video arraignment and trial, the defendant must sign and file a *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505) with the clerk by the appearance date indicated on the *Notice to Appear* or a continuation of that date granted by the court and must deposit bail when filing the form.

(C) A defendant who is dissatisfied with the judgment in a remote video trial may appeal the judgment under rules 8.901–8.902.

(2) *Arraignment on a date that is separate from a trial date*

The following procedures apply to a remote video proceeding when the court grants a defendant's request to have an arraignment that is set for a date that is separate from the trial date:

(A) The defendant must review a copy of the *Instructions to Defendant for Remote Video Proceeding* (form TR-500-INFO).

(B) To proceed by remote video arraignment on a date that is separate from a trial date, the defendant must sign and file a *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510) with the clerk by the appearance date indicated on the *Notice to Appear* or a continuation of that date granted by the court.

(3) *Trial on a date that is separate from the date of arraignment*

The following procedures apply to a remote video proceeding when the court grants a defendant's request at arraignment to have a trial set for a date that is separate from the date of the arraignment:

(A) The defendant must review a copy of the *Instructions to Defendant for Remote Video Proceeding* (form TR-500-INFO).

(B) To proceed by remote video trial, the defendant must sign and file a *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510) with the clerk by the appearance date indicated on the *Notice to Appear* or a continuation of that date granted by the court and deposit bail with the form as required by the court.

(C) A defendant who is dissatisfied with the judgment in a remote video trial may appeal the judgment under rules 8.901–8.902.

(4) *Judicial Council forms for remote video proceedings*

The following forms must be made available by the court and used by the defendant to implement the procedures that are required by a court's pilot project under this rule:

(A) *Instructions to Defendant for Remote Video Proceeding* (form TR-500-INFO);

(B) *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505); and

(C) *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510).

(f) Deposit of bail

(1) If a defendant requests to proceed by remote video arraignment and trial as provided in section (e)(1), the defendant must deposit bail, at the same time the request is filed, in the amount established in the uniform traffic penalty schedule under Vehicle Code section 40310.

(2) If a defendant requests to proceed by remote video proceeding for a trial as provided in section (e)(3), the judicial officer may require deposit of bail, at the same time the request for remote video proceeding is filed, in the amount established in the uniform traffic penalty schedule under Vehicle Code section 40310.

(g) Appearance of witnesses

On receipt of the defendant's waiver of rights and request to appear for trial as specified in section (e)(1) or (e)(3), the court may permit law enforcement officers and other witnesses to testify at the remote location or in court and be cross-examined by the defendant from the remote location.

(h) Authority of court to require physical presence of defendant and witnesses

Nothing in this rule is intended to limit the authority of the court to issue an order requiring the defendant or any witnesses to be physically present in the courtroom in any proceeding or portion of a proceeding if the court finds that circumstances require the physical presence of the defendant or witness in the courtroom.

(i) Extending due date for remote video trial

If the clerk receives the defendant's written request for a remote video arraignment and trial on form TR-505 or remote video trial on form TR-510 by the appearance date indicated on the *Notice to Appear* and the request is granted, the clerk must, within 10 court days after receiving the defendant's request, extend the appearance date by 25 calendar days and must provide notice to the defendant of the extended due date on the *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510) with a copy of any required local forms.

(j) Notice to arresting officer

If a court grants the defendant's request for a remote video proceeding after receipt of the defendant's *Notice and Waiver of Rights and Request for Remote Video*

Arraignment and Trial (form TR-505) or *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510) and bail deposit, if required, the clerk must deliver, mail, or e-mail a notice of the remote video proceedings to the arresting or citing law enforcement officer. The notice to the officer must specify the location and date for the remote video proceeding and provide an option for the officer to request at least five calendar days before the appearance date to appear in court instead of at the remote location.

(k) Due dates and time limits

Due dates and time limits must be as stated in this rule, unless extended by the court. The court may extend any date, and the court need not state the reasons for granting or denying an extension on the record or in the minutes.

(l) Ineligible defendants

If the defendant requests a remote video proceeding and the court determines that the defendant is ineligible, the clerk must extend the due date by 25 calendar days and notify the defendant of the determination and the new due date.

(m) Noncompliance

If the defendant fails to comply with this rule (including depositing the bail amount, signing and filing all required forms, and complying with all time limits and due dates), the court may deny a request for a remote video proceeding and may proceed as otherwise provided by statute.

(n) Fines, assessments, or penalties

This rule does not prevent or preclude the court from imposing on a defendant who is found guilty any lawful fine, assessment, or other penalty, and the court is not limited to imposing money penalties in the bail amount, unless the bail amount is the maximum and the only lawful penalty.

(o) Local rules and forms

A court establishing a remote video trial project under this rule may adopt such local rules and additional forms as may be necessary or appropriate to implement the rule and the court's local procedures not inconsistent with this rule.

(p) Collection of information and reports on pilot project

Each court that establishes a pilot project under this rule must institute procedures as required by the Judicial Council for collecting and evaluating information about that court's pilot project and must prepare semiannual reports to the Judicial Council that include an assessment of the costs and benefits of the project.

(q) Effective dates

This rule is adopted effective February 1, 2013, and remains in effect only until January 1, 2016, and as of that date is repealed, unless a rule adopted before January 1, 2016, repeals or extends that date.

Rule 4.220 adopted effective February 1, 2013.