
**Iowa Supreme Court
Iowa Rules of Remote Procedure
Memorandum
September 7, 2023**

Introduction

The benefits of leveraging remote technology for court proceedings crystalized during the rapidly evolving circumstances of the COVID-19 pandemic. Remote proceedings were an integral part of developing court system protocols that enabled court proceedings to the greatest extent possible during extraordinary and trying times. There were challenges and frustrations, but the judicial branch gained valuable experience. And as pandemic concerns persisted, the judicial branch settled into a rhythm for processing cases efficiently and effectively due to dedicated court personnel, remote technologies, and understanding court users' needs.

Upon society's return to "normal," many of the benefits of remote court proceedings were embedded in court, attorney, and litigant practices. The benefit of uniform remote procedure court rules covering all court operations is readily apparent. The court's promulgation of the Iowa Rules of Remote Procedure in new chapter 15 of the Iowa Court Rules rests on lessons learned and experiences gained from the COVID-19 pandemic and on the expertise and diligence of the Iowa Supreme Court Remote Proceedings Task Force.

The fundamental challenge to the task force was to balance the overriding importance of and preference for in-person court proceedings against the potential and known benefits of remote and hybrid proceedings for litigants, attorneys, judges, and the public. The supreme court concludes the Iowa Rules of Remote Procedure strike a fair balance.

The Task Force and Public Comments

The task force, established March 10, 2023, has satisfied its charge of recommending standard rules or policies for remote processes in criminal, civil, family law, and juvenile proceedings to allow equal access, due process, transparency, fairness, public access, and safety in all court proceedings.

The task force comprised 110 persons chosen from 218 applicants. Task force members included judges, magistrates, the state public defender's office, the attorney general's office, attorneys in private practice, service providers, county

attorneys, legal aid, court administrators, judicial specialists, court reporters, juvenile court services, and supreme court staff. The supreme court order, which established the task force, listed all task force members, including chairs and co-chairs of work groups—Criminal, Civil, Family Law, and Juvenile.¹

Dividing the task force into separate work groups reflected disparate concerns accompanying different types of court proceedings. Each work group understood the need for the bulk of the chapter 15 rules to apply generally across all types of cases and that any rules specific to certain types of cases should be narrowly crafted. Further unifying each group's work were the principles of the overriding importance of in-person court proceedings, the need to maintain judicial discretion, and the expanding use and acceptance of remote technology.

The work groups developed and issued multiple surveys directed to stakeholders, court personnel, and attorneys to promote broad participation in the project and gain insight into held perceptions and preconceived notions of using remote technology in the court system. During frequent meetings and work sessions exploring and debating the effects of remote proceedings on their specific type of case, the work groups and subgroups coalesced around proposals to the supreme court.

The Civil Work Group adopted a broad approach to craft straightforward rules that apply to all or most types of cases. The Criminal and Juvenile Work Groups addressed constitutional and practical concerns unique to their cases. The Family Law Work Group also worked toward broadly applicable rules while confronting unique considerations. For these reasons, the court adopted the recommendation to set forth separate divisions in chapter 15 specific to criminal, juvenile, and family law. The chapter begins with divisions I, II, and III of the rules applicable to all cases. From there, divisions IV (criminal), V (juvenile), and VI (family law) refine in-person, remote, and hybrid proceedings rules to accommodate different needs in each of these types of cases.

The court highly values input from all court users and Iowans affected by the court system, and only after careful consideration of task force recommendations, opportunity for public comment and careful consideration of

¹The supreme court order establishing the task force is available at iowacourts.gov/collections/780/files/1724/embedDocument/.

comments received,² and significant court deliberation does the court promulgate the Iowa Rules of Remote Procedure contained in new chapter 15 of the Iowa Court Rules.

The court is mindful that not all court users, or even court personnel, will be satisfied with the new court rules. In crafting their proposals, members of the task force work groups employed their collective expertise and personal experiences. The work groups also considered the experiences of other states and jurisdictions that have issued remote proceeding court rules. The work groups proceeded diligently, and not always with internal unanimity, in crafting their proposals.³

Chapter 15—The Iowa Rules of Remote Procedure

Chapter 15 rests on the presumption that all court proceedings occur in person. Iowa R. Remote P. 15.102. The chapter defines and differentiates remote court proceedings from hybrid court proceedings, which include proceedings in which one or more but fewer than all participants appear remotely. *Id.* r. 15.201(5)–(6). The rules specify that the court’s inherent power to regulate the courtroom applies to remote and hybrid proceedings. *Id.* r. 15.301(1). If a represented party appears in person at a court proceeding, the party’s attorney must also appear in person unless the party consents or the court finds good cause for the attorney to appear remotely. *Id.* r. 15.301(4).

A crucial section of the chapter is rule 15.302, setting forth the process and court’s considerations relating to motions for a proceeding to be held in person, remotely, or as a hybrid proceeding. The rule provides that the court may on its own motion order a participant to appear remotely or in person. *Id.* r. 15.302(3). An important task force consideration was maintaining the court’s discretion in determining how a particular proceeding will be held. All court proceeding participants should familiarize themselves with the factors the court must consider in deciding a rule 15.302 motion. *Id.* r. 15.302(4).

²Public comments received on the proposed rules are available at iowacourts.gov/collections/805/files/1787/embedDocument/.

³Task force work group reports are available at iowacourts.gov/collections/805/files/1783/embedDocument/.

Criminal Proceedings

Division IV of chapter 15 is specific to criminal proceedings and incorporates the extensive work of the Iowa Rules of Criminal Procedure Review Task Force in assisting the court with its recent revision of the Chapter 2 Iowa Rules of Criminal Procedure. Defendants must appear as required by Iowa Rule of Criminal Procedure 2.27. *Id.* r. 15.404(1). Trials and sentencings must occur pursuant to rules 2.17 and 2.27. *Id.* r. 15.404(2). Rule 15.404(3) emphasizes that certain criminal proceedings are presumed to be in person.

Juvenile Proceedings

Division V of chapter 15 is specific to juvenile proceedings. The Juvenile Work Group received feedback and participation from all entities involved in the juvenile justice system. This was achieved by sending surveys to all juvenile judges, department of health and human services workers, juvenile court officers, interpreters, court reporters, and sheriffs in Iowa. Survey responses were also received from Parent Partners for Families, parents involved in child welfare cases, detention and shelter directors, and the actual system-involved youth. Members from these various fields also participated in work group meetings.

Chapter 15 requires delinquency adjudications to occur in person. *Id.* r. 15.502. Rule 15.503(1) states an in-person preference for specific juvenile court proceedings, and rule 15.503(2) states a preference for conducting other enumerated proceedings remotely.

Family Law Proceedings

Division VI of chapter 15 is specific to family law proceedings and states that the court should favor conducting contested or evidentiary proceedings in person.

Judicial Branch Technology

Implementation of technological resources to ensure consistency in statewide county-to-county equal remote proceeding access will be an ongoing process for the judicial branch. But since the onset of the COVID-19 pandemic, the Iowa Judicial Branch Information Technology (JBIT) department has been working to enhance the branch's ability to accommodate remote proceedings across the state. JBIT teams participated in task force work group meetings and the development of the chapter 15 rules, and JBIT has been working

diligently to have the required technological ability to accommodate the rules statewide.

Conclusion

As with all of its policies and rules, especially covering new areas, the court will monitor how its policies and rules work in practice. The court welcomes ongoing feedback from court users, court personnel, and the public. The court is confident that any fine-tuning or significant changes to the new chapter 15 rules is best determined after the rules have been fully implemented and used in the court system.

A clear byproduct of the Iowa Rules for Remote Procedure is the advancement of broad principles of access to justice consistent with the Iowa Judicial Branch's core values of fairness, accessibility, integrity, independence, and efficiency. Remote technology tools and procedures must be embraced to provide the best service possible. The supreme court believes the Iowa Rules of Remote Procedure will help fulfill its duty of providing the best court services possible to Iowans in every part of the state.