

LawPulse

In With the New

By **Amelia Buragas**

Illinois Judicial Conference task force to recommend which pandemic-related technology should stay.

Efforts to modernize the courts hit fast forward in March 2020 when the COVID-19 pandemic forced judges, attorneys, and court personnel to adapt to virtual proceedings to keep the courts open. Now, many are looking at making some of these virtual tools permanent fixtures to increase efficiency and improve access to justice.

In line with these goals, the Illinois Supreme Court recently announced that the Illinois Judicial Conference has formed a Remote Proceedings Task Force to evaluate best practices for virtual proceedings across the state.

“This is an important crossroads and opportunity to shape the court system going forward,” says Justice Mary Rochford of the First District Appellate Court who is chair of the task force. “Remote proceedings provide increased access to our courts in a way that can be more efficient and less costly and demonstrate the court system is seeking to meet the needs of our court users.”

Justice Rochford says a primary goal of the task force will be to recommend standardized remote proceedings across the state. She says the task force aims to complete its work by October, which may belie the sense of urgency among its members.

“Our overall goal is to meet the expectations of the Judicial Conference and the Supreme Court to make recommendations that will encourage and expand the use of remote proceedings,” Rochford says. “However, because of the importance of this initiative and because of the public interest in this work, we hope to present our recommendations before that time.”

Key to this effort, she says, is the diverse makeup of the task force.

“The Supreme Court, in establishing the membership, did an excellent job of bringing different perspectives to the task force,” Rochford says. “We need diverse voices at the table to ensure that our goals are met, and it is clear from our meetings that each member of the group has enthusiastically embraced this work and is aware of its importance.”

The task force comprises circuit judges, trial court administrators, circuit clerks, and practicing attorneys. Task force member Trent Bush, an attorney with Ward, Murray, Pace & Johnson, P.C. in Sterling, is also a member of the ISBA’s Standing Committee on Legal Technology. Bush says the presence of different perspectives on the task force is important to developing successful recommendations.

“The goal is to weigh those different perspectives and interests and to come up with a viable remote policy that best serves the public and the courts,” Bush says.

Bush also serves on the Supreme Court's e-Business Policy Advisory Board. He believes there is broad support among attorneys for the task force's goals, but that guidance is needed to keep the profession from sliding backward.

"The unique situation here is that the legal community was forced into an enormous change caused by a pandemic where we were either able to adapt and continue to serve the public or we shut down," Bush says. "We realized the latter option was not palatable, so we adjusted and changed. The challenge for a community such as ours, which is largely recognized as being resistant to change, is not to fall back to our old ways."

Bush notes that when it comes to adapting to remote proceedings, "the hard part is over."

What the research says

In response to the COVID-19 pandemic, state-court adoption of new technology was "unprecedented in pace and scale," according to a December 2021 report published by the Pew Charitable Trusts. The study found that courts were able to leverage technology to stay open during the pandemic and improve participation rates and resolve disputes more efficiently. In New Jersey, for example, criminal courts reported the no-show rate went from 20 percent in the first week of March 2020 to .3 percent later that same month after courts began using virtual hearings. Michigan experienced similar results with the no-show rate declining from 10.7 percent in April 2019 to half a percent in April 2020.

However, the study warned that not all participants benefitted equally. In some instances, court access decreased. The report found that users who lacked access to high-speed internet or computers "faced significant hurdles when trying to access courts using the newly available tools." The study also found that of the nearly 10,000 state and local pandemic-related orders that were reviewed as a part of the study, none of them specifically addressed technology accommodations for people with disabilities or with limited English proficiency.

A recent study by the Thomson Reuters Institute reported similar outcomes and concluded that "virtual hearings increased individuals' engagement with the courts but also increased the burden of self-representation on litigants who may not have the same access to high-speed broadband networks, or even the technology necessary to meaningfully participate in court proceedings." Despite the challenges, 42 percent of respondents felt access to justice increased with virtual hearings.

The Thomson Reuters study identified one of the "primary challenges" to conducting court in a virtual environment involved the management of documents, including the ability to efficiently access, share, and organize evidence. The study noted that 72 percent of survey participants handled exhibits through email submissions, the efficiency of which depended on levels of access to technology, and that the development of a shared platform for document management could "ease some of the burdens and provide greater transparency, while also decreasing hearing delays."

Impact of technology on courts during the COVID-19 pandemic

How did access to justice change with the use of virtual hearings?



Access to justice increased

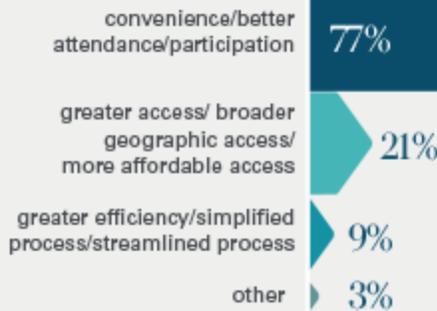


Access to justice stayed the same

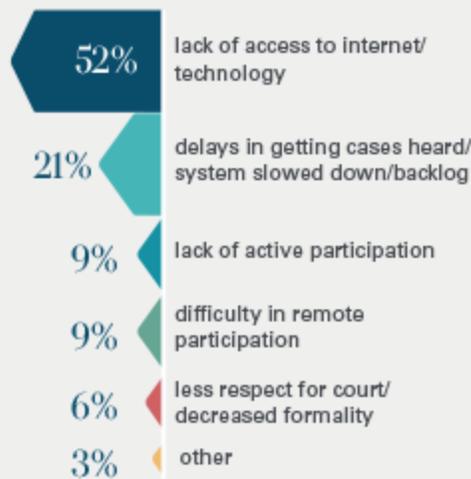


Access to justice decreased

How did access to justice increase?



How did access to justice decrease?



Source: Thomson Reuters Institute, "The Impacts of the COVID-19 Pandemic on State & Local Courts Study 2021: A Look at Remote Hearings, Legal Technology, Case Backlogs, and Access to Justice."

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According to the Illinois Supreme Court, remote hearings reduced barriers to access in Illinois; resulted in greater party participation, fewer defaults, and failures to appear; and enhanced case management and scheduling procedures.

To ensure that courthouses have the necessary technology to continue to offer remote proceedings, the Administrative Office of the Illinois Courts is distributing funds to every circuit in the state for courtroom technology upgrades.

"Illinois Courts have a long history of increasing access to justice and responding to the needs of the communities they serve," said Chief Justice Anne Burke in announcing the task force early this spring. "The task force will be an important part of ensuring that progress continues. While this work is going on, it is expected that courts across the state continue to offer remote appearances."

The Illinois Judicial Conference is chaired by the chief justice and has 29 voting members, including judges, lawyers, court clerks, trial court administrators, and members of the public.



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May 2022 LawPulse

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