



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 24-067

For business meeting on March 15, 2024

Title

Judicial Branch Technology: Minimum Standards for Courtroom Technology to Permit Remote Participation in Court Proceedings (Sen. Bill 133)

Agenda Item Type

Action Required

Effective Date

April 1, 2024

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

February 21, 2024

Recommended by

Information Technology Advisory Committee
Hon. Sheila F. Hanson, Chair
Hon. Samantha P. Jessner, Vice-Chair

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Executive Summary

The Information Technology Advisory Committee recommends adopting proposed minimum technology standards to satisfy the statutory requirements of Senate Bill 133 (Stats. 2023, ch. 34). The statute 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.

Recommendation

The Information Technology Advisory Committee recommends that the Judicial Council, effective April 1, 2024, adopt the proposed minimum technology standards for courtroom technology necessary to enable participants to participate remotely in court proceedings.

The proposed standards are attached at pages 6–7.

Relevant Previous Council Action

The Judicial Council has taken no previous action regarding technology standards for remote proceedings. On November 17, 2023, the council received a report from the Information Technology Advisory Committee’s Advancing the Hybrid Courtroom Workstream entitled *Report of the Advancing the Hybrid Courtroom Workstream: Findings and Recommendations*, which set forth a framework for courtrooms optimized for proceedings involving any number of physical or remote participants.¹ This proposal draws from the work of the workstream and its report.

Analysis/Rationale

Background

By April 1, 2024, SB 133 (see Link A) requires the Judicial Council to adopt minimum standards for courtroom technology necessary to enable participants to participate remotely 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 see and hear the judicial officer and other courtroom participants.” (Code Civ. Proc., § 367.76(o); Welf. & Inst. Code § 679.5(n).) Effective July 1, 2024, in a courtroom in which the court is conducting a remote proceeding, the minimum technology standards adopted by the council apply.

Proposed minimum technology standards

The Information Technology Advisory Committee recommends adoption of the proposed standards to satisfy the statutory requirements of SB 133.² As required by the statute, these proposed standards identify the minimum courtroom technology that apply when a courtroom is conducting remote proceedings. The proposed standards include the two provisions explicitly required by SB 133, as well as additional provisions needed to satisfy the statutory mandate more generally. (See, e.g., Code Civ. Proc., §§ 367.75, 367.76.) When drafting the proposed standards, the committee drew from the work of the Advancing the Hybrid Courtroom Workstream 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 the Judicial Council’s Facilities Services office.

The proposed standards present specific objectives, such as the requirement that “[c]ourt-provided speaker equipment must be of sufficient clarity so that the judicial officer and all other

¹ Judicial Council of Cal., Advisory Com. Rep., *Judicial Branch Technology: Hybrid Courtroom Findings and Recommendations* (Oct. 20, 2023), Att. A, <https://jcc.legistar.com/View.ashx?M=F&ID=12422512&GUID=2201DBD5-407E-4906-BB84-C7EFCAC38665>.

² The proposed standards will be located on the Judicial Council website, available at www.courts.ca.gov, under a new “Technology Standards” webpage.

participants may hear one another when necessary.” (Proposed Min. Standards, (c)(7).) The committee chose this format rather than specific technical specifications to ensure a baseline standard necessary for participation in remote proceedings. The committee, therefore, focused on the objectives needed to enable the judicial officer, court reporter, court interpreter, and all other participants to successfully participate in remote proceedings.

The proposed standards also state the statutory consequence for failing to implement the standards by the July 1, 2024, deadline and clarify the proceedings to which this consequence applies. 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 that is 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) and 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 proposed standards apply only in a courtroom in which a court is conducting a remote proceeding. This restriction 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 proposed standards reflect several key considerations. First, the statutes requiring these standards are part of a larger statutory scheme that presents various requirements for conducting remote proceedings. (See, e.g., Code Civ. Proc., §§ 367.75, 367.76.) Although the proposed 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 in the courtroom—not how or when it may be used.

Importantly, implementation of the proposed standards will not preclude a remote participant from choosing to appear via audio rather than video when permitted by the court (and provided the proceeding is not a civil commitment or juvenile justice proceeding where audio-only participation is prohibited, unless one of the exceptions in the statutes governing remote proceedings in those matters applies). Nor do the proposed standards control whether a particular remote participant chooses to use the available technology.

Second, the proposed 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”; therefore, the proposed standards focus on technology and equipment used in the courtroom or otherwise provided by the court. The proposed standards define “court technology” as “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 proposed standards do not require courts to control or

provide equipment for remote participants because doing so is beyond the scope of the statutory mandate.

Policy implications

Adopting these minimum standards for courtroom technology necessary to permit remote participation in court proceedings will satisfy a statutory mandate. The proposed standards will also further access to justice by ensuring that participants can successfully participate in remote proceedings. The proposed standards are, therefore, consistent with the *Strategic Plan for California's Judicial Branch*, specifically the goals of Access, Fairness, Diversity, and Inclusion (Goal I) and Quality of Justice and Service to the Public (Goal IV).

Comments

The proposed standards were circulated for public comment from December 11, 2023, to January 12, 2024, as part of a special cycle. Three comments were received on the proposal: one from CourtCall, one from the Orange County Bar Association, and one from the Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. Two commenters agreed with the proposal if modified and one did not indicate a position.

A chart with the full text of the comments received and the committee's responses is attached at page 8. The principal comments and the committee's responses are summarized below.

Scope of the proposed standards

JRS suggested that the standards should be narrowed to apply only to juvenile justice and civil commitment proceedings covered by Code of Civil Procedure section 367.76 and Welfare and Institutions Code section 679.5 because those two provisions are the source of the statutory mandate to adopt minimum technology standards.³ JRS suggested revisions to the prefatory sentence and subdivision(c) of the standards to narrow their scope.

The committee is not recommending revisions in response to this suggestion. The standards were drafted to apply to all remote proceedings, not just juvenile justice and civil commitment proceedings, because the committee believes that having one set of standards applicable to all proceedings will be clearer for courts and litigants. The committee does not believe it will be beneficial to limit the standards to particular case types and believes the standards are broad enough to be generally applicable to any court proceeding that has remote participants.

Subdivision (d)

JRS noted that as originally proposed, subdivision (d) of the standards could be misconstrued to indicate that all participants in a remote proceeding must be able to be seen, even though the standards apply to audio-only proceedings as well. The committee agrees with this concern and

³ The comment refers only to Code of Civil Procedure section 367.76, but the committee presumes this was an error and the language proposed by the commenter was meant to include Welfare and Institutions Code section 679.5 as well.

has revised its proposal for subdivision (d) to read, “Court technology must be capable of allowing the judicial officer and all other participants attending the proceeding in person to hear and be heard by remote participants, as well as to see and be seen by remote participants who are capable of using video if the court orders the proceeding to be conducted using video, or as required or allowed by statute.” (Proposed Min. Standards, (d).)

This revision is intended to make clear that a remote participant is not required to use video if the court has not ordered video to be used or if audio-only participation is permissible. Additionally, the revisions to subdivision (d) are intended to clarify that this subdivision concerns only the capabilities of the courtroom technology used for a remote proceeding, and not how that technology is used in a given proceeding. Subdivision (d) is not intended to require courts to conduct all remote proceedings using video.

Other revisions for clarity

The commenters pointed out several provisions in the standards that could be confusing as proposed in the invitation to comment. The committee, therefore, revised the recommended language in the prefatory sentence, subdivision (b), and subdivision (c)(6) to make these items easier to understand.

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 and the comments, 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 the 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.

Attachments and Links

1. *Minimum Technology Standards for Remote Proceedings*, at pages 6–7
2. Chart of comments, at pages 8–13
3. Link A: Senate Bill 133,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB133

Effective April 1, 2024, the Judicial Council would adopt the following minimum standards for courtroom technology necessary to permit remote participation in court proceedings:

Minimum Technology Standards for Remote Proceedings

Effective July 1, 2024, in a courtroom in which the court is conducting a remote proceeding, the following minimum technology standards apply:

- (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) A judicial officer and court reporter in a courtroom holding a remote proceeding must have access to a hard-wired or other reliable high-speed internet connection.
- (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 during the proceeding to ensure an accurate record.

- (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 be capable of allowing the judicial officer and all other participants attending the proceeding in person to hear and be heard by remote participants, as well as to see and be seen by remote participants who are capable of using video if the court orders the proceeding to be conducted using video, or as required or allowed by statute.
- (e) On or after July 1, 2024, if a court is unable to meet these standards for a proceeding listed in Code of Civil Procedure section 367.76(a)(1) or Welfare and Institutions Code section 679.5(b), an official reporter or official reporter pro tempore 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).

SP23-10

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

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	CourtCall by Robert V. Alvarado, Jr., Chief Executive Officer	NI	<ul style="list-style-type: none">• CourtCall’s remote access platform meets or exceeds all of the minimally required standards referenced and has been in operation in courts in California and elsewhere for years.• Courts should retain and have the authority and flexibility to assure compliance at the court-level without regard to hardware specifications that will vary by use case and as technology evolves.• Services provided by platform providers and/or equipment providers and limit, minimize and often eliminate costs otherwise incurred by courts.• It is respectfully suggested that the proposed language be clarified to include <i>technology provided by third parties</i> as it is often a third party and not a specific “remote participant” or group of remote participants providing the various types of technology to enable the remote participation.	<p>The committee appreciates the information.</p> <p>The committee is not recommending changes in response to this suggestion. The committee notes that although the Invitation to Comment referred to technology provided by remote participants, the standards themselves do not use that language and therefore do not create a risk of confusion around that concept.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SP23-10

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	Commenter	Position	Comment	Committee Response
			<ul style="list-style-type: none">CourtCall agrees with the fourth bullet point in the Request for Specific Comments section of the Invitation (relating to subsection (d)) so as to avoid situations where remote access may be inadvertently restricted.	The committee appreciates the response. The committee has not made the revision to subdivision (d) discussed in the Invitation to Comment but has made other revisions to (d) to clarify its meaning.
2.	Orange County Bar Association by Christina Zabat-Fran, President	AM	<p>The proposal tracks Senate Bill 133 and, accordingly, achieves its purpose. There is, however, a problem that remains: the software for remote appearances is not uniform across the counties (e.g., MS Teams may be used in one county while Zoom is used in another). A prudent goal would be to implement uniform software across counties.</p> <p>Responding to the remaining requests for specific comments:</p> <ul style="list-style-type: none">Yes, it is clear that these are requirements for what court-provided technology must be able to do, rather than how remote proceedings must be conducted.Yes, it is clear that the standards only apply to court-provided	<p>The committee is not recommending changes in response to this suggestion because it is outside the scope of the current proposal.</p> <p>The committee appreciates the responses to the specific questions posed in the Invitation to Comment.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

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	Commenter	Position	Comment	Committee Response
			<p>technology (not technology provided by remote participants).</p> <ul style="list-style-type: none"> “Must allow” is sufficient (as opposed to “must be capable of allowing”). 	In light of all the public comments, the committee is recommending changes to subdivision (d), including changing “must allow” to “must be capable of allowing.”
3.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee)	AM	<p>Recognizing the legislature’s intent in Senate Bill 133 (Stats. 2023, ch. 34) and the trial courts’ commitment to ensuring that courtroom participants and remote participants have adequate access to proceedings that are conducted remotely or in a hybrid environment, these comments seek to clarify language in the proposed standards to be consistent with that intent and to reduce confusion in the future.</p> <p>In the ITC, the Information Technology Advisory Committee (ITAC) lists several requests for specific comments. As ITAC can see below, JRS has concerns about the clarity of the proposed standards and provides specific feedback seeking to clarify the existing ambiguities.</p> <p>The first paragraph of the proposed Minimum Technology Standards (Standards) is unclear and can be improved</p>	<p>The committee appreciates the response.</p> <p>The committee is not recommending the revision suggested in this comment but has made other revisions to the first sentence of</p>

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SP23-10

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	Commenter	Position	Comment	Committee Response
			<p>to ensure that judicial officers and court users do not misunderstand the purpose of the Standards. In particular, JRS proposes that the first sentence read: “Effective July 1, 2024, trial courts that permit remote appearances in proceedings subject to Cal. Code Civ. Proc. § 367.76 must implement the following minimum technology standards for remote appearances in those proceedings.”</p> <p>Section (b) of the proposed Standards could be misconstrued to indicate that every courtroom must have a hard-wired internet connection <i>or its own “other reliable high-speed internet connection.”</i> If a trial court chooses to provide reliable high-speed internet connectivity wirelessly, that connection device would most likely not be physically located in each courtroom. To reflect the actual technical capabilities of wireless high-speed internet connections, JRS proposes that section (b) read as follows: “(b) A judicial officer and court reporter in a courtroom holding a remote proceeding must have access to a hard-wired or other reliable high-speed internet connection.”</p>	<p>the standards to clarify their purpose. That sentence now reads: “Effective July 1, 2024, in a courtroom in which the court is conducting a remote proceeding, the following minimum technology standards apply.”</p> <p>The committee agrees and has modified the recommended language for subdivision (b) accordingly.</p>

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SP23-10

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	Commenter	Position	Comment	Committee Response
			<p>JRS also notes that section (c) of the proposed Standards can be read in multiple ways and, as a result, the intent is unclear. To ensure that all trial courts are able to comply with the Standards and that adequate access to proceedings is ensured, JRS proposes modification of the language to be more clear. In addition, JRS proposes that the language be clarified so that it is clear that what standards apply to a particular type of proceeding that is described in the definition of “remote proceeding.” JRS suggests that the first paragraph of section (c) read as follows: “(c) The court must provide sufficient equipment, as described below, so that, in any remote proceeding subject to Cal. Code Civ. Proc. § 376.76, a judicial officer, court reporter, and court interpreter can see and hear remote participants as necessary in that proceeding.”</p> <p>JRS further suggests that subdivision (c)(6) be modified to state “(6) Court technology must allow participants to be identified either visually or audibly during the remote proceeding, as appropriate.”</p>	<p>The committee is not recommending revisions to the standards in response to this suggestion. The standards are intended to apply to all remote proceedings (with the exception of subdivision (e), which applies only to proceedings listed in Code of Civil Procedure section 367.76(a)(1) or Welfare and Institutions Code section 679.5(b)) and the suggested revision would unnecessarily limit the scope of the standards.</p> <p>The committee agrees that subdivision (c)(6) as proposed could have been confusing and has revised the recommended language for (c)(6) so that it reads as follows: “Court technology must allow remote participants to be identified during the proceeding to ensure an accurate record.” The committee also notes</p>

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	Commenter	Position	Comment	Committee Response
			Lastly, section (d) of the proposed Standards could be misconstrued to indicate that all participants in a remote proceeding must be able to be seen, even though the Standards apply to phone-only proceedings as well. To address this issue, JRS proposes to clarify the language to state: “(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, as applicable to the type of remote proceeding.”	<p>that (c)(6) refers to “remote participants” rather than “participants” to make clear that it applies only to court technology needed to enable remote participation in court proceedings and does not require courts to implement technology to allow in-person participants to identify themselves to those also present in person.</p> <p>The committee agrees and has modified the recommended language for subdivision (d) to read as follows: “Court technology must be capable of allowing the judicial officer and all other participants attending the proceeding in person to hear and be heard by remote participants, as well as to see and be seen by remote participants who are capable of using video if the court orders the proceeding to be conducted using video, or as required or allowed by statute.”</p>

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