

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

ITC SP21-08

Title

Civil Practice and Procedure: Remote Appearances

Action Requested

Review and submit comments by Monday, November 15, 2021.

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 3.672; amend rules 3.670, 5.9, 5.324, and 5.531; adopt forms CIV-021, CIV-022, JV-145, and JV-146; and revoke forms CIV-020, FL-679, and FL-679-INFO.

Proposed Effective Date

January 1, 2022

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Proposed by

Ad Hoc Committee on Civil Remote Appearance Rules
Hon. Marsha Slough, Chair

Executive Summary and Origin

The Ad Hoc Committee on Civil Remote Appearance Rules recommends that the Judicial Council adopt rules of court and forms to implement new Code of Civil Procedure section 367.75, enacted in Senate Bill 241 (Stats. 2021, ch. 214). That statute, which goes into effect January 1, 2022, authorizes remote proceedings in all civil cases, with special requirements applicable to juvenile dependency actions. The statute also mandates that the council adopt rules regarding certain deadlines and procedures, which are reflected in this proposal. In addition, the committee recommends forms to facilitate parties and courts in conducting proceedings remotely. The committee also recommends amending the current telephone appearance rules, to suspend them in part while these rules are in place, and revoking the current telephone appearance forms, which will be replaced by the new forms proposed here.

Background

Current rules

The Judicial Council and courts have long had the goal of improving access to the courts, including increasing ease of access through the use of remote technology where appropriate. The arrival of the COVID-19 pandemic made such access even more important. During the early weeks of the pandemic, the council adopted emergency rule 3, effective April 6, 2020,

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

authorizing courts to conduct proceedings remotely, with parties appearing at court proceedings by videoconference or expanded use of telephone appearances. For many months, remote proceedings have been an important means of balancing access to justice and the public health needs of parties, court staff and judicial officers, and the public generally. Now the Legislature, at the urging of stakeholders including the council, has enacted Senate Bill 241 (Link A),¹ authorizing, among other things, remote proceedings in all civil cases under new section 367.75 of the Code of Civil Procedure.²

Currently, emergency rule 3 authorizes courts to conduct judicial proceedings remotely. As discussed below, effective January 1, 2022, new section 367.75 will apply to remote proceedings in civil cases. The new section also requires the Judicial Council to adopt rules of court to implement certain provisions of the statute and to amend the current rules to conform to the new statute. Proposed rule 3.672 and the amendments to other rules proposed in this invitation to comment are intended to serve that purpose.

Effective January 1, 2022, in civil proceedings, courts will need to comply with section 367.75 and the rules of court proposed in this invitation to comment. To avoid any conflict with the new rules or any ambiguity, the chairs of the council's internal committees will be submitting a separate report to the Judicial Council proposing an amendment to emergency rule 3 that would exclude civil proceedings from the scope of the rule effective January 1, 2022.³

New law

Senate Bill 241 enacts new Code of Civil Procedure section 367.75, effective from January 1, 2022, to July 1, 2023. The provisions of the bill that are addressed by the proposed new rule are summarized here:

- A party (or witness)⁴ may appear through the use of remote technology in all civil cases (other than juvenile dependency) after providing notice to the court and all other parties. Advance permission of the court is required only in juvenile dependency actions. (§ 367.75(a) & (h).)
- After receiving such notice or request, the court has the discretion to require an in-person appearance only if:
 - The court does not have the requisite technology to handle a remote appearance (§ 367.75(b)(1));

¹ Available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB241.

² All further statutory references are to the Code of Civil Procedure unless otherwise noted.

³ The proposed amendment would also clarify that emergency rule 3 still applies to criminal proceedings, as there has been no legislative enactment that applies in criminal proceedings.

⁴ *Party* is defined in the new statute, and in the proposed rule, as including any nonparty subject to discovery.

- The court determines, on a hearing-by-hearing basis, that the in-person presence of the party or witness would “materially assist in the determination” of the specific proceeding or in the effective management or resolution of the case. (§ 367.75(b)(3)); or
- At a particular conference, hearing or proceeding, the quality of the technology or audibility is preventing or inhibiting any of the following:
 - The court’s effective management or resolution of the matter;
 - The court reporter’s ability to make an accurate record;
 - Counsel’s ability to provide effective representation; or
 - An interpreter’s ability to provide language access.
(§ 367.75(b)(2), (4)–(6).)
- In addition, for evidentiary hearings or trials generally:
 - The court, as well as a party, may decide to conduct a trial or evidentiary hearing remotely; and
 - A party may oppose that decision by a court or another party by showing why remote testimony or appearance should not be allowed.
(§ 367.75(d).)
- For juvenile dependency proceedings only:
 - Any person entitled to be present at a proceeding may request to appear remotely (§ 367.75(h)(1));
 - A party may file a request for the court to compel the physical presence of a party or a witness (§ 367.75(h)(2)); and
 - A witness, including a party who is testifying, must obtain the consent of all the parties before a remote appearance will be permitted (§ 367.75(h)(2)).

Section 367.75(k) provides that the council must adopt rules addressing the following points:

- Deadlines by which a party must notify the court and the other parties of their request to appear remotely.
- Procedures and standards for a judicial officer to determine when a conference, hearing, or proceeding may be conducted through the use of remote technology. The procedures and standards must require that a judicial officer give consideration to the limited access to technology or transportation that a party or witness might have.

The Chief Justice formed the Ad Hoc Committee on Civil Remote Appearance Rules⁵ to develop a recommendation for rules to comply with that mandate and to facilitate courts and parties in initiating and conducting remote proceedings under new section 367.75.

⁵ The ad hoc committee includes as members representatives from the Advisory Committee on Providing Access and Fairness, Civil and Small Claims Advisory Committee, Family and Juvenile Law Advisory Committee, Probate and Mental Health Advisory Committee, Criminal Law Advisory Committee, Trial Court Presiding Judges Advisory Committee, Court Executives Advisory Committee, and the council’s Technology Committee.

The Proposal

As mandated by statute, proposed new rule 3.672⁶ addresses deadlines and procedures for parties to provide notice (or a request in juvenile dependency proceedings) to the court and to other parties of their intent to appear remotely, including deadlines for opposing remote testimony if appropriate, and the procedures and standards to be applied by courts. The proposed forms would be served and filed by parties to provide such notice (or to make a request) and, where appropriate, to oppose the remote appearance or testimony. The provisions of the proposed new rule, amended rules, and new forms are summarized below.

New rule 3.672

Remote appearances authorized in all civil cases

In the Application subdivision, the rule echoes the statute: that the rule applies in all civil cases except when an in-person appearance is otherwise required by law.⁷ This includes proceedings that must, by law, be held confidentially. The Application subdivision notes, however, that the rule (like the statute) does not modify the confidentiality requirements of those proceedings that must be kept confidential. If a proceeding is confidential when conducted in person, it remains confidential when conducted remotely.⁸

Court's discretion

The statute is very broad in its application—providing that in all civil cases (except juvenile dependency), when a party gives notice to the court and other parties of the intent to appear remotely, the party may appear remotely.⁹ At the same time, the statute allows a court to require an in-person appearance even after that notice has been provided, if technology does not support a remote appearance or does not support it well enough for the court, court reporter, interpreter, or counsel to be effective.¹⁰ It also provides broad discretion for a court to determine that “an in-person appearance would materially assist” either in determining the outcome of a particular proceeding or in the effective management and resolution of the case as a whole.¹¹ This authorization for a court to require an appearance in person is restated in the rule.¹²

⁶ All rule references are to the California Rules of Court.

⁷ § 367.75(a); proposed rule 3.672(b)(1) & (c)(1) (*Civil case* is as defined in rule 1.6(3) (“Civil cases include all cases except criminal cases and petitions for habeas corpus”))

⁸ Proposed rule 3.672(b)(2) & (h)(1)(D). The concern regarding confidentiality is also addressed in the new forms, in which the parties must agree to preserve the confidentiality of the remote proceeding to the same extent as required for an in-person appearance. (Proposed forms CIV-021 and JV-145, at item 5.)

⁹ § 367.75(a).

¹⁰ § 367.75(b)(1), (2) & (4)–(6).

¹¹ § 367.75(b)(3).

¹² Proposed rule 3.672(d).

Local court procedures for giving notice of remote appearance

As noted above, many courts have been conducting remote proceedings and allowing remote appearances by parties under emergency rule 3 since early in the COVID-19 pandemic. Some technologically advanced courts have been able to provide for remote appearances with only a short amount of advance notice from the parties, sometimes as short as a few hours. Many are able to accept such notice online, with links on their websites to allow parties to indicate the desire for a remote appearance. The committee believes the easier procedures for appearing remotely should be encouraged and does not intend this rule to make it harder for parties to provide notice of intent to appear remotely. With that in mind, the committee is proposing that these rules provide the default deadlines and procedures when courts do not have local rules that allow less advance notice or provide an online method for giving such notice, so long as the local process complies with the statutory requirements (e.g., that other parties in the case must also be given notice of the remote appearance; that, for evidentiary hearings or trials, there is a process for opposing remote testimony or remote appearances; and that there is a process for self-represented parties to agree to appear remotely).¹³ The rule is intended to act as a guardrail, to set the outer limits of the time and manner of notice required and the way in which it should be given. The one exception is for jury trials, when the statewide rule would preempt local rules.

The committee acknowledges that because the statute, and this rule, will go into effect January 1, 2022, many courts may not yet have local rules in place on remote appearance, or may need to amend them to meet the statutory requirements. To provide time for that to occur, the proposed rule would allow existing procedures to remain in place for 90 days if compliant with statute, and also exempts the local remote rules from the requirements of rule 10.613 requiring 45 days' advance notice of new rules.¹⁴ The notice of new local remote appearance rules and the rules themselves must be displayed prominently on the court's website.

Statewide procedures for giving notice of or requesting remote appearance

The proposed rule sets deadlines and procedures for providing notice of intent (or, in juvenile dependency cases, requesting permission) to appear remotely in courts where there are not local rules with shorter timelines. The procedures in the proposed rule, following the statute, distinguish between nonevidentiary hearings;¹⁵ evidentiary hearings and trials, for which courts may also provide notice of remote proceedings;¹⁶ and juvenile dependency proceedings, which are subject to different statutory requirements.¹⁷

Nonevidentiary proceedings—subdivision (f)

For nonevidentiary proceedings, proceedings in which no oral testimony under oath may be provided, including law and motion hearings and status conferences, the rules parallel the current

¹³ Proposed rule 3.672(e)(1); see § 367.75(a), (d)(1) & (g).

¹⁴ Proposed rule 3.672(e)(2) & (3).

¹⁵ Proposed rule 3.672(f).

¹⁶ Proposed rule 3.672(g).

¹⁷ Proposed rule 3.672(h).

telephone appearance rules. The party choosing to appear remotely is required to provide notice to the court and other parties¹⁸ by serving and filing a *Notice of Remote Appearance* (form CIV-021).¹⁹ Less formal notice requirements are required for a proceeding set on less than three days' notice (including most ex parte applications).²⁰ Note that if a party misses these deadlines, the party may still ask the court for permission to appear remotely.²¹

Evidentiary hearings and trials—subdivision (g)

There are some provisions in section 367.75(d)(1) that apply only to remote proceedings at trials and evidentiary hearings (which are defined in the rule as hearings in which oral testimony—a spoken statement under oath and subject to examination—may be given²²).

First, for evidentiary hearings and trials, a court may on its own motion decide to conduct proceedings remotely.²³ The new rule provides that the court may do that either by directly notifying the parties in a particular action, or by local rule that is as compliant with the statute.²⁴

Second, for those types of proceedings, whether a party gives notice of an intent to appear remotely or the court has chosen on its own to conduct the proceeding remotely, any party may oppose by making a showing as to why a remote appearance or testimony should not be allowed.²⁵ Because of this, and because such proceedings may involve operational details that will need to be worked out relating to exhibits and testimony, the rule provides a longer notice period for appearing remotely at an evidentiary hearing or trial for which a party gives or receives at least 15 days' notice of the trial or hearing date (including in small claims cases).²⁶ For proceedings held with less notice, including, for example, hearings on requests for protective orders, the shorter time frame and procedures for nonevidentiary proceedings apply.²⁷ The rule also provides deadlines for opposing the remote appearance or testimony by serving and filing

¹⁸ Section 367.75(a) requires that a party provide notice to the court and all other parties that it wants to appear remotely.

¹⁹ Proposed rule 3.672(f)(2)(A). The committee asks for specific comments on whether this form should be mandated, or if the rule should state that a party may give the court and other parties any written notice or even oral notice of the intent to appear remotely.

²⁰ Proposed rule 3.672(f)(2)(B).

²¹ Proposed rule 3.672(i).

²² Proposed rule 3.672(c)(2) & (3).

²³ § 367.75(d)(1).

²⁴ Proposed rule 3.672(g)(1). The statute requires, among other things, that self-represented litigants may appear remotely if they agree to do so. (§ 367.75(g).)

²⁵ § 367.75(d)(1).

²⁶ Proposed rule 3.672(g)(2)(B).

²⁷ Proposed rule 3.672(g)(2)(C).

the proposed new *Opposition to Remote Proceeding at Evidentiary Hearing or Trial* (form CIV-022).²⁸

As with nonevidentiary proceedings, if a party misses these notice deadlines, they may still ask the court for permission to appear remotely.²⁹

The proposed rule also states what the court must consider in determining whether to conduct the proceeding remotely, in whole or in part, if opposition has been raised, including the factors in section 367.75(b) and those factors that section 367.75(k) mandates be included in the rule (lack of access to technology or transportation).³⁰

Juvenile dependency proceedings—subdivision (h)

The new statute includes provisions applicable only to juvenile dependency proceedings,³¹ which are addressed in subdivision (h) of the rule.³² With the exception of the notice procedures in subdivisions (e) and (f), subdivision (h) applies the rule’s general provisions to juvenile dependency proceedings. The notice provisions in (e) and (f) do not apply because section 367.75(h) departs from the provisions applicable to civil cases in that (1) it authorizes *any person entitled to be present*, and not only a named party or person subject to discovery, to appear remotely; (2) it requires a person wanting to appear remotely to *request* to appear remotely instead of giving notice of intent;³³ (3) it does not expressly distinguish evidentiary hearings and trials from nonevidentiary proceedings, although it does require a person who will be providing testimony and who wants to appear remotely to have obtained the consent of all other parties;³⁴ and (4) it allows parties to ask the court to compel the in-person appearance of any other party or witness.³⁵

These differences are reflected in the provisions in subdivision (h) of the rule. Persons wishing to appear must serve and file *Request to Appear Remotely—Juvenile Dependency* (form JV-145) within the time frames set out in the rule, except that a person other than the petitioner who is seeking to appear remotely at a detention hearing may make the request orally.³⁶ The rule

²⁸ Proposed rule 3.672(g)(3)(A). The committee seeks comments on whether the form should be mandatory or whether the rule should allow individually prepared pleadings to make a showing to the court as to why remote testimony or appearance should not be allowed.

²⁹ Proposed rule 3.672(i).

³⁰ Proposed rule 3.672(g)(3)(B).

³¹ § 367.75(h).

³² Because section 367.75(h) applies *only* to juvenile dependency proceedings, leaving juvenile justice proceedings subject to the rest of section 367.75, the rule draws that same distinction. (Proposed rule 3.672(h)(1)(E).)

³³ § 367.75(h)(1) (note that the request to appear remotely may be made by “any *person* authorized to be present” at the proceeding).

³⁴ § 367.75(h)(2).

³⁵ *Ibid.*

³⁶ Proposed rule 3.672(h)(2). A detention hearing must be held the court day after the petition is filed. Because the petitioner is a governmental agency, the agency bears the burden of proving the need for continued detention, and

provides that if the request is made by a party or witness who will be testifying at the proceeding, then it must reflect the consent of all the other parties who have appeared.³⁷ A party who opposes the remote appearance of another party to appear remotely may serve and file *Request to Compel Physical Presence—Juvenile Dependency* (form JV-146).³⁸

Because the grounds for granting or denying the request to appear remotely in most circumstances are not specified in the statutory subdivision regarding juvenile dependency proceedings, the rule applies the standards generally applicable in the statute.³⁹

Other rule provisions

Subdivision (i)(1) allows persons who gave notice of their intent to appear remotely to change their mind and show up in person, so long as, for an evidentiary hearing or trial, they provide reasonable notice to all other parties and the court. Subdivision (i)(2) allows persons who did not meet the notice requirements to still ask to appear remotely, if they have good cause or unforeseen circumstances, or if it is in the interest of promoting access to justice. Similar provisions are in the current telephone appearance rule.

Subdivision (j) addresses fees, and specifies when not to charge them.

Subdivision (k) allows courts to designate vendors and platforms for remote appearances, and subdivision (l) requires courts to publish information about them, so parties know on what platform they can give notice about appearing.

Amended rules

As discussed above, new section 367.75 authorizes remote appearances in all civil cases from January 1, 2022, through June 30, 2023; applies to all types of proceedings within those cases; and allows remote appearances generally, not distinguishing between telephonic (audio alone) and videoconference (which includes both audio and video, or either) platforms.

The current telephone appearance rule, on the other hand (rule 3.670, which implements section 367.5), is limited to general civil actions plus unlawful detainer and probate cases, focuses on remote appearances in nonevidentiary hearings, and addresses appearances by telephone only. Because this rule under section 367.5 is more narrowly prescribed than what is authorized under

the detention hearing often sets the course for the rest of the proceedings, it is appropriate to require the petitioner to appear in person. Because the hearing must be set less than one court day after the petition is filed, subdivision (g) of the rule allows other persons authorized to be present to request permission to appear remotely, either orally or in writing, before the hearing begins. If the court determines that an appearance in person is required, it may continue the hearing or set the matter for rehearing. (See Welf. & Inst. Code, §§ 321, 322.)

³⁷ Proposed rule 3.672(h)(1)(D); see form JV-145 at item 4. The committee seeks comments on whether the rule should require that this consent—which is mandated by section 367.75(h)(2)—be obtained before the form may be filed and indicated on the form, as currently proposed, or whether the rule should require a party who does not consent to the witness’s remote appearance to file a request to compel the witness’s physical appearance.

³⁸ Proposed rule 3.672(h)(3).

³⁹ Proposed rule 3.672(h)(4); § 367.75(b) & (e)(2).

the new statute, the proposal would suspend the provisions in the current telephone appearance rule that limit remote hearings and provide specific rules regarding notice of such hearings, noting that they will be replaced with the provisions in the new rule for the period in which new section 367.75 is in effect (from January 1, 2022, to July 1, 2023).⁴⁰ Similar amendments have been proposed to the current family and juvenile law rules relating to telephone appearances, because remote appearances in those actions also are covered by the provisions of new section 367.75.

Forms

The committee is proposing four new forms:

- *Notice of Remote Appearance* (form CIV-021)
- *Opposition to Remote Proceeding at Evidentiary Hearing or Trial* (form CIV-022)
- *Request to Appear Remotely—Juvenile Dependency* (form JV-145)
- *Request to Compel Physical Presence—Juvenile Dependency* (form JV-146)

As noted above, the proposed rules require that the CIV and JV forms be used to provide notice of a remote appearance in civil cases generally, to request remote appearance in juvenile dependency proceedings, and to oppose remote appearance or testimony as appropriate.

The forms are straightforward and short. The notice (form CIV-021) identifies who intends to appear remotely, at what proceeding, by what method (audio only or videoconference), and, for evidentiary hearings and trials, what other portions, if any, a party wants conducted remotely.⁴¹ It ends with an agreement that the party will preserve the confidentiality of the proceeding to the same extent as would be required for an in-person appearance. There are instructions and deadlines included on the form. The request (JV-145) is very similar, but for persons requesting to testify remotely includes an item to reflect the consent of the other parties to that remote testimony. As proposed, these two forms are mandatory in any courts that do not have local rules setting out alternative procedures for providing notice to the court and other parties of a party or person's intent to appear remotely or request to do so in a juvenile dependency case.

⁴⁰ Those provisions in rule 3.670 that address procedures relating to telephone appearances that have been permitted have been left in place. The provisions that would remain in effect, in addition to (a), Policy favoring telephone appearances, and (b), Application, are the following:

- (j) Provision of telephone appearance services
- (k) Telephone appearance fee amounts; time for making requests [late fees]
- (l) Fee waivers
- (m) Title IV-D proceedings
- (n) Audibility and procedure
- (o) Reporting

⁴¹ Such a request is permitted under section 367.75(d)(1).

The forms for opposing a remote appearance or testimony (form CIV-021) or asking the court to compel a physical appearance (form JV-146) are similarly brief, identifying who is opposing the remote testimony or appearance, at what proceeding, and why. Each also contains instructions.

Note that while no optional form ordering an in-person appearance is being recommended at this point, the committee seeks comments on whether such a form would be helpful to the courts.

In addition to recommending adoption of the four new forms, the committee is recommending that the council revoke the current civil and family law telephone appearance forms:

- *Notice of Intent to Appear by Telephone* (form CIV-020)
- *Request for Telephone Appearance* (form FL-679)
- *Information Sheet—Request for Telephone Appearance* (form FL-679-INFO)

As of January 1, 2022, these forms will no longer conform to the law and rules.

Alternatives Considered

Because new section 367.5(k) mandates that the council adopt rules of court on certain topics under the statute, the committee did not consider the alternative of taking no action.

The committee considered not creating any forms, but concluded that, without forms for notice of or a request for remote appearance, it would be more difficult for parties, especially self-represented litigants, to know how to give notice to other parties and the court. And it would be difficult for them to draft their own opposition to such appearance in the short time frame provided.

The committee is still considering whether the forms should be mandatory and is seeking comments on the alternative of optional forms, for both the CIV and JV forms proposed.

Fiscal and Operational Impacts

The new statute will have significant operational impacts on the courts, with new statutory provisions that remote appearances, other than at evidentiary hearings and trials, must be triggered by the notice of a party intending to appear, rather than at the direction of the court; that parties in evidentiary hearings and trials have the opportunity to oppose remote appearances; and parties in juvenile dependency proceedings must make a request that the court must rule on before they appear remotely; and that self-represented parties must agree to any remote appearance.

Those are impacts of the statute. The intent of the rule is to help provide consistency for stakeholders and justice partners, to support understanding and compliance with the rules by creating standard forms for the notice that must now be provided, and by providing courts with the flexibility for local procedures that meet or exceed the rule's requirements.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Will the proposed timelines for providing notice of remote appearance to courts and other parties work for litigants? And for the courts?
- Is written notice of intent to appear needed in all circumstances, or would a rule requiring oral notice to the court and parties be sufficient? If so, how should proof of such notice—which is required by statute—be provided to the court?
- Should the proposed forms (or any of them) be mandatory in cases without local court procedures, as proposed in the rule, or optional, making it possible for parties to serve and file individually crafted documents?
 - *Notice of Remote Appearance* (form CIV-021)
 - *Opposition to Remote Proceeding at Evidentiary Hearing or Trial* (form CIV-022)
 - *Request to Appear Remotely—Juvenile Dependency* (form JV-145)
 - *Request to Compel Physical Presence—Juvenile Dependency* (form JV-146)
- Should a new optional order form be approved, for requiring an in-person appearance in either the CIV or the JV form set?
- Should form JV-145 require that all parties' consent to a witness's requested remote appearance—as mandated by section 367.75(h)(2)—be obtained before the form may be filed and indicated on the form, as currently proposed, or should the rule and form JV-146 instead require a party who does not consent to the witness's remote appearance to file that form to indicate lack of consent?

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

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

Attachments and Links

1. Cal. Rules of Court, rules 3.670, 3.672, 5.9, 5.324, and 5.531, at pages 12–24
2. Forms CIV-021, CIV-022, JV-145, and JV-146, at pages 25–31
3. Revoked forms CIV-020, FL-679, and FL-679-INFO, at pages 32–35
4. Link A: Senate Bill 241, including new Code of Civil Procedure section 367.75, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB241

Rule 3.672 of the California Rules of Court would be adopted, and rules 3.670, 5.9, 5.324, and 5.531 amended, effective January 1, 2022, to read:

1 **Title 3. Civil Rules**

2
3 **Division 6. Proceedings**

4
5 **Chapter 3. Hearings, Conferences, and Proceedings**

6
7 **Rule 3.670. Telephone appearance**

8
9 **(a) Policy favoring telephone appearances**

10
11 The intent of this rule is to promote uniformity in the practices and procedures
12 relating to telephone appearances in civil cases. To improve access to the courts
13 and reduce litigation costs, courts should permit parties, to the extent feasible, to
14 appear by telephone at appropriate conferences, hearings, and proceedings in civil
15 cases.

16
17 **(b) Application**

18
19 Subdivisions (c) through (i) of this rule are suspended from January 1, 2022, to July
20 1, 2023, during which time the provisions in rule 3.672 apply in their place. This
21 rule applies to all general civil cases as defined in rule 1.6 and to unlawful detainer
22 and probate proceedings.

23
24 **(c)–(q) *****

25
26
27 **Rule 3.672. Remote proceedings**

28
29 **(a) Purpose**

30
31 The intent of this rule is to promote uniformity in the practices and procedures
32 relating to remote appearances and proceedings in civil cases. To improve access to
33 the courts and reduce litigation costs, to the extent feasible courts should permit
34 parties to appear remotely at conferences, hearings, and proceedings in civil cases
35 consistent with Code of Civil Procedure section 367.75.

36
37 **(b) Application**

38
39 (1) This rule applies to all civil cases, except when an in-person appearance is
40 otherwise required by law. Provisions that apply specifically to juvenile
41 dependency proceedings are set out in (h) below.

1 (2) Nothing in this rule is intended to modify current rules, statutes, or case law
2 regarding confidentiality or access to confidential proceedings.

3
4 **(c) Definitions**

5
6 As used in this rule:

7
8 (1) “Civil case” is as defined in rule 1.6(3), including all cases except criminal
9 cases and petitions for habeas corpus.

10
11 (2) “Evidentiary hearing or trial” is any proceeding at which oral testimony may
12 be provided.

13
14 (3) “Oral testimony” is a spoken statement provided under oath and subject to
15 examination.

16
17 (4) “Party” is, except in (h), as defined in rule 1.6(15), meaning any person
18 appearing in an action and that person’s counsel, and as well as any nonparty
19 who may be subject to discovery in the action.

20
21 (5) “Proceeding” means a conference, hearing, or any other matter before the
22 court, including evidentiary hearing or trial.

23
24 (6) “Remote appearance” or “appear remotely” means the appearance of a party
25 at a proceeding through the use of remote technology.

26
27 (7) “Remote proceeding” means a proceeding conducted in whole or in part
28 through the use of remote technology.

29
30 (8) “Remote technology” means technology that provides for the transmission of
31 video and audio signals or audio signals alone. This phrase is meant to be
32 interpreted broadly and includes a computer, tablet, telephone, cellphone, or
33 other electronic or communications device.

34
35 **(d) Court discretion to require in-person appearance**

36
37 Notwithstanding the provisions of this rule and except as otherwise required by
38 law, the court may require a party to appear in person at a proceeding in any of the
39 following circumstances:

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41 (1) If the court determines on a hearing-by-hearing basis that an in-person
42 appearance would materially assist in the determination of the proceeding or
43 in the effective management or resolution of the case.

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- (2) If the court does not have the technology to conduct the proceeding remotely.
- (3) If, at any time during a remote proceeding, the court determines that an in-person appearance is necessary, the court may continue the matter and require such an appearance. Such determination may be based on the factors listed in Code of Civil Procedure section 367.75(b).

(e) Local court rules for remote proceedings

- (1) A court may by local rule prescribe the time and method of providing notice of intent to appear remotely at a proceeding other than a jury trial, so long as the procedures are posted on the court’s website and include the following provisions:
 - (A) Notice of the intent to appear remotely is required to be provided to all parties or persons entitled to receive notice of the proceedings;
 - (B) The amount of notice required is the same or less than the amount required by this rule; and
 - (C) For evidentiary hearings and trials, an opportunity for parties to oppose the remote proceedings.
- (2) Notwithstanding the requirements of rule 10.613, courts may adopt or amend a local rule under this subdivision for an effective date other than January 1 or July 1 and without a 45-day comment period if the court:
 - (A) Posts notice of the adoption of the new or amended rule prominently on the court’s website, along with a copy of the rule and the effective date of the new or amended rule;
 - (B) Distributes the rule to the organizations identified in rule 10.613(g)(2) on or before the effective date of the new rule or amendment; and
 - (C) Provides a copy of the rule to Judicial Council staff.

No litigant’s substantive rights may be prejudiced for failing to comply with a rule adopted or amended under this paragraph until at least 20 days after the rule change has been posted and distributed.
- (3) Notwithstanding (1) and rule 10.613, any local court procedures consistent with Code of Civil Procedure section 367.75 and posted on the court’s

1 website may continue in effect until March 31, 2022, or until such earlier date
2 by which a court has adopted a local rule to comply with (1).

3
4 **(f) Remote proceedings other than an evidentiary hearing or trial**

5
6 (1) Applicable rules

7
8 This subdivision applies to any proceeding other than an evidentiary hearing
9 or trial, unless one of the following applies:

10
11 (A) The court has applicable local procedures or local rules under (e);

12
13 (B) The proceeding is a juvenile dependency proceeding governed by (h);

14
15 (C) The court permits a party to appear remotely under notice authorized
16 under (i)(2).

17
18 (2) Required notice

19
20 (A) Time of notice for hearing with at least three days' notice

21
22 A party choosing to appear remotely in a proceeding under this
23 subdivision for which a party gives or receives notice of the proceeding
24 at least three court days before the hearing date, must provide notice of
25 the party's intent to appear remotely at least two court days before the
26 proceeding.

27
28 (i) Notice process

29
30 Notice must be given by serving on all other parties or persons
31 who are entitled to receive notice of the proceedings and filing
32 with the court a *Notice of Remote Appearance* (form CIV-021).
33 Service must be by any means authorized by law and reasonably
34 calculated to ensure delivery at least two court days before the
35 proceeding. Service may be by email on counsel for represented
36 parties or on self-represented persons who have consented to
37 such service.

38
39 (ii) Time of notice by other parties

40
41 If, after receiving notice of remote proceedings from a party as
42 provided under (B), a person who has not given notice also
43 decides to appear remotely, that person may do so by notifying

1 the court and all others who have appeared in the action of their
2 intent to appear remotely, no later than noon one court day before
3 the proceeding.

4
5 (B) Time of notice for hearing with less than three days' notice

6
7 A party choosing to appear remotely in a proceeding under this
8 subdivision for which a party gives or receives notice of less than three
9 days must provide notice of intent to appear remotely as follows:

10
11 (i) Notice process

12
13 A moving party or applicant choosing to appear remotely must
14 notify the court and all persons who are entitled to receive notice
15 of the proceeding of the party's intent to appear remotely either:

- 16
17 a. By serving and filing a Notice of Remote Appearance (form
18 CIV-021) with the application or other moving papers; or
19
20 b. By including on the first page of the application or other
21 moving papers the phrase "Remote Appearance" and the
22 method of such appearance if the court offers multiple
23 methods for the proceeding.

24
25 (ii) Notice by other parties

26
27 Any party other than an applicant or moving party choosing to
28 appear remotely must provide notice of their intent to appear
29 remotely to the court and all other parties that have appeared in
30 the action, no later than noon on the court day before the
31 proceeding. If the notice is oral, it must be given either in person
32 or by telephone. If the notice is in writing, it must be given by
33 filing Notice of Remote Appearance (form CIV-021) with the
34 court and serving the notice on all other parties or persons who
35 are entitled to receive notice of the proceeding by any means
36 authorized by law reasonably calculated to ensure delivery to the
37 parties no later than noon on the court day before the proceeding.
38 Service may be by email on counsel for represented parties or on
39 self-represented parties who have consented to such service.

40
41 (iii) If required by local rule, a party must ensure a copy of any
42 written notice filed under (i) or (ii) is received in the department
43 in which the proceeding is to be held.

1
2 **(g) Remote proceedings for an evidentiary hearing or trial**

3
4 **(1) Court notice of remote proceeding**

5
6 A court intending to conduct an evidentiary hearing or trial remotely must
7 provide notice as follows:

8
9 **(A) By providing notice to all parties who have appeared in the action or**
10 **who are entitled to receive notice of the proceedings, at least 10 days**
11 **before the hearing or trial date, unless the hearing or trial is on less than**
12 **10 days' notice, in which case at least two court days' notice of remote**
13 **proceedings is required.**

14
15 **(B) By local rule providing that certain evidentiary hearings or trials are to**
16 **be held remotely, so long as the court procedure includes a process for**
17 **self-represented parties to agree to the remote appearance and for**
18 **parties to show why remote appearances or testimony should not be**
19 **allowed.**

20
21 **(2) Party notice of remote proceeding**

22
23 **(A) Applicable rules**

24
25 This subdivision applies to all jury trials. It also applies to all other
26 evidentiary hearings or trials unless one of the following applies:

27
28 **(i) The court has applicable local procedures or local rules under (e);**

29
30 **(ii) The proceeding is a juvenile dependency proceeding governed by**
31 **(h);**

32
33 **(iii) The court permits a party to appear remotely under notice**
34 **authorized under (i)(2).**

35
36 **(B) Time of notice for hearings or trials with at least 15 days' notice**

37
38 A party choosing to appear remotely at an evidentiary hearing or trial
39 for which a party gives or receives notice of the proceeding at least 15
40 court days before the hearing or trial date must provide notice of the
41 party's intent to appear remotely at least 10 days before the hearing or
42 trial.

1 (i) Notice process

2
3 Notice must be given by serving on all other parties or persons
4 who are entitled to receive notice of the proceedings and filing
5 with the court a *Notice of Remote Appearance* (form CIV-021).
6 Service must be by any means authorized by law. Service may be
7 by email on counsel for represented parties or on self-represented
8 persons who have consented to such service.

9
10 (ii) Notice by other party

11
12 If, after receiving notice from a party under (i), a person who has
13 not given notice also chooses to appear remotely, that person may
14 do so by notifying the court and all others who have appeared in
15 the action of their intent to appear remotely by serving and filing
16 a *Notice of Remote Appearance* (form CIV-021) at least five days
17 before the evidentiary hearing or trial.

18
19 (C) Time of notice for proceedings held on notice of less than 15 days

20
21 A party choosing to appear remotely in an evidentiary hearing or trial
22 for which a party gives or receives notice of the proceeding less than 15
23 days before the hearing or trial date, including hearings on restraining
24 orders or protective orders, must provide notice of the party's intent to
25 appear remotely as provided in (f)(2)(B)(i) and (ii).

26
27 (3) Opposition to remote proceedings

28
29 (A) Filing and serving opposition

30
31 In response to notice of a remote proceeding under this subdivision set
32 by local rule or otherwise provided under (g)(1) or (2), a party may
33 make a showing to the court as to why a remote appearance or remote
34 testimony should not be allowed, by serving and filing an *Opposition to*
35 *Remote Proceedings at Evidentiary Hearing or Trial* (form CIV-022)
36 by:

37
38 (i) At least five days before the proceeding if for an evidentiary
39 hearing or trial for which a party gives or receives at least 15
40 days' notice; or

1 (ii) At least noon the court day before the proceeding if for an
2 evidentiary hearing or trial for which a party gives or receives
3 less than 15 days' notice.

4
5 (B) Court determination on opposition

6
7 In determining whether to conduct an evidentiary hearing or trial in
8 whole or in part through the use of remote technology over opposition,
9 the court must consider, along with the factors in section 367.75(b), any
10 limited access to technology or transportation asserted by a party.

11
12 **(h) Remote proceedings in juvenile dependency**

13
14 (1) Applicable rules and definitions

15
16 (A) This subdivision applies to any juvenile dependency proceeding, unless
17 either of the following applies:

18
19 (i) The court has adopted applicable local procedures or local rules
20 under (e); or

21
22 (ii) The court has found cause to permit a person to appear remotely
23 in response to a request under (i)(2).

24
25 (B) All statutory confidentiality requirements applicable to juvenile
26 dependency proceedings held in person apply equally to remote
27 proceedings.

28
29 (C) The definitions in (c) apply except that, for purposes of this
30 subdivision, a "party" is a person who has entered an appearance in the
31 proceeding.

32
33 (D) Any request to appear remotely under this subdivision made by a
34 person who will give oral testimony in the proceeding must indicate
35 that the person has obtained consent to the remote appearance by all
36 parties who have appeared in the action.

37
38 (E) This subdivision does not apply to juvenile justice proceedings. The
39 provisions in (a) through (g) and (i) through (l) govern a remote
40 appearance in any juvenile justice proceeding.

41
42 (2) Request to appear remotely

43

1 (A) For a proceeding with at least 10 days' notice

2
3 (i) Any person entitled to be present under rule 5.530(b) who wishes
4 to appear remotely at a proceeding for which the person gave or
5 received at least 10 days' notice must file *Request to Appear*
6 *Remotely—Juvenile Dependency* (form JV-145) with the court
7 and serve a copy of the request on each party and any other
8 person entitled to notice of the proceeding, by any means
9 authorized by law that is reasonably calculated to ensure receipt
10 at least five court days before the proceeding. The request may be
11 served by email as provided in rule 5.523.

12
13 (ii) If, after receiving a copy of the request as provided in (A), a
14 person who has not made a request also wishes to appear
15 remotely at a proceeding for which the person gave or received at
16 least 10 days' notice, that person must file *Request to Appear*
17 *Remotely—Juvenile Dependency* (form JV-145) with the court
18 and serve a copy of the request on each party by any means
19 authorized by law reasonably calculated to ensure receipt no later
20 than three court days before the proceeding. The request may be
21 served by email as provided in rule 5.523.

22
23 (B) For a proceeding with less than 10 days' notice

24
25 (i) Except as provided in (C), a petitioner who wishes to appear
26 remotely at a proceeding for which the petitioner gave or
27 received less than 10 days' notice must file *Request to Appear*
28 *Remotely—Juvenile Dependency* (form JV-145) with the court
29 and serve a copy of the request on each party and any other
30 person entitled to notice of the proceeding, by any means
31 authorized by law that is reasonably calculated to ensure receipt
32 no later than three court days before the proceeding. The request
33 may be served by email as provided in rule 5.523.

34
35 (ii) Any other person entitled to be present who wishes to appear
36 remotely at a proceeding for which the party gave or received
37 less than 10 days' notice must file *Request to Appear Remotely—*
38 *Juvenile Dependency* (form JV-145) with the court and serve a
39 copy of the request on each party and any other person entitled to
40 notice of the proceeding, by any means authorized by law that is
41 reasonably calculated to ensure receipt no later than noon two
42 court days before the proceeding. The request may be served by
43 email as provided in rule 5.523.

1
2 (C) For a detention hearing

3
4 Any person entitled to be present, other than the petitioner, may submit
5 a request to the court to appear remotely at a detention hearing at any
6 time before the beginning of the calendar on which the matter is set for
7 hearing. If the request is made orally, it may be made in person or by
8 telephone. If the request is in writing, it must be made on *Request to*
9 *Appear Remotely—Juvenile Dependency* (form JV-145).

10
11 (3) Opposition to request to appear remotely

12
13 Any party may oppose a request to appear remotely under (1) or (2) by a
14 party who will not give oral testimony by filing *Request to Compel Physical*
15 *Presence—Juvenile Dependency* (form JV-146) with the court no later than
16 the close of business two court days before the proceeding.

17
18 (4) Determination of requests and oppositions

19
20 (A) The court may grant the request of a witness, including a party who
21 will give oral testimony, to appear remotely only if all parties have
22 given consent to the witness's remote appearance.

23
24 (B) The court may deny a person's request to appear remotely if the court
25 determines that an in-person appearance is necessary because:

26
27 (i) One or more of the factors listed in Code of Civil Procedure
28 section 367.75(b) or this rule, including the person's limited
29 access to technology, applies;

30
31 (ii) The court cannot ensure that the remote appearance will have the
32 privacy and security necessary to preserve the confidentiality of
33 the proceeding; or

34
35 (iii) A remote appearance is likely to cause undue prejudice to one or
36 more parties.

37
38 (i) **Other rules regarding notice**

39
40 (1) A party that has given notice that it intends to appear remotely or a person
41 whose request to appear remotely under (h) has been granted may instead
42 choose to appear in person. If the proceeding is an evidentiary hearing or

1 trial, the party must provide reasonable notice of the in-person appearance to
2 the court and other parties who have appeared in the case.

3
4 (2) Notwithstanding the other provisions of this rule, a party may ask the court
5 for leave to appear remotely without the notice provided for under (f) or (g)
6 or a timely request under (h). The court may permit the party to appear
7 remotely upon a finding of good cause, unforeseen circumstances, or that the
8 remote appearance would promote access to justice.

9
10 **(i) Remote appearance fees**

11
12 (1) Parties not charged filing fees

13
14 Parties who, by statute, are not charged filing fees may not be charged a
15 videoconference fee under Government Code section 70630.

16
17 (2) Parties with fee waiver

18
19 (A) When a party has received a fee waiver, that party may not be charged
20 fees for remote appearances.

21
22 (B) To obtain remote appearance services without payment of a fee from a
23 vendor or a court that provides such services, a party must advise the
24 vendor or the court that they have received a fee waiver from the court.
25 If a vendor requests, the party must transmit a copy of the order
26 granting the fee waiver to the vendor.

27
28 (C) If a party, based on a fee waiver, receives remote appearance services
29 under this rule without payment of a fee, the vendor or court that
30 provides the remote appearance services has a lien on any judgment,
31 including a judgment for costs, that the party may receive, in the
32 amount of the fee that the party would have paid for the remote
33 appearance. There is no charge for filing the lien.

34
35 **(k) Vendor or platform**

36
37 A court, by local rule, may designate the vendors or platforms that must be used for
38 remote appearances.

39
40 **(l) Court information on remote appearances**

41
42 The court must publish notice online providing parties with the information
43 necessary to appear remotely at proceedings in that court under this rule. The notice

1 should include information regarding in which departments, types of proceedings,
2 or types of cases the court has the technological capability to allow remote
3 appearances, and the vendors or platforms that must be used, including whether
4 there are limitations to using them concurrently.

5
6 **Advisory Committee Comment**

7
8 **Subdivision (g).** Nothing in this rule is intended to preclude a court from discussing the use of
9 remote appearances and testimony at any time during an action, including at case management
10 conferences and status conferences.

11
12 **Subdivision (j).** Statutes currently provide that courts are not to charge filing fees to certain types
13 of parties, such as governmental entities, and parties in certain types of cases, such as juvenile
14 cases or actions to prevent domestic violence. This rule would preclude courts from charging
15 videoconference fees to such parties as well.

16
17
18 **Title 5. Family and Juvenile Rules**

19
20 **Rule 5.9. Appearance by telephone**

21
22 **(a) Application**

23
24 Subdivisions (b) through (d) of this rule are suspended from January 1, 2022, to
25 July 1, 2023. During that time, the provisions in rule 3.672 apply in their place.

26 This rule applies to all family law cases, except for actions for child support
27 involving a local child support agency and cases governed by the Indian Child
28 Welfare Act. Rule 5.324 governs telephone appearances in governmental child
29 support cases. Rule 5.482(g) governs telephone appearances in cases governed by
30 the Indian Child Welfare Act.

31
32 **(b)–(d) * * ***

33
34
35 **Rule 5.324. Telephone appearance in title IV-D hearings and conferences**

36
37 **(a) Purpose**

38
39 This rule is suspended from January 1, 2022, to July 1, 2023. During that time, the
40 provisions in rule 3.672 apply in its place. This rule is intended to improve the
41 administration of the high volume of title IV-D child support hearings and
42 conferences. Participation by both parents is needed for fair and accurate child

1 support orders. The opportunity to appear by telephone fosters parental
2 participation.

3
4 **(b)–(k) * * ***

5
6
7 **Rule 5.531. Appearance by telephone (§ 388; Pen. Code, § 2625)**

8
9 **(a) Application**

10
11 Subdivisions (b) and (c) of this rule are suspended from January 1, 2022, to July 1,
12 2023. During that time, the applicable provisions in rule 3.672 govern remote
13 appearances and proceedings in juvenile court. The standards in (b) apply to any
14 appearance or participation in court by telephone, videoconference, or other digital
15 or electronic means authorized by law.

16
17 **(b)–(c) * * ***

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO. _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (<i>name</i>): _____	<h1 style="margin: 0;">DRAFT</h1> <h2 style="margin: 10px 0 0 0;">10/28/21</h2> <h1 style="margin: 20px 0 0 0;">NOT APPROVED BY JUDICIAL COUNCIL</h1>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
NOTICE OF REMOTE APPEARANCE	CASE NUMBER: _____

This form must be used unless the court's website provides an online process for giving notice of intent to appear remotely.

Check the court's website for information necessary for persons to appear remotely, including the departments and types of cases or proceedings in which remote appearances are permitted, and the methods available for such appearance.

See page 2 of this form for more information, including deadlines for giving notice and for opposing a remote appearance if this notice is for an evidentiary hearing or trial.

1. The person intending to appear remotely is (*check and complete all that apply*):

- Plaintiff/Petitioner (*name*):
- Attorney for Plaintiff/Petitioner (*name*):
- Defendant/Respondent (*name*):
- Attorney for Defendant/Respondent (*name*):
- Other (*name and role in case*):

2. The proceeding is for (*describe*):

set on (*date*): _____ at (*time*): _____ in (*department*): _____
 before (*name of judicial officer, if known*): _____

3. The person intends to appear by (*check method to be used, based on information provided about remote appearances on the local court's website*):

- Videoconference Audio only (including telephone)

4. For evidentiary hearing or trial only: the party requests the following additional aspects of the proceeding be conducted remotely (*describe what the party wants to be done remotely and why; attach form MC-25 if more space is needed*):

5. I agree to preserve the confidentiality of the proceeding to the same extent as would be required if I were appearing in person.

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE) Page 1 of 2

Instructions for Giving Notice of Remote Appearance

1. Court online procedures. Before using this form, check the court's website to see if that court has an online procedure for providing notice of intent to appear remotely instead. You can find a link to the website for each court at <https://www.courts.ca.gov/find-my-court.htm>.

2. Use of this form. This form is intended for use in civil cases only (any cases not criminal), to provide written notice of intent to appear remotely to a court and parties, as provided in Code of Civil Procedure section 367.75. In juvenile dependency hearings use form JV-145 instead of this one. **Check in advance with the court to determine how to make arrangements for remote appearances.**

3. When to serve and file. If there is not an online procedure for giving notice of intent to appear remotely, this form must be completed, served on all parties and other persons who are entitled to notice of the proceeding, and filed with the court. California Rules of Court, rule 3.672(f) and (g) provide when you have to serve and file. There are different deadlines for giving notice of intent to appear remotely, which are summarized below:

For motions and proceedings in which no oral testimony under oath may be provided

If a party gives or receives at least 3 days' notice of the proceeding (including all regularly noticed motions):

- At least 2 court days before the proceeding, or,
- By noon the court day before the proceeding if after receiving notice that another person will be appearing remotely.

If a party gives or receives less than 3 days' notice of the proceeding (including ex parte applications):

- With the moving papers, if the notice to appear remotely is by the party that is asking for the hearing, or,
- By noon the court day before the hearing if the notice to appear remotely is by any other party.

Note: If a party misses these deadlines, they may still ask court for permission to appear remotely.

For trials, and hearings in which oral testimony under oath may be provided (evidentiary hearings)

If a party gives or receive at least 15 days' notice of a trial or hearing date (including in small claims cases):

- At least 10 days before the trial or hearing date; or
- At least 5 days before the trial or hearing date if after receiving notice that another person will be appearing remotely.

If a party gives or receives less than 15 days' notice of the trial or hearing (including hearings on protective orders):

- With the moving papers, if the notice to appear remotely is by the party that is asking for the hearing, or,
- By noon the court day before the hearing if the notice to appear remotely is by any other party.

Note: If a party misses these deadlines, they may still ask court for permission to appear remotely.

4. Opposition to remote appearances at trial or evidentiary hearing. If a party or witness has given notice of intent to appear remotely at a trial or evidentiary hearing (hearing at which oral testimony under oath may be provided), other parties in the action may oppose the remote appearance by filing *Opposition to Remote Proceedings at Evidentiary Hearing or Trial* (form CIV-022). The opposition must be served on parties and other persons entitled to receive notice of the proceedings, by the deadlines summarized on that form. (Cal. Rules of Court, rule 3.672(g)(3).)

5. In-person appearance. Note that a court may determine that a personal appearance is required. (Code Civ. Proc., § 367.75(b).)

6. Recordings. No person may record a proceeding without first obtaining permission from the the judge. (Cal. Rules of Court, rule 1.150(c).)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO. _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (<i>name</i>): _____	<h1 style="margin: 0;">DRAFT</h1> <h2 style="margin: 10px 0 0 0;">10/28/21</h2> <h1 style="margin: 20px 0 0 0;">NOT APPROVED BY JUDICIAL COUNCIL</h1>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	
OPPOSITION TO REMOTE PROCEEDING AT EVIDENTIARY HEARING OR TRIAL	CASE NUMBER: _____

This form may be used to show the court why a remote appearance or testimony should not be allowed at a trial or an evidentiary hearing, which is a hearing in which a person may provide oral testimony under oath. (For opposing a remote appearance in a juvenile dependency action, use form JV-146.)

See page 2 of this form for more information, including deadlines for filing or serving an opposition.

1. Person opposing remote appearance or testimony is (*check and complete all that apply*):

- Plaintiff/Petitioner (*name*):
- Defendant/Respondent (*name*):
- Other (*name and role in case*):

2. The trial or evidentiary proceeding at which remote appearance or testimony has been set is for (*describe*):

set on (*date*): _____ at (*time*): _____ in (*department*): _____
 before (*name of judicial officer, if known*): _____

3. The reasons why remote appearance or testimony should not be allowed are (*describe the reasons here or, if more space is required, attach form MC-25*):

Explanation is on form MC-025, titled as Attachment 3.

Date: _____

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE)

**OPPOSITION TO REMOTE PROCEEDING
AT EVIDENTIARY HEARING OR TRIAL**

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

Instructions

1. **Opposition to remote proceedings.** If a court has set a trial or evidentiary hearing (a hearing at which oral testimony under oath may be provided) to be conducted remotely, or if another party or a witness has given notice of their intent to appear remotely at a trial or an evidentiary hearing, parties may oppose the remote appearance or remote testimony. (Code Civ. Proc., § 367.75; Cal. Rules of Court, rule 3.672(g)(3).)

2. **Use of form.** This form is to explain to the court and the other parties the reasons for opposing a remote appearance or remote testimony at a trial or evidentiary hearing. If the opposition is to the testimony of certain individuals, item 3 should include their names and an explanation of why the opposing party believes their remote testimony or remote appearance should not be allowed. This form may **not** be used in juvenile dependency cases. (A party may file form JV-146 for those cases.)

3. **Service and filing.** Whether on this form or in a separately created pleading, the opposition must be filed with the court and served on all parties and other persons entitled to receive notice of the proceedings. California Rules of Court, rule 3.672(g)(3) provides when the opposition must be served and filed. There are different deadlines based on how much notice parties have of the trial or evidentiary hearing:

- At least 5 days before the trial or hearing date if a party gave or received at least 15 days' notice of the trial or hearing date, or
- By at least noon the court day before the hearing or trial date if a party gave or received less than 15 days' notice of the trial or hearing date

ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
REQUEST TO APPEAR REMOTELY—JUVENILE DEPENDENCY	CASE NUMBER:

INSTRUCTIONS

For a juvenile dependency proceeding, any person entitled to be present under rule 5.530(b) of the California Rules of Court who wishes to appear remotely must (1) complete and file this form with the juvenile court and (2) serve a copy of the completed form on every other person entitled to be present by any means authorized by law reasonably calculated to ensure receipt by the applicable deadline. If the person gave or received 10 or more days' notice of the proceeding, they must file and serve the form to ensure receipt no later than 5 court days before the proceeding. If the person gave or received less than 10 days' notice, they must file and serve the form to ensure receipt no later than 3 court days before the proceeding. Each person must file and serve a separate form.

If a witness, including a party who will give oral testimony, wishes to appear remotely, the attorney for any party may make a request on the witness's behalf by filing and serving this form as required above, but only after obtaining the consent of all the parties to the witness's remote appearance and indicating in item 4 that all the parties have given the required consent.

If the court grants this request, permission to appear remotely remains subject to revocation on the court's later determination, including during the proceeding, that an in-person appearance is necessary.

1. The proceeding is a (name or description, if known):

on (date): _____ at (time): _____ in (department): _____
 before (name of judicial officer, if known): _____

2. Person requesting to appear remotely (check one):

- a. Child or nonminor dependent
- b. Attorney for child or nonminor dependent
- c. Parent, legal guardian, or Indian custodian
- d. Attorney for parent, legal guardian, or Indian custodian
- e. Social worker
- f. County counsel
- g. Attorney for, or other representative of, Indian child's tribe
- h. Court Appointed Special Advocate (CASA) volunteer
- i. De facto parent
- j. Foster parent
- k. Adult relative
- l. Other person who will give oral testimony (capacity in which testifying):
- m. Other (role in the proceeding):

3. If this request is granted, the person plans to appear by (check preferred method, based on information on the court's website about technology appropriate for remote appearance): Videoconference Audio only (including telephone)

CHILD'S NAME:	CASE NUMBER:
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4. This request is by, or on behalf of, a person who will give oral testimony at the proceeding. All parties who have appeared have given consent to that person's remote appearance. *(For each party who has appeared, check the appropriate item and give the party's name and contact information. If an item does not describe any party—for example, item 4f if the child is not an Indian child—check "not applicable" for that item.)*

a. Attorney for child or nonminor dependent Not applicable
 (1) Name:
 (2) Address:
 (3) Telephone number: (4) Email address:

b. Attorney for child or nonminor dependent Not applicable
 (1) Name:
 (2) Address:
 (3) Telephone number: (4) Email address:

c. Attorney for parent, legal guardian, or Indian custodian
 (1) Name:
 (2) Address:
 (3) Telephone number: (4) Email address:

d. Attorney for parent, legal guardian, or Indian custodian Not applicable
 (1) Name:
 (2) Address:
 (3) Telephone number: (4) Email address:

e. County counsel
 (1) Name:
 (2) Address:
 (3) Telephone number: (4) Email address:

f. Attorney for, or other authorized representative of, Indian child's tribe Not applicable
 (1) Name:
 (2) Address:
 (3) Telephone number: (4) Email address:

g. Other party or attorney *(role in the proceeding):* Not applicable
 (1) Name:
 (2) Address:
 (3) Telephone number: (4) Email address:

Continued on Attachment 4. *(If more parties have appeared, attach a separate sheet and give the role in the case, name, address, phone number, and email address of each additional party or attorney. You may use form MC-025 for this purpose.)*

5. I request permission to appear remotely at the proceeding identified in item 1. I agree to preserve the confidentiality of the proceeding to the same extent as would be required if I were appearing in person.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

 (TYPE OR PRINT NAME) _____
 (SIGNATURE)

GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406) OR ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	
REQUEST FOR TELEPHONE APPEARANCE	CASE NUMBER: _____
HEARING DATE: _____ TIME: _____ DEPT., ROOM, OR DIVISION: _____	

See Information Sheet—Request for Telephone Appearance (form FL-679-INFO) for deadlines for filing this request, filing any opposition, and service.

1. I, (name): _____, am the petitioner/plaintiff
 respondent/defendant other parent attorney for (name): _____
 local child support agency (LCSA) representative other (specify): _____ in this case.

If there are domestic violence or other confidentiality issues in this case and you do not want your home or work phone number made publicly available, provide another phone number in item 2 below. You will need to participate from this phone number, unless other options are available under local rules or procedures. Check with your court clerk.

2. I ask the court to allow me _____ to appear from telephone number () set on (date) _____ (time) _____ in Department _____ of the above-named court.
3. I would like the court to consider the following information in making its decision whether to allow a telephone appearance (check all that apply). (Note: The court can still deny your request, even though boxes are checked.)
- a. I live or work outside the state of California in (specify location): _____
 - b. I live in _____ County in California, which is _____ miles from the above courthouse where the hearing is set.
 - c. I am disabled.
 - d. I am asking not to appear personally because of domestic violence.
 - e. I will be incarcerated or confined in (specify): _____ prison, jail, or other institution at the time of the hearing.
 - f. The LCSA makes this request on behalf of _____ (insert reason for request at g)
 - g. Other (specify): _____
4. a. I have filed this request at least **12 court days** before the hearing and have served or will serve all parties (the local child support agency and other parent) and attorneys, if any, with this form by personal delivery, fax, express mail, or other reasonable means to ensure delivery by the close of the **next court day** after filing this form.
- b. If there are financial issues to be decided, a current *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155) has been filed and served on all parties along with the request or response to the hearing. (Read page 2 of form FL-155 to determine which form to use.)
- c. I have complied with all requirements of the local rules of court for other supporting proof.
5. I agree to be responsible for the costs and arrangements of this telephone appearance if required by the court. If this telephone appearance request is made by a LCSA on behalf of a party, parent, or witness, that person may be responsible for costs of the telephone appearance as may be required by the court.
6. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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ADVISEMENT REGARDING TELEPHONE APPEARANCE

1. I know that I can personally appear at this hearing, and I give up that right. I agree to be duly sworn upon request by the court clerk, holding up my right hand and agreeing under penalty of perjury under the laws of the State of California to tell the truth and nothing but the truth.
2. I will provide my driver’s license number, social security number, or other information to verify my identity when asked by the court staff or conference call provider.
3. I understand that the court may not have videoconferencing capabilities. I understand and assume the risk that I may not be able to personally see or inspect the pleadings, documents, or evidence; the witnesses’ facial reactions, demeanors, or hand gestures; or other visual or nonverbal aspects of the hearing.
4. I understand that if I do not make the proper arrangements for a telephone appearance as set out in local rules or in directions provided by the court, the matter may proceed without my personal or telephone appearance and the court may decide my case based on the documents I filed for this hearing.
5. I understand that the court, in its discretion, may decide to terminate the telephone appearance if it determines during the hearing that a personal appearance would materially assist in the determination of the proceedings. Other reasons for terminating the telephone appearance could include my not being available at the calendar call, delay, questions about credibility, disruption, noise, misconduct, a communication problem, a technical problem, and other problems.
6. I understand that the court may decide at any time to require my personal appearance and continue my hearing.
7. I assume the risks of cost, time, delay, repeated telephone calls, technical failure, a wrong number, and other problems that could arise out of this telephone appearance. I understand that if problems occur, the matter may proceed without my personal or telephone appearance and the court may decide my case based on the documents I filed for this hearing.
8. I understand that if I need to present documents, present witnesses, cross-examine witnesses, or provide information that is not available at the hearing, it is my responsibility to ask the court to continue the hearing. The court may decide to grant or deny my request. I understand that any arguments or supporting proof should be served and filed on time before the hearing so that the court, the local child support agency, and the other parent have an opportunity to know about my case.
9. I understand that the court may require me to make all arrangements for the telephone appearance at my own expense.
10. I understand that if I have low income or no income, I may apply for a waiver of any filing fees and a possible waiver of conference call vendor fees. If the court makes collect calls for telephone appearances and so orders me, I will be available to receive a collect call from the court at the date and time specified. The telephone number will not be one that is blocked from receiving collect calls. If there are domestic violence or other confidentiality issues in the case and I do not wish my home or work phone number to be made publicly available, I may provide a number other than my home and work numbers at which the court can call me collect. I understand that I can check with the local court clerk or local rules of court regarding any additional local procedures that may be available to protect my confidentiality.
11. If there are financial issues to be decided, I understand that it is my responsibility to timely file with the court and serve on the local child support agency and the other parent all necessary and appropriate pleadings and documents, including:
 - a. *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), whichever is appropriate.
 - b. My pay stubs from the last two months or other proof of income.
 - c. The proposed guideline support calculation (optional unless required by local court rule).

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner’s acting as a temporary judge. If you or the other party objects, the court commissioner may still hear your case to make findings and a recommended order to a judge. If you do not like the recommended order, you must object to it within **10 court days** in writing (use *Notice of Objection (Governmental)* (form FL-666)); otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

I have read the Advisement Regarding Telephone Appearance section of this form and I understand that the terms apply to me. If the LCSA is making this request, it verifies this advisement was provided to the party, parent, or witness, and that person indicated that he or she understands that the terms apply to him or her.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

▶

(TYPE OR PRINT NAME)

(SIGNATURE)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to the legal action.
2. My residence or business address is *(specify)*:
3. I served a copy of the foregoing *Request for Telephone Appearance (Governmental)* and all attachments as follows *(check a, b, or c for each person served)*:
 - a. **Personal delivery.** I personally delivered a copy and all attachments as follows:

(1) <input type="checkbox"/> Name of party or attorney served:	(2) <input type="checkbox"/> Name of local child support agency served:
(a) Address where delivered:	(a) Address where delivered:
(b) Date delivered:	(b) Date delivered:
(c) Time delivered:	(c) Time delivered:
 - b. **Mail.** I am a resident of or employed in the county where the mailing occurred.
 - (1) I enclosed a copy in an envelope and
 - (a) **deposited** the sealed envelope with the U.S. Postal Service with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service in a sealed envelope with postage fully prepaid.
 - (2) Name of party or attorney served:
 - (3) Name of local child support agency served:

(a) Address:	(a) Address:
(b) Date mailed:	(b) Date mailed:
(c) Place of mailing <i>(city and state)</i> :	(c) Place of mailing <i>(city and state)</i> :
 - (3) **Address Verification** *(please specify)*:
 - (a) I served a request to modify a child custody, visitation, or child support judgment or permanent order, which included an address verification declaration *(Declaration Regarding Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order (form FL-334) may be used for this purpose)*.
 - (b) The address for each individual identified in items 3a and 3b was
 - (i) verified by the California Child Support Enforcement System (CSE) as the current primary mailing address on file.
 - (ii) other *(specify)*:
- c. **Other** *(specify)*:

Additional page is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF PERSON WHO SERVED REQUEST)

INFORMATION SHEET—REQUEST FOR TELEPHONE APPEARANCE

ATTENTION: Read the **Advisement Regarding Telephone Appearance** on page 2 of FL-679, *Request for Telephone Appearance* to understand your rights.

You can get more information about the telephone appearance process, including any costs or fees for the provider of telephone services, from your local court clerk.

Ask a family law facilitator, the local child support agency, or a lawyer if you have any questions about this process.

For more information on finding a lawyer or family law facilitator, see the California Courts Online Self-Help Center at www.courtinfo.ca.gov/selfhelp.

Asking for a Telephone Appearance

1. You must use form FL-679 to request a telephone appearance. You may have to pay a filing fee. If you cannot afford to pay the filing fee, the court may waive it, but you will have to fill out some forms first. For more information about the filing fee, contact the court clerk or the family law facilitator in your county.
2. If you do not want to personally appear because of domestic violence and do not want your home phone number or work phone number listed at item 2 of form FL-679 or other potentially identifying information to be part of the public court record, check with your court clerk or local rules of court regarding any additional local procedures that may be available to protect your confidentiality. For example, some courts may allow you to provide your home phone number or work phone number directly to the court clerk and not disclose it on form FL-679.
3. For local information about telephone appearances, check with the local court clerk, family law facilitator, or local child support agency.

Instructions for Completing the *Request for Telephone Appearance (Governmental)* (form FL-679)

1. The court needs to know why you are requesting to appear by telephone. At item 3 of form FL-679, provide the information you would like the court to consider when making its decision. You can attach additional paper if you need more room to explain the circumstances that you want the court to consider in making its decision. If you submit an attachment, check the box at item 6 and indicate the number of pages that you are attaching. The court can still deny your request even if you have checked boxes and/or submitted an attachment.
2. File your request with the court clerk's office using form FL-679 no later than **12 court days** before the hearing. **(PLEASE NOTE:** You must still file your moving or opposing papers within the time limits required by Code of Civil Procedure section 1005.)
3. Serve all parties (the local child support agency and other parent) and attorneys, if any, by personal delivery, fax, express mail, or other reasonable means to make sure that form FL-679 is delivered by the close of the **next court day** after you file it.

Opposing a Telephone Appearance

1. At least **8 court days** before the hearing, you must file and serve a declaration under penalty of perjury under the laws of the State of California explaining why you oppose a telephone appearance by the other party or a witness. Your declaration must state "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct." You may use *Declaration* (form MC-030), which you can get from the court clerk or the California Courts Web site at www.courtinfo.ca.gov/forms. If you do not file a declaration under penalty of perjury opposing a telephone appearance, you give up your chance to object.
2. Serve the person or agency requesting the telephone appearance, all parties (the local child support agency and other parent) and attorneys, if any, by personal delivery, fax, express mail, or other reasonable means to make sure your declaration is delivered by the close of the **next court day** after you file the form.

The Court's Decision on the Telephone Appearance

At least **5 court days** before the hearing, the court will notify or direct that notice of its decision on the request for a telephone appearance be given to the person or agency requesting the telephone appearance, the parties, a parent who has not been joined to the action, and attorneys, if any. This notice may be given by telephone, in person, or by fax, express mail, e-mail, or other reasonable means to ensure notification no later than **5 court days** before the hearing date.