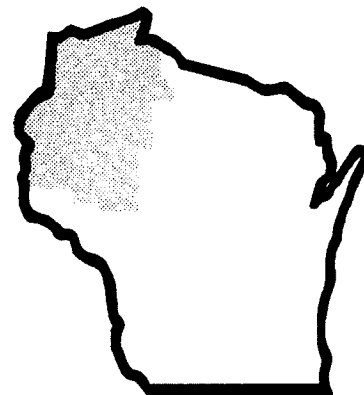


MAUREEN D. BOYLE
Chief Judge
Barron County Justice Center
1420 State Hwy 25 North
Barron, WI 54812
Telephone: (715) 537-6853
Fax: (715) 537-6269

STATE OF WISCONSIN

TENTH JUDICIAL DISTRICT

1101 Carmichael Rd., Ste. 1260
Hudson, WI 54016
(715) 245 - 4105



JOHN P. ANDERSON
Deputy Chief Judge
Bayfield County Courthouse
117 East 5th Street
Washburn, WI 54891
Telephone: (715) 373-6118
Fax: (715) 373-6317

CHRISTOPHER CHANNING
District Court Administrator
1101 Carmichael Rd., Suite 1260,
Hudson, WI 54016
Telephone: 715-245-4105
FAX: 715-381-4323

March 1, 2021

State Bar of Wisconsin Bench and Bar Committee

RE: Rule Petition 20-09

Honorable Chief Justice and Justices of the Wisconsin Supreme Court:

I am writing to comment on the Rule Petition 20-09 regarding the location of courts and the use of video conferencing technology. I served on the committee which examined and proposed these rule changes and believe that the recommendations are appropriate, necessary and timely. As the chief judge of District 10, I can also attest to the significant impact adopting these recommendations will have on operations on our rural counties already struggling with limited resources including a dearth of local lawyers.

There is no question that the pandemic launched the court system into a new era, forcing us to embrace inevitable change years ahead of any planned response to a rapidly increasing digital world. The court system's swift response to a need for remote access was fraught with challenges, but judges, clerks, court reporters, litigants and justice partners rose to the occasion to provide essential services consistent with our constitutional duties. With the initial frenzy behind us, the court system is again taking a leadership role in analyzing and evaluating how best to continue to use new technologies to better serve the citizens who deserve access to justice whether there exists a pandemic, natural or man-made disaster or riots.

This rule petition represents a comprehensive review of those statutes and rules related to remote appearances, the use of videoconferencing technology and records. There are two areas which are the most relevant and important to the judicial district I serve; allowing alternatives for adjourning court to another location and allowing circuits to exercise their discretion as the use of videoconferencing technology in criminal proceedings.

Section 757.12, Wis. Stats., currently provides that court may only be adjourned within the same county. The pandemic quickly revealed flaws in facilities across the district whether

related to size, air ventilation, or public accessibility. In some instances, not only were county facilities not large enough to accommodate social distancing of jurors and litigants, no other appropriate facility was available within county lines. Without a stipulation, those matters had to be adjourned and delayed. Allowing court to be held in an alternate location, including a neighboring county that does have appropriate facilities, provides citizens access to timely and efficient process. Allowing this change will ensure that courts are able to adapt to any potential disaster which may impact the use of the courthouse and quickly transition to an adjacent county if facilities are not otherwise available to hold court.

Section 885.60, Wis. Stats., currently provides that if defendants in criminal cases object to remote appearances by witnesses, the court must sustain that objection. This lack of discretion has often led to absurd results to the detriment of the parties and the taxpayers. Lab analysts probably represent the most common type of witness in criminal cases. District 10 consists of 14 counties all of which are located multiple hours drive away from any crime lab or the state lab of hygiene. While most counties have historically utilized remote technology to accommodate witnesses and litigants in all types of cases, many judges have also had the experience in which having the discretion to at least weigh the advantages or disadvantages of remote witness testimony would have resulted in not having to delay or adjourn proceedings.

My own experience demonstrates the absurdity of not allowing courts any discretion in the matter. In the not too distant past, I was conducting a jury trial in an OWI case. The person's level of intoxication was not at issue as the real question was whether he was operating. The analyst from the State Lab of Hygiene requested to appear by video because of predicted bad weather, but because there was an objection, the analyst drove up the night before and stayed locally to be available first thing for trial. He was called out of order so he could get back on the road to avoid the worst of the storm. On cross examination he was not asked one question. It is difficult to rationalize having an analyst spend two days out the lab (contributing to the back log of testing), risk a potentially hazardous 8 hour drive, and spend a hotel night for 10 minutes or less of testimony on an issue that wasn't even contested.

The changes proposed here will enable the courts to respond efficiently and thoughtfully in times of crisis and provide better access to justice for all while preserving precious resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen D. Boyle". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Maureen D. Boyle
Barron County Circuit Court Branch 3
Chief Judge District 10