

**In re amendment of SCR 70.19,  
Wis. Stats. §§ 753.24, 753.26, 757.12,  
757.14, 757.70, 807.14, 885.52, 885.54,  
885.56, 885.58, 885.60, 967.09, and 971.04  
relating to the location of court and the use of  
videoconferencing technology.**

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**PETITION  
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For the reasons set forth in the accompanying supporting memorandum, the Director of State Courts respectfully petitions the court to amend SCR 70.19, Wis. Stats. §§ 753.24, 753.26, 757.12, 757.14, 757.70, 807.14, 885.52, 885.54, 885.56, 885.58, 885.60, 967.09, and 971.04, regarding the location of court and the use of videoconferencing technology. This petition is made pursuant to the court’s rulemaking authority under Wis. Stat. § 751.12 and its administrative authority over all courts conferred by Article VII, § 3 of the Wisconsin Constitution.

**TEXT OF PROPOSED CHANGES**

**SECTION 1.** SCR 70.19 (3) (c) is amended to read:

70.19 (3) (c) Where necessary, establishment of location, days and hours for court operation.

**SECTION 2.** 753.24 (2m) of the statutes is created to read:

753.24 (2m) Court may be held with the judge and any participants appearing from a remote location using telephone or videoconferencing technology subject to Wis. Stat. 885.50-64.

**SECTION 3.** Comment to 753.24 (2m) of the statutes is created to read:

Comment, 2020: This does not hinder the ability of the chief judge to determine location pursuant to SCR 70.19(3).

**SECTION 4.** Section 753.26 of the statutes is repealed:

~~753.26 Office and records to be kept at county seat. Except in branches Nos. 4, 5, and 7 of the circuit court for Rock County, every circuit judge in this state shall maintain in his or her office, at the county seat of the county in which the judge holds office, all of the books, papers, and records of the court. The office and the books, papers, and records of the circuit judge shall at all reasonable times be open to access and inspection by any person having any business with the books, papers, and records of the court, except as otherwise provided by law. Originals of judgments or orders made under circuit court jurisdiction of branches Nos. 4, 5, and 7 of the Rock County circuit court in Beloit, shall be kept at the county seat.~~

**SECTION 5.** Section 757.12 of the statutes is amended to read:

757.12 Adjournment to another location ~~place~~. Whenever it is deemed unsafe or inexpedient, by reason of war, pestilence or other public calamity, ~~to hold any court at the time and place appointed therefor the justices or judges of the court may appoint any other place within the same county and any other time for holding court.~~ the judge may order court to be held at an alternate location, including in another county, on a temporary basis. Every such order shall be made in writing and shall be subject to chief judge approval. Notice of such orders shall be provided by email to the Director of State Courts Office, the State Bar of Wisconsin, and the local bar association. Any such orders shall be placed on the Wisconsin State Courts website, the county website, and the door of the courthouse if practicable. All court proceedings moved to another location shall have the same force and effect as if held at the original location. Bench warrants shall not be issued for failure to appear without a finding that the party received notice of the date, time and location of the proceeding. All proceedings in the court may be continued at adjourned times and places and be of the same force and effect as if the court had continued its sessions at

~~the place it was held before the adjournment. Every such appointment shall be made by an order in writing, signed by the justices or judges making the appointment, and shall be published as a class 1 notice, under ch. 985, or in such other manner as is required in the order.~~

**SECTION 6.** Section 757.14 of the statutes is amended to read:

757.14 Sittings, public. The sittings of every court shall be public and every citizen may freely attend the same, including proceedings held by telephone or videoconferencing technology, except if otherwise expressly provided by law. ~~on the examination of persons charged with crime; provided, that when in any court a cause of a scandalous or obscene nature is on trial the presiding judge or justice may exclude from the room where the court is sitting all minors not necessarily present as parties or witnesses.~~ The court may utilize electronic means to allow the public the ability to hear and see all proceedings in a manner as similar as practicable to being present in the courtroom.

**SECTION 7.** Section 757.70 (2) of the statutes is amended to read:

757.70 (2) All hearings before a circuit or supplemental court commissioner shall be held in accordance with s. 753.24 ~~the county courthouse or other court facilities provided by law.~~ This provision does not apply to nontestimonial proceedings, supplementary hearings on the present financial status of a debtor under s. 757.675 (2) (h) or depositions taken before a circuit or supplemental court commissioner.

**SECTION 8.** Section 807.14 of the statutes is amended to read:

807.14 Interpreters. ~~On request of any party,~~ The court may permit an interpreter to act in any civil proceeding other than trial by telephone or videoconferencing technology live audiovisual means.

**SECTION 9.** Section 885.52 (2) of the statutes is amended to read:

885.52 (2) "Participants" includes litigants, counsel, ~~witnesses while on the stand~~, judges, and essential court staff, but excludes other interested persons and the public at large.

**SECTION 10.** Section 885.54 (1) (d) of the statutes is amended to read:

885.54 (1) (d) Parties and counsel at remote locations shall be able, upon request, to have the courtroom cameras view ~~seen~~ the courtroom so that remote participants may observe other persons present and activities taking place in the courtroom during the proceedings.

**SECTION 11.** Section 885.54 (1) (e) of the statutes is amended to read:

885.54 (1) (e) In matters set out in par. (g), counsel for a defendant or respondent shall have the option to meet privately and confidentially and the ability to request recess to facilitate private, confidential communications. ~~to be physically present with the client at the remote location, and the facilities at the remote location shall be able to accommodate counsel's participation in the proceeding from such location. Parties and counsel at remote locations shall be able to mute the microphone system at that location so that there can be private, confidential communication between them.~~

**SECTION 12.** Section 885.54 (1) (f) of the statutes is amended to read:

885.54 (1) (f) If applicable, there shall be a means by which documents can be shared ~~transmitted~~ between the courtroom and the remote location.

**SECTION 13.** Section 885.54 (1) (g) of the statutes is amended to read:

885.54 (1) (g) In criminal matters, and in proceedings under chs. 48, 51, 55, 938, and 980, if not in each other's physical presence, ~~a separate private voice communication facility shall be available so that~~ the defendant or respondent and his or her attorney shall have the ability ~~are able~~ to communicate privately during the entire proceeding.

**SECTION 14.** Section 885.54 (1) (i) of the statutes is created to read:

885.54 (1) (i) Crime victims and witnesses shall be able to hear, see, and participate as necessary during the proceeding.

**SECTION 15.** Section 885.54 (2) of the statutes is amended to read:

885.54 (2) The ~~moving party, including the circuit court,~~ shall ensure that the videoconferencing technology is ~~certify that the technical and operational standards at the court and the remote location are~~ in compliance with the requirements of sub. (1).

**SECTION 16.** Section 885.54 (3) of the statutes is created to read:

885.54 (3) The court shall provide written instructions to parties and counsel on how to appear by videoconference. Any instructions shall be maintained in a confidential manner, unless disclosure is permitted by the court.

**SECTION 17.** Comment to Section 885.54 of the statutes is created to read:

Comment, 2020: A requirement to keep videoconferencing participation information confidential is intended to preserve the integrity of hearings and prevent disruptions from members of the public. Counties may decide how best to accomplish this.

**SECTION 18.** Section 885.56 (1) (b) of the statutes is repealed:

885.56 (1) (b) ~~Whether the proponent of the use of videoconferencing technology has been unable, after a diligent effort, to procure the physical presence of a witness.~~

**SECTION 19.** Section 885.58 (1) of the statutes is amended to read:

885.58 (1) Subject to the standards and criteria set forth in ss. 885.54 and 885.56 and to the limitations of sub. (2), a circuit court may, on its own motion or at the request of any party, in any civil case or special proceeding permit the use of videoconferencing technology in any ~~pre-trial, trial, or post-trial hearing~~ proceeding.

**SECTION 20.** Section 885.58 (2) (a) of the statutes is amended to read:

885.58 (2) (a) A proponent of a witness via videoconferencing technology at any evidentiary hearing or trial shall file a notice of intention to present testimony by videoconference technology ~~1030~~ days prior to the scheduled start of the proceeding. Any other party may file an objection to the testimony of a witness by videoconferencing technology within ~~510~~ days of the filing of the notice of intention. If the time limits of the proceeding do not permit the time periods provided for in this paragraph, the court may in its discretion shorten the time to file notice of intention and objection.

**SECTION 21.** Section 885.60 (1) of the statutes is amended to read:

885.60 (1) Subject to the standards and criteria set forth in ss. 885.54 and 885.56 and to the limitations of sub. (2), a circuit court may, on its own motion or at the request of any party, in any criminal case or matter under chs. 48, 51, 55, 938, or 980, permit the use of videoconferencing technology in any ~~pre-trial, trial or fact-finding, or post-trial~~ proceeding.

**SECTION 22.** Section 885.60 (2) (a) of the statutes is amended to read:

885.60 (2) (a) Except as may otherwise be provided by law, a defendant in a criminal case and a respondent in a matter listed in sub. (1) is entitled to be physically present in the courtroom at all trials and sentencing or dispositional hearings, unless affirmatively waived by the defendant or respondent.

**SECTION 23.** Section 885.60 (2) (b) of the statutes is amended to read:

885.60 (2) (b) A proponent of a witness via videoconferencing technology at any evidentiary hearing, trial, or fact-finding hearing in a matter listed in sub. (1) shall file a notice of intention to present testimony by videoconference technology 20 days prior to the scheduled start of the proceeding. Any other party may file an objection to the testimony of a witness by

videoconference technology within 10 days of the filing of the notice of intention. If the time limits of the proceeding do not permit the time periods provided for in this paragraph, the court may in its discretion shorten the time to file notice of intention and objection, and shall determine the objection in the exercise of its discretion using the criteria set forth in s. 885.56.

**SECTION 24.** Section 885.60 (2) (c) is amended to read:

885.60 (2) (c) If an objection is made by the plaintiff or petitioner ~~in a matter listed in sub. (1),~~ the court shall determine the objection in the exercise of its discretion using ~~under~~ the criteria set forth in s. 885.56.

**SECTION 25.** Section 885.60 (2) (d) of the statutes is repealed:

885.60 (2) (d) ~~For all other proceedings in a matter listed in sub. (1), the court shall determine the objection in the exercise of its discretion under the criteria set forth in s. 885.56.~~

**SECTION 26.** Comment to Section 885.60 of the statutes is created to read:

Comment, 2020: For a list of criminal proceedings where the defendant has a right to be present, see s. 971.04 (1). When the defendant has the right to be physically present, videoconference appearance by the defendant may occur only when the defendant knowingly, intelligently, and voluntarily waives that right. The judge must engage in a colloquy with the defendant to ensure that this right is understood by the defendant and that the waiver is being made knowingly, intelligently, and voluntarily. See State v. Soto, 343 Wis. 2d 43 (2012), and see State v. Anderson, 374 Wis. 2d 372 (2017).

**SECTION 27.** Section 967.09 of the statutes is amended to read:

967.09 Interpreters may serve by telephone or video. ~~On request of any party, t~~The court may permit an interpreter to act in any criminal proceeding, other than trial, by telephone or videoconferencing technology live audiovisual means.

**SECTION 28.** Section 971.04 (1) (a) of the statutes is repealed:

971.04 (1) ~~(a) At the arraignment;~~

**SECTION 29.** Section 971.04 (1) (d) of the statutes is amended to read:

971.04 (1) (d) At any evidentiary hearing other than a preliminary hearing;