

SENATE JUDICARY COMMITTEE

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March 16, 2021
10:30 a.m.

Chief Judge Nicholas St. Peter
Chairperson, Kansas Supreme Court Virtual Court Proceedings Committee
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TESTIMONY IN SUPPORT OF HB 2227

Thank you for the opportunity to present testimony in support of HB 2227. I am Nicholas St. Peter, Chief Judge of the Nineteenth Judicial District (Cowley County) and Chairperson of the Kansas Supreme Court, [Virtual Court Proceedings Committee \(VCPC\)](#).

The VCPC wishes to take this opportunity to express our support for the extension of the use of two-way electronic audio-visual communication in any court proceeding when authorized by the Chief Justice.

Two years ago, Kansas district courts rarely used audio-visual technology to conduct court business, with this technology being primarily used for first appearances from jails and hearings with individuals at state hospitals. One year ago, Kansas district courts faced the prospect of being paralyzed by a worldwide pandemic unable to meet the day to day needs of the public and to provide access to justice to members of the public and businesses who faced substantial uncertainty. Today, one year later, Kansas district courts, save for jury trials, are operating in “real time” meeting the daily needs of justice in their communities. Beyond doubt none of this would have been possible without the benefit of audio-visual technology. A year ago, I thought Zoom was the sound that was made when someone revs up their scooter, now I use it daily to provide public access to our court.

The pace of the change in our court system associated with this technology has been rapid, perhaps at a rate that would seem unfathomable to a system used to slower and more deliberate change. Yet today it is difficult for judges, attorneys, and litigants to imagine a court system that did not include the use of this technology. The larger question going forward is to determine the parameters of the use of this technology within the court system. This is precisely the question that the VCPC is assigned to study and consider. This really involves two specific questions: Does the use of this technology increase access to justice for members of the public? Is the quality of justice produced with this technology equal to or better than that received with in person proceedings? These are the questions that must be answered as we determine the circumstances of when and how this technology should be utilized in our court system.

To answer these questions, we need to look beyond anecdotal information and look to evidence-based study. This of course takes time. The VCPC recognized early on that collection of data through surveys was needed to determine the perceived advantages and disadvantages of the use of this technology. We did this by surveying judges and court personnel, attorneys, third party providers and litigants. From this we were able to learn that participants found substantial convenience in the use of this technology for routine court appearances. Some level of concern was raised concerning the informal nature of the court proceeding and how that might impact the perception of courts and justice. No group surveyed supported the use of this technology for jury trials. But as with any collection of data, perceptions can change over time. As courts and society move out of the pandemic and closer to pre-pandemic life, perceptions about the use of technology in the court system may change. Likely there will be a bit more balance between in person and remote proceedings. Also, groups like the National Center for State Courts will be able to conduct additional research to gain information about the long-term outcomes from the use of this technology within the justice system. It is important that the court system utilize evidence-based information as we develop more long terms plans for the use of this technology.

The VCPC was also tasked with providing recommendations to the Kansas Supreme Court for court rules and standards to provide guidance for the use of audio-visual technology in Kansas courts. An [initial set of guidelines](#) proposed by the committee has been approved by the Supreme Court and published. You can find other information about the committee here: <https://www.kscourts.org/About-the-Courts/Court-Administration/Court-Initiatives/Ad-Hoc-Virtual-Court-Proceedings-Committee>.

Financial grants associated with the pandemic have allowed many district courts to acquire the equipment needed and to retrofit technology in their courtrooms, making the use of this technology simpler and more efficient. This includes equipment to conduct hybrid hearings that include both in person and remote participants. The long-term use of this technology will afford a potential cost savings to litigants and to the court system. For example, this technology could be used to present testimony by expert witnesses in complex civil cases, saving litigants money. Many districts, including the 19th, rely on assistance from attorneys who office outside of the county to take court appointments in criminal, juvenile and child in need of care cases. The ability for these attorneys to appear in court remotely results in substantial savings to the county. No longer are we paying windshield time and mileage for them to appear.

The use of audio-visual technology has also increased transparency by giving the public greater access to the court system. Many district courts use audio-visual technology to live stream non confidential hearings. This has given the public the ability to see firsthand how the justice system in their community is working.

The extension of the use of audio-visual remote hearing technology, as proposed in HB2227, provides critical additional time to continue to use and study this technology so that both the legislature and the court can make informed long-term decisions about the ongoing use of this technology. Litigants, attorneys, and courts have adapted and have found convenience and savings with this technology. It is critical that they have the continued ability to use this technology.

Respectfully submitted,

Nicholas M. St. Peter, Chief Judge