

Summary of Post-Pandemic Supreme Court Orders Continuing Beneficial Practices

The pandemic spurred many changes in court operations, some of which were beneficial for improving access to justice. During the last six months, after receiving public comments, input from judges, and a supreme court appointed committee, the Alaska Supreme Court issued four supreme court orders continuing some of these beneficial practices. These orders address:

- livestreaming high profile proceedings and some felony criminal proceedings;
- revoking pandemic-era special supreme court and chief justice orders and continuing simplified processes;
- identifying court proceedings that presumptively should be held in-person or remotely by Zoom video or audio; and
- improving jury practices to increase the percentage of jurors utilized out of those summoned and to make jury selection more efficient (so jurors spend less time waiting).

1. Livestreaming Certain Proceedings, Supreme Court Order 2005

The Supreme Court signed [SCO 2005](#) that addresses livestreaming public court proceedings, effective April 13, 2023. The order addresses cases that are open to the public and does not allow livestreaming proceedings in a confidential case. For each case, the judge will determine, based on the factors in SCO 2005, if a public court proceeding will be livestreamed.

SCO 2005 specifies the types of proceedings that should be streamed “to the greatest extent possible”:

- (1) hearings and other proceedings, including trials, in cases that involve important matters of health or safety; important matters relating to environmental, economic, or community well-being; and governmental matters including elections and redistricting; the judicial officer presiding at a particular proceeding will have the discretion to decide whether the proceeding is within this category and therefore will be streamed; and
- (2) oral arguments before the Alaska Supreme Court and the Alaska Court of Appeals.

The order also addresses streaming felony criminal trials except for sexual offenses. The order lists a variety of considerations for the trial judge to weigh when deciding whether a criminal trial will be livestreamed.

The SCO addresses other details. Certain portions of a proceeding cannot be streamed (such as matters that are confidential by law, evidence depicting graphic images, and footage that would identify jurors or other protected people). Video streams will not be archived or available after the conclusion of the proceeding. Transmitting, recording, or rebroadcasting any images of a streamed proceeding are governed by Administrative Rule 50.

2. Termination of COVID-19 Special Orders, but Continuation of Specific Processes, Supreme Court Order 2007

On May 17, 2023, the Alaska Supreme Court issued [SCO 2007](#), Order Regarding COVID-19 Orders.

Section 1: COVID-19 Orders Terminated.

1. Terminates COVID-19 related orders with certain provisions of SCO 1974 retained;
2. Delays termination until May 31 of an [Administrative Order](#) relaxing and suspending certain Appellate Rules.

Section 2: Simplified Procedures. Allows certain simplified procedures to continue including:

1. Filing by email (with certain exceptions) unless TrueFiling is available;
2. For documents filed by email, allows signing by typing /s/;
3. If a notary is not available, allows for self-certification;
4. Allows the court to distribute notices and orders by email; and
5. Allows parties to make online payments using credit cards to pay filing fees or post bail.

Section 3: Criminal Case Backlog and Criminal Rule 45.

1. Allows the judicial officer to order a limited continuance and toll the Criminal Rule 45 time for trial when necessary to address case backlogs and scheduling conflicts;
2. Includes factors for the judicial officer to consider to prioritize cases.

Section 4: Criminal Case Tolling and Rule 45 Calculations.

Retains [SCO 1974's](#) schedule for tolling and calculating Criminal Rule 45 time based on the case's filing date.

Section 5: Remote Participation by Video.

1. This provision was effectively replaced by [SCO 2012](#) regarding which proceedings should be presumptively in-person or remote by video/audio, which the supreme court issued on August 16, 2023, effective November 13, 2023. Section 5 of SCO 2007 gave the judicial officer discretion to allow participation in a court proceeding by telephone or videoconferencing until the issuance of a new supreme court order addressing which proceedings will be presumptively held by remote methods or in-person.
2. In addition to SCO 2012, SCO 2007 allows certain proceedings to be held remotely (such as presumptive death trials, civil jury trials, and grand jury if authorized by the presiding judge).

Section 6: Jury Selection.

[SCO 2013](#) replaced this provision, issued August 29, 2023, effective September 1, 2023. Section 6 of SCO 2007 provided that Chief Justice Orders [8259](#) and [8194](#) remain in effect regarding calling small groups of jurors in staggered sets.

Section 7. Visitor Entry Requirements, Limiting Proceedings, or Closing Courthouses.

Allows the Administrative Director in consultation with the presiding judge of the affected district to change visitor entry requirements, limit proceedings, or close a courthouse in the event of a COVID-19 outbreak.

Section 8. Livestreaming Specified Court Proceedings.

See [SCO 2005](#) that authorizes livestreaming court proceedings.

3. Order Regarding Remote and In-Person Proceedings, Supreme Court Order 2012

On August 16, 2023, the supreme court signed [SCO 2012](#): Order Regarding Remote and In-Person Hearings, effective November 13, 2023, reflecting the order's 90-day delayed start date to allow time for training and installing technology equipment.

SCO 2012 creates a statewide list of court proceedings that should be held either in-person, by presumption, or remotely through Zoom (video or audio), as a matter of course. SCO 2012 seeks to (1) create predictability and uniformity in the scheduling of court hearings, (2) align pandemic-era remote hearing advances with long-standing remote appearance practices, and (3) improve access to justice through the standardization of remote hearings in appropriate cases. The order provides that all trials and evidentiary hearings will be held in-person. Recognizing the needs of courts vary across the state, the presumptive format for specified hearings will be based on district presiding judge orders. Many non-evidentiary matters in civil cases are to be held as presumptively remote proceedings, as outlined in the order. Unless the judge requires otherwise, if a proceeding is presumptively remote, attorneys, self-represented litigants, and parties can (1) choose to come in-person if they do not have access to equipment to participate remotely or prefer to participate in-person, or (2) choose to appear by video or audio through Zoom.

During the 90-day implementation period of SCO 2012, trial court judges, chambers staff, and court staff will receive information from administrative and Information Services staff about training opportunities and equipment needs (tablets with stands for counsel tables and witness stand). Prior to the effective date of SCO 2012, the supreme court will issue an order outlining expectations for conduct during remote hearings.

4. Order Regarding Post-Pandemic Jury Practices, Supreme Court Order 2013

On August 29, 2023, the supreme court issued [SCO 2013](#), Order Regarding Post-Pandemic Jury Practices, effective September 1. The pandemic profoundly impacted jury trials, with processes for jury selection and juror participation undergoing several changes in the past three years. Yet, as with other practices adopted during the pandemic, some changes to the procedures for jury trials had positive effects. Data collected during the pandemic showed improved juror utilization (which looks at the percentage of jurors unused in the courtroom) and more efficient methods for selecting jurors (meaning jurors spent less time waiting before going into the courtroom). Recognizing that these benefits should continue, the supreme court, with recommendations from the Jury Improvement Committee, adopted the following practices in SCO 2013, which:

- provides that pre-trial motions should be resolved before trial if possible;
- limits the number of jurors that may be requested per trial based on trial type, while allowing for larger numbers in special circumstances with presiding judge approval;
- directs jurors to submit hardship requests online through the court's jury dashboard;
- asks jurors to respond to an electronic pretrial questionnaire such that challenges for cause will be handled before jurors appear in the courtroom, though allows judges to handle for cause challenges in-person using a special questionnaire process for trials requiring a large number of jurors;
- requires judges to conduct voir dire with smaller panels of jurors called into the courtroom in staggered sets and limits the time for jury selection; and
- states that peremptory challenges should be exercised per panel or by individual juror.

The court system will continue to regularly collect and share data on jury trials including juror utilization numbers, trial fold rates, and the length of time taken to seat a jury. Training on best practices in jury selection and related topics will be taught to newer judges and at judicial conferences.