



PRESIDING JUVENILE JUDGE ORDER 2023-01

STATE OF COLORADO FIRST JUDICIAL DISTRICT

ORDER RE: Presumptive Appearances of Parties in D&N, JD, YT and TR Cases

Under the authority granted under 1st J.D. Chief Judge Order (CJO) 2019-20, this Presiding Juvenile Judge Order (PJJO) supersedes PJJO 2022-05 and provisions of PJJO 2020-10 as they pertain to presumptive appearances.

I. Introduction

A. General

As our communities emerge from the pandemic, the following order is necessary to have a uniform process for determining whether certain parties must appear in person or remotely for the following proceedings: delinquency (JD), dependency and neglect (D&N), youth in transition (YT) and truancy (TR). For each case type, the court will identify the presumptive type of appearance required—either in person or remote—for specific types of hearings and parties going forward.

The judicial officer is permitted to depart from the presumptive format, either on the court's own motion or a party's motion, if exceptional circumstances for that departure exist. The purpose of the presumptive format standards is to provide consistency across juvenile divisions in the 1st Judicial District. The court further encourages such uniformity across divisions by requiring judicial officers to consider a uniform list of factors before deviating from the presumption.

B. Applicability

This policy is applicable to all delinquency, dependency and neglect, youth in transition and truancy cases whether heard by a magistrate or judge in the 1st Judicial District.

C. Definitions

In-person appearance – the person is physically present in the courtroom.

Remote/virtual appearance – the person is capable of participating in the hearing without being physically present in the courtroom. “Capable of participating” means having access to technology capable of receiving audio via speaker from other parties—remote or in person—and with a functioning microphone. Professionals and parties are expected to appear on video unless circumstances make doing so impossible.

Hybrid Hearing – A hearing at which some parties appear in person and others appear remotely.

Exceptional Circumstances – Case-specific or party-specific exceptional circumstances that justify departing from the presumption to hold a hearing remotely or in person in light of the particular needs of the case or the parties, or concerns of economy or efficiency. The parties’ agreement to depart from the presumptive format alone does not satisfy the exceptional circumstances requirement. The Judicial Officer must take an objective, factor-driven approach to ensure principles of due process, procedural fairness, transparency, and equal access to justice are satisfied when granting or denying requests for an exception to the presumptive format. Such factors are provided in SECTION 5.

D. Interpreters

Interpreters may always appear remotely. However, the court defers to the judgement of the Managing Interpreter, or Designee, regarding whether appearing in person is preferable to promote efficiency and due process.

2. DEPENDENCY & NEGLECT

The presumptions in TABLE 1 applies to parties to the case. “Parties” in a D&N case, for purposes of this order, includes:

- Petitioner—Case Worker, Assistant County Attorney;
- Respondent—Respondent, Counsel and Guardian ad litem for Parent
- Child/Youth—Guardian ad litem, Counsel for Youth, and the child/youth has the right to appear

The court may find that a party identified above may appear in the non-presumptive manner based on exceptional circumstances described in SECTION 5. The mode of a hearing not specified in TABLE 1 is at the discretion of the judicial officer and clarified at the time of setting.

The presumptions in TABLE 1 do not apply to any other parties or nonparties to the case not described above, including, but not limited to the persons/entities listed below. In other words, the persons/entities listed below have the option to appear remotely in all hearings, unless otherwise ordered by the court to appear in person:

- Any Respondent that is in custody
- Any child/youth that is in custody
- Special Respondents and counsel
- Intervenors and counsel, including tribal representatives and counsel
- Non-intervening tribal representatives and counsel

- Court Appointed Special Advocates (CASA)
- Treatment Providers
- Placement Providers
- School-Related Personnel and counsel
- Interpreters (see SECTION 1.D)

TABLE 1. Dependency & Neglect

Dependency & Neglect (D&N)				
Proceeding	Presumption			Notes
	Remote	In Person	Other	
Temporary Protective Custody (TPC) & Emergency Protection Orders (EPO)		X		
Advisement		X		First advisement
Case Management Conferences (CMCs)		X		
Motions Hearings		X		
Pretrial Conferences in magistrate divisions		X		
Adjudicatory Hearing (Court)		X		
Adjudicatory Hearing (Jury)		X		
Disposition		X		
Permanency & Review Hearings		X		
Permanent Home Hearing		X		
Termination of Parental Rights		X		
Contested Custody Hearing		X		
ICWA Transfer		X		Tribal Reps can be virtual
Family Integrated Treatment (FIT) Court		X		Virtual may be used as incentive
Youth in Transition & Emancipation Hearings			X	If the youth prefers in person, all parties should appear in person
Status Conferences in Div 10	X			
Post-Termination Review in Div 10	X			
Non-Contested Custody Hearing	X			
QRTP Placement	X			

3. JUVENILE DELINQUENCY

The presumptions in TABLE 2 applies to parties to the case. “Parties” in a Delinquency case, for purposes of this order, includes:

- Prosecution--Assistant District Attorney
- Youth (*exception provided below*)—Youth and Defense Counsel, Guardian ad litem
- Respondent (*exception provided below*)
- Probation
- Pretrial Services (Juvenile Assessment Center (JAC), Colorado Youth Detention Continuum (CYDC), and District Attorney’s office personnel)

The court may find that a party identified above may appear in the non-presumptive manner based on exceptional circumstances described in SECTION 5.

The presumptions in TABLE 2 do not apply to any other parties or nonparties to the case, including, but not limited to the persons/entities listed below. In other words, the persons/entities listed below have the option to appear virtually, unless otherwise ordered by the court to appear in person:

- Case Worker
- Assistant City/County Attorney
- Any Respondent that is in custody
- Any youth that is in custody
- Any youth that is placed in a residential treatment placement
- Tribal representatives and counsel
- Non-intervening tribal representatives and counsel
- Court Appointed Special Advocates (CASA)
- Treatment Providers
- Placement Providers
- School-Related Personnel and counsel
- Interpreters (see SECTION 1.D)

TABLE 2. Delinquency

Juvenile Delinquency (JD)			
Proceeding	Presumption		Notes
	Remote	In Person	
Detention	X		
Advisement/Return on summons		X	
Arraignment		X	
Plea/Disposition/Pretrial Conferences		X	
Contested Competency Hearing		X	
Uncontested Competency Hearing	X		
Review Competency	X		
Contested Motions Hearing		X	
Uncontested Motions Hearing	X		
Review Placement	X		
Adjudicatory Trial (Court)		X	
Adjudicatory Trial (Jury)		X	
Sentencing Hearing		X	
General Review	X		
Probation Revocation		X	
Expungement	X		
Discontinue Duty to Register	X		
Transfer		X	
QRTP Placement	X		

5. Exceptional Circumstances for D&N and Delinquency Cases

A. Exceptional Circumstances for Presumptively REMOTE Appearances

Judicial officers may consider the following factors when determining whether exceptional circumstances exist, either on their own motion or on the motion of any party **to allow one or more parties to appear in person for a presumptively remote appearance:**

- All parties, and the court, agree that the hearing should be held in person (this factor, by itself, does not constitute exceptional circumstances);
- A party lacks access to technology to participate remotely, and the party cannot reasonably be expected to gain access to such technology before the hearing;
- The importance and complexity of the proceeding;
- There are too many participants in the hearing to easily keep track of them all on a computer screen;
- For an evidentiary proceeding, whether appearing remotely would allow for effective examination of the witness and maintain the solemnity and integrity of the proceedings and thereby impress upon the witness the duty to testify truthfully;
- Any undue surprise or prejudice would result; and
- Such other factors, based upon the specific facts and circumstances of the case, as the court determines to be relevant.

B. Exceptional Circumstances for Presumptively IN-PERSON Appearances

Judicial officers may consider the following factors when determining whether exceptional circumstances exist, either on their own motion or on the motion of any party **to allow one or more parties to appear remotely for an in-person appearance:**

- All parties, and the court, agree that the hearing should be held remotely (this factor, by itself, does not constitute exceptional circumstances);
- Holding the hearing in person would cause a hearing participant to reasonably fear for their safety;
- The cost and time savings to any party;
- A hearing participant would need to travel unreasonably far to the hearing location or it would be unduly burdensome for a hearing participant to secure transportation to the hearing;
- A hearing participant is in custody or residential treatment and cannot physically travel to the hearing but can participate remotely;
- Inclement weather conditions make travel to an in-person hearing a risk to the personal safety of any hearing participants;
- Unavoidable scheduling conflicts of the parties preventing the matter from moving forward in a timely way;
- The importance and complexity of the proceeding;
- For an evidentiary proceeding or trial, whether appearing remotely would allow for effective examination of the witness and maintain the solemnity and integrity of the proceedings and thereby impress upon the witness the duty to testify truthfully;
- Any undue surprise or prejudice that would result; and
- Such other factors, based upon the specific facts and circumstances of the case, as the court determines to be relevant.

6. Youth in Transition:

The presumption for YT cases is that the hearings are virtual, unless the youth expresses otherwise. Please see SECTION 1.D regarding interpreters.

7. Truancy Court

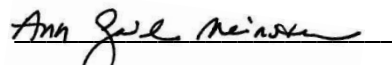
The goal of Truancy Court is for the students to attend school and create the least disruption to their attendance. Accordingly, the presumption for the named parties to the case are as provided in TABLE 3. Additionally, please see SECTION 1.D regarding interpreters.

TABLE 3. Truancy

Truancy (TR)			
Proceeding	Presumption		Notes
	Remote	In Person	
Initial Hearing on Petition	X		
Contested Hearing on Petition		X	
Review Hearings	X		Students old enough to participate in truancy cases are expected to appear from school
Advisement on Contempt Citation	X		
Contested Hearing on Citation		X	

This ORDER is effective Immediately and shall be reviewed by the Presiding Juvenile Judge on an ongoing basis and modified as necessary.

DONE AND SIGNED on this 9th day of February 2022.



Ann Gail Meinster,
Presiding Juvenile Judge
First Judicial District