

“Other Side” Workgroup Recommendations – [Probate/Mental Health](#)

The Other Side Workgroup has identified three phases of strategies:

1. **Short Term Strategies** – strategies to employ now and during mostly remote work for employees and judges
2. **Transitional Strategies** – strategies to employ as we are transitioning to/from remote work to full capacity in court locations where there is no “Stay at Home” order, but social distancing protocols are likely still in place
3. **Long Term Strategies** – strategies to employ on the “other side” of the pandemic when employees and judges are at full capacity in court locations

During initial meetings, only short-term and some transitional strategies were identified.

Short Term (Now) Strategies & Actions

Strategies	Statewide Actions	Local Actions
1. No expansion of in-person hearings at this time.		
2. Civil Commitment cases are being held remotely and that should continue.		
3. Defining statewide remote hearing definition and minimum standards for Probate/Mental Health cases.	<p>For Probate cases, remote hearings can be held via multiple types of technology, including but not limited to ITV, video conference via WebEx, Virtual Meeting Room (VMR), Zoom, or telephone.</p> <ul style="list-style-type: none"> • Parties can appear remotely or waive appearance. • Utilize ITV for Civil Commitment hearings for respondents housed at DOC or DHS facilities. • If parties do appear, give a time limit for oral argument • The parties and attorneys do not need to be visible to the judge (can join via phone), unless specifically noted otherwise in this document. <p>For Mental Health cases, remote hearings can be held via multiple types of technology, including but not limited to ITV, video conference via WebEx, Virtual Meeting Room (VMR), Zoom, or telephone.</p>	<p>Selecting the right technology solution for the hearing type (e.g. whether lobby/waiting room is needed).</p> <p>Courts/judges establish remote hearing standards and communicate those to court customers.</p>

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	<ul style="list-style-type: none"> • The parties and attorneys do not need to be visible to the judge (can join via phone), unless specifically noted otherwise in this document. • Permitting others (advocates, etc.) to attend hearings remote. <p>Deploy survey of employees and judges to assess remote hearing experience (including audio, video, how many hearings can reasonably be done in a day, are participants understanding directions, able to access technology, resolve the matter, etc.)</p>	
<p>4. Expand remote hearings in Probate/Mental Health are in the following priority order:</p> <ol style="list-style-type: none"> Civil Commitment Emergency guardianships Make determination on Waivers (attorney talks to client about waiving appearance) in writing 	<p>There can be flexibility as to whether or not case managers appear in person or remotely.</p> <p>The remote process has also encouraged attorneys and clients to meet a day or so prior to the hearing which makes the day of the hearing run much smoother, this should continue.</p> <p>Statewide scripts have been provided for remote hearings.</p>	<p>Identify time-specific hearings wherever possible. Develop a plan for remote hearing calendars, communicate these plans to local partners.</p> <p>Expand outreach and communication efforts with local agencies, community groups.</p>
<p>5. Probate remote hearings should be expanded and follow the same practices as the Civil case type recommendations.</p>		
<p>6. Expand administrative paper review process for Probate/Mental Health, including:</p> <ol style="list-style-type: none"> Rulings based on written submissions. All guardianships need an opportunity for objection. Send notices on all existing cases and new cases, indicating that all objections must be by written submission. 	<p>Create statewide checklists for judges to clarify paper processes.</p> <p>Include language in the order that the order’s effectiveness is stayed until a particular date to address any objections from the parties.</p>	

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<ul style="list-style-type: none"> c. Continue to promote administrative reviews of stipulated orders, when applicable d. File or Appear notices/Order to Show Cause e. All trust cases require an opportunity for objection similar to that required in (b). 		
<p>7. Courts should accept court visitor reports produced from remote visits with respondents (e.g. visit through Skype).</p>	<p>Best practice would be for court visitor reports based on a visit with visual technology so that they can see the respondent (e.g. video conferencing).</p>	
<p>8. Annual conservator account audits process hearings should go as follows:</p> <ul style="list-style-type: none"> a. Annual account audits with findings of Level 1 or 2 should be processed without an appearance b. Annual account audits with Level 3 and higher require judicial review and hearings, which can be done remotely 		
<p>9. Set up Remote Hearing support center for court customers to contact if they are experience issues.</p>	<p>Set up support center.</p>	<p>Update documentation with information on statewide support center.</p>
<p>10. Assess effectiveness of increasing use of adjunct judicial officers to conduct regional/statewide hearings.</p>	<p>Review court data and develop a plan for adjunct judicial officer assistance, seeking cost effective options.</p>	

Transitional (transitioning back to workplaces) Strategies

The current presumption is that this “transitional” time period begins when the Governor’s Stay at Home order expires. The current presumption is that this is in early May.

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1. Leverage subject matter experts to identify transitional and longer term strategies in that area. Leverage existing experts, such as some members of the Psychological Services Workgroup, where possible.
 - a. Subject matter experts should help identify the partners to be included for this meeting. This meeting does not need to be held immediately.
 - b. In preparing for that meeting, the experts should consider WINGS, relevant health providers (e.g. hospitals), defense commitment bar, DHS – Adult Protection, County Attorney’s Association and other partners on the MJB initial transition plan for expanding remote work on probate/mental health cases.
 - c. Engage with hospitals to ensure they can support video technology as determined by the local district (Zoom, WebEx or VMR), and determine if these are better than ITV technology.
 - d. Discuss extending practice of suspending oral argument on motions and decide upon the written submissions of the parties.
2. Commitment hearings can be held without an attorney being present in same room as the respondent, continuing a strategy implemented in short term.
3. Do not initially increase in-person hearings for Probate/Mental Health cases (beyond what is already in-person).
4. Continue to do remote hearings and leverage what we’ve learned in the mostly-remote phase. Encourage as much to be resolved remotely as possible.
5. Conduct remote video conference court trials and evidentiary hearings, as recommended for Civil cases.
6. Explore centralizing civil commitments at a regional level. Expertise in civil commitments is critical and the stakes are incredibly high. Creating a group of experts who are able to work with each other to gain consistency, adherence to best practices, efficiencies, and much needed back-up. Enables us to create resources to properly support the work and would be easier coordination for the hospitals as well.
 - a. Create a regional or statewide unit of judges that hear civil commitment matters.
 - b. Centralize administrative staff as well.
 - c. Explore centralization and specialization to other Mental Health cases.

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7. Expand hours to address Probate/Mental Health backlog
 - a. Consider late afternoon/evening remote calendars, when professionals or experts are available
8. Explore “walk-in” remote hearings for Informal Probate matters with a probate registrars.
 - a. Outreach and coordination would be critical by county
 - b. Work with the Probate Registrar association about call-in hours with probate registrars
9. Complete pre-hearing agreement forms to encourage parties to reach agreement outside of court for contested hearings,
 - a. Include enforcement remedies
 - b. Similar concept used in conciliation court cases
10. Continue administrative paper process reviews listed above (short term strategies).

Long Term (Other Side) Strategies & Actions

Not yet discussed by the workgroup.