

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CRIMINAL DIVISION**

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**AMENDED
PROCEDURES FOR REMOTE PLEA HEARINGS
USING THE ZOOM APPLICATION
(Effective 11-23-20)**

IT IS HEREBY ORDERED:

1. Effective November 23, 2020 and until further order of Court, plea hearings in all cases pending in the Criminal Division may proceed in the manner outlined herein, utilizing the Zoom remote conferencing application.
2. **WAIVER OF IN COURT APPEARANCE**
 - a. Supreme Court Rule 45 states "the court may, upon request or on its own order, allow a case participant to participate in a civil or criminal matter remotely, including by telephone or video conference. Use of telephone or video conferences in criminal or juvenile delinquency matters shall be undertaken consistent with constitutional guarantees applicable to such proceedings."
 - b. Rule 45 covers all non-testimonial court appearances and provides wide latitude for a court to conduct court proceedings remotely by allowing any case participant to request a remote appearance for any reason and by allowing a court to make that decision on its own even if no request has been made by a case participant.

3. **REMOTE PLEAS USING WRITTEN WAIVERS**

- a. Upon reaching a plea agreement with the State or upon acceptance of a 402 conference recommendation by the Court, defense counsel shall review the attached **Appendix A – Remote Hearing Plea Agreement Waivers form** with the defendant and obtain the defendant’s signature for each of the three acknowledgments therein.
- b. The defendant must personally sign all waiver forms. Typed representations will not be accepted for the defendant’s signature.
- c. If the defendant is pleading guilty to more than one case, separate waiver forms must be completed for each case.
- d. Once the defense attorney has obtained the signed document(s) from the defendant, counsel shall provide a copy to the State and forward a copy to the courtroom clerk using the designated email address.
- e. The plea hearing documents transmitted to the Clerk should be sent in pdf format. Counsel can convert the Word document to PDF format by using the SAVE AS PDF option or by using the SAVE AS feature in Microsoft Word and then selecting PDF file type.
- f. The State may be requested by the Court to facilitate obtaining signed plea documents from pro se defendants and filing the request for plea hearing with the Clerk’s Office.

4. **REMOTE PLEAS USING ORAL WAIVERS**

- a. The Court may accept waivers when a defendant personally waives their right, either in writing or orally, in open court remotely.
- b. The court may dispense with the requirement of a presentence report if both parties agree to the imposition of a specific sentence and a finding is made on the record regarding the defendant's prior history of criminality.
- c. However, the statutorily required presentence investigation and report cannot be waived in the absence of an agreement regarding sentence. For example, PSI waivers should not be used for blind pleas or after a finding of guilt.
- d. The PSI waiver need not be in writing, but must be affirmatively waived by the defendant on the record.
- e. If written waivers are not used, then in addition to the regular plea colloquy with the defendant on the record, the Court is **encouraged** to take special care during the remote videoconference that the defendant personally acknowledges:
 - i. **That the defendant has conferred with legal counsel regarding their rights, including but not limited to, their right to an in-person court appearance at all critical stages of this case; their right to a jury or bench trial; the option of entering into plea negotiations with the State's Attorney or requesting a conference with the Court (402 Conference) for a possible plea of guilty.**
 - ii. **That the defendant agrees to waiving the right to an in-person court appearance and consents to conducting the plea hearing remotely via videoconference technology.**

iii. That the defendant does hereby waive jury trial and that the defendant understands the following:

- 1) The nature of the charge(s);**
- 2) The minimum and maximum sentence prescribed by law, including, when applicable, the penalty to which the defendant may be subjected because of prior convictions or consecutive sentences;**
- 3) That the defendant has the right to plead not guilty, or to persist in that plea if it has already been made, or to plead guilty;**
- 4) That if he or she pleads guilty there will not be a trial of any kind, so that by pleading guilty he or she waives the right to a trial by jury and the right to be confronted with the witnesses against him or her; or that by stipulating the evidence is sufficient to convict, he or she waives the right to a trial by jury and the right to be confronted with any witnesses against him or her who have not testified; and**
- 5) That there is a factual basis for the plea.**

iv. That the defendant waives their rights to a Pre-Sentence Investigation and written report as provided under 730 ILCS 5/5-3-1.

5. **ADDITIONAL REQUIREMENTS AND CONSIDERATIONS**

- a. If the defendant is receiving a probation disposition, the State shall be required to complete the necessary probation documents and provide them to the Clerk and notify the Probation Department of the anticipated plea.
- b. The State shall also prepare and provide the Clerk with any required orders with respect to court fines, fees and costs, including any restitution orders, as well as any other draft orders attendant to the plea or otherwise required by law.
- c. The defense attorney is required to notify the Interpreter's Office in advance of the hearing, if the defendant requires language interpretation services. The State will be required to notify the Interpreter's Office if a victim, impact witness or other plea participant will need language interpretation services for the plea hearing.
- d. If the defendant is in custody, the defense attorney and State should coordinate and take those steps necessary to notify the Sheriff's Department, the Illinois Department of Corrections, other county jail or federal institution and insure the defendant's presence via the Zoom application.
- e. If the defendant is out of custody or on electronic monitoring, the defense attorney must take measures to insure that the defendant has the technological ability to appear via Zoom or have the defendant present in counsel's office to participate in the plea hearing.
- f. If utilized by the Court, relatives and other interested persons may watch the plea hearing via YouTube Live Stream on the Cook County Circuit Court's YouTube channel. The live stream URL can be found at the circuit court's website:

www.cookcountycourt.org or by searching for “Cook Leighton Courtroom” on www.youtube.com or on the YouTube app.

- g. For security purposes, the "Waiting Room" function will be activated within Zoom. Please wait in the queue until the judge admits you into the session for your case. If you are admitted prior to your case and the judge is hearing another matter, please wait patiently with your volume muted until the judge or court staff addresses you. Some judges may require participants to turn off their video and mute their audio until their case is called.
- h. When logging into Zoom all attorneys should type in their full proper name. Individual assistant state’s attorneys and assistant public defenders not appearing with a group should place “ASA” or “APD” respectively before their full name. The State’s Attorney’s office may use the designation “CCSAO” and the Public Defender’s Office may use “CCPDO” (or other nomenclature) when several attorneys in the same office are using the same Zoom site login. Private attorneys should use the abbreviation “ATTY” before their full name. These designations should be placed in front of your name and not behind your name.
- i. The judge and court reporter must be able to hear each individual talking. Please be mindful of your surroundings and background noise. All participants must conduct themselves with the same decorum required in the physical courtroom.
- j. The defendant and any witnesses in aggravation or mitigation should be advised that the proceedings may be live streamed for public viewing.

- k. After the remote plea hearing has concluded, the YouTube videos will be immediately deleted/marked private and will no longer be available online for further viewing.
6. **WARNING: The recording, publishing, broadcasting or other copying or transmission of courtroom proceedings by video, audio, still photography or any other means is strictly prohibited by Illinois Supreme Court Rule 68(A)(8) and is subject to the penalties for contempt of court. Mature subject matter might be streamed via the Zoom/YouTube feeds.**

Dated: November 20, 2020

ENTERED:



Hon. LeRoy K. Martin, Jr.
Presiding Judge
Criminal Division

APPENDIX - A

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS)
)
 -vs-) CASE NO. _____
)
 _____)
 Defendant)

REMOTE HEARING PLEA AGREEMENT WAIVERS

THIS MATTER COMING ON TO BE HEARD via remote videoconference and the Defendant having previously conferred with legal counsel regarding their rights, including but not limited to, their right to an in-person court appearance at all critical stages of this case; their right to a jury or bench trial; the option of entering into plea negotiations with the State’s Attorney or requesting a conference with the Court (402 Conference) for possible plea of guilty, the Defendant hereby presents the following acknowledgements and waivers of their rights.

1. I, the undersigned, do hereby agree to waive my right to an in-person court appearance and consent to conducting this plea hearing remotely via videoconference technology.

Dated: _____ Defendant Signature: _____

2. I, the undersigned, do hereby waive jury trial pursuant to 725 ILCS 5/103-6 and submit the above-entitled cause to the Court for hearing/plea.

Dated: _____ Defendant Signature: _____

3. I, the undersigned, do hereby waive my rights to a Pre-Sentence Investigation and written report as provided in 730 ILCS 5/5-3-1.

Dated: _____ Defendant Signature: _____