

Remote Court Hearings for Domestic Violence

NATIONAL CENTER TO ADVANCE PEACE
for Children, Youth, and Families

The National Center to Advance Peace for Children, Youth, and Families (NCAP) is a coalition led by Caminar Latino and includes Ujima: National Center on Violence Against Women in the Black Community, the Alaska Native Women's Resource Center, the National Indigenous Women's Resource Center, and Futures Without Violence

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Using Remote Court Hearings for Domestic Violence Proceedings

Through the years, jurisdictions have explored innovative methods to enhance the legal process. One such approach is the implementation of remote hearings. While remote hearings have been an essential tool in specific legal contexts, their widespread adoption emerged during the unprecedented challenges posed by the COVID-19 pandemic.[1] The recent surge in remote hearings, prompted by the pandemic, has sparked discussions and research on both the potential benefits and concerns surrounding their use.

A critical aspect of this technology's history lies within the criminal context, particularly in cases involving child survivors of sexual abuse and defendants' rights concerning the Confrontation Clause.[2] Early advocates voiced concerns that child survivors testifying in front of their alleged perpetrators could experience secondary trauma, hindering their ability to testify effectively.[3] In response, courts recognized the value of remote hearings to shield vulnerable witnesses from secondary trauma.[4] It seems reasonable that such a justification would also be applicable to survivors of domestic violence.

Experts anticipate that court systems will continue to rely on remote hearings, even as the crisis phase of the pandemic has passed.[5] In fact, some jurisdictions have already made such changes permanent. This evolution prompts us to explore both the potential benefits and concerns associated with this transformative shift in the legal landscape, particularly in the context of proceedings that concern domestic violence.

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[1] Turner, J. I. (2021). Remote Criminal Justice, 53 TEX. TECH L. REV. 197, 199 (2021).

[2] The topic has also arisen where a defendant remotely appears by video from prison, rather than transporting him to a different state and city. See Perotti v. Quinones, 790 F.3d 712 (7th Cir. 2015).

[3] Maryland v. Craig, 497 U.S. 836, 857 (1990).

[4] NOTE & COMMENT: BREAKING THE CYCLE OF HARM: PROTECTING STALKING SURVIVORS BY UTILIZING VIRTUAL HEARINGS FOR CIVIL PROTECTIVE ORDER RENEWALS, 12 Wake Forest J. L. & Pol'y 337, 347.

[5] Turner, supra note 1.

Types of Remote Hearings:

- **Fully remote or virtual hearing:** In this scenario, the entire hearing is held virtually, usually using videoconferencing technology.

- **Hybrid (or partially remote) proceedings:** In this scenario, the proceedings are held in a physical courtroom, but some individuals (such as witnesses, victims, defendants) are allowed to testify remotely. Options may include providing testimony by teleconference or by videoconference.



Potential Benefits of Remote Hearings for Survivors of Domestic Violence:

Enhanced Physical Safety: Survivors may fear facing their partners in court, particularly as it requires close physical proximity to the partner when there is an ongoing threat of violence. Many survivors report being fearful of contact with the abuser during the court process.[6,7] Survivors may be threatened with physical attacks when they are on their way to or leaving from the court hearing.[8] This may especially be a concern if there is a history of the partner engaging in physical violence towards the survivor in public spaces. One study addressing this phenomenon found that, in sampled cases, over one-third of protective order cases were dismissed due to the victim's failure to appear.[9] Remote hearings can increase a survivor's physical safety as they do not necessitate being in a shared space and can preclude the person who uses violence from knowing the survivor's physical location. Research has shown that being spared the fear and anxiety of facing one's abuser in person is a positive impact of virtual court hearing for survivors of domestic violence.[10]

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[6] Gutowski, E. & Goodman, L. A. (2019). "Like I'm Invisible": IPV Survivor-Mothers' Perceptions of Seeking Child Custody through the Family Court System. Journal of Family Violence. https://doi.org/10.1007/s10896-019-00063-1

[7] Jacob, E. (2026). Virtual Hearings, Tangible Consequences: Rethinking Remote Hearing Rules Adopted Amidst Pandemic Chaos. University of Cincinnati Law Review, 94, 3:4, 723-762. https://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1603&context=uclr

[8] Johnson, M. (2022). The Impact of COVID-19 on Domestic Violence Hearings in Washington, D.C.: Weighing the Pros and Cons of Virtual Hearings for Domestic Violence Survivors. Georgetown University. https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2022/03/M.-Johnson-The-Impact-of-COVID-19-on-DV-Hearings-.pdf

[9] Harris, R. (2022). Behind the Screen: The Constitutionality of Remote Testimony for Survivors of Domestic Violence. Hastings Constitutional Law Quarterly, 49(2), 178-215. https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=2156&context=hastings_constitutional_law_quaterly

[10] Schneider, A. K., Hlavka, H., Mulla, S., et al. (2023). Remote Justice & Domestic Violence: Process Pluralism Lessons from the Pandemic. Revista Forumul Judecatorilor 55.

Enhanced Emotional Safety and Reduced Fear: Facing their partner in court also threatens the emotional safety of survivors and often has a retraumatizing effect. One study regarding trauma experienced in court found that giving evidence and being in proximity to the perpetrator adversely affected survivors' mental health to the point where simply entering the courthouse made some physically ill.[11] Another study similarly found that being in a shared physical space with the abusive parent, both in the waiting area and in the courtroom, negatively impacted survivors' sense of safety and ability to participate fully in the hearing; fears of retaliation combined with a requirement to be in a shared physical space worked in parallel as a barrier to disclosing abuse in court.[12] Remote hearings can help to combat these safety concerns, as they provide a level of physical separation, alleviating some of the intimidation and anxiety associated with facing the person who uses violence and increasing feelings of physical and emotional safety.[13, 14] Research has shown that vulnerable parties, including survivors of domestic violence, report

[11] Douglas, H. (2018) Domestic and Family Violence, Mental Health and Well-Being, and Legal Engagement. Psychiatry, Psychology and Law, 25(3), 341-356. https://www.tandfonline.com/doi/abs/10.1080/13218719.2017.1396865?role=tab&scroll=top&needAccess=true&journalCode=tppl20

[12] Gutowski & Goodman, supra note 6.

[13] Carter, A. & Kelley, R. (2020). Remote Court Procedures Can Help Domestic Abuse Victims. LAW 360 (Oct. 18, 2020, 10:07 PM), https://www.law360.com/articles/1315788/remote-court-procedures-can-help-domestic-abuse-victims.

[14] Id.

significantly reduced anxiety and stress by not having to face their perpetrator in person.[15, 16] Additionally, participating remotely provides a survivor with options for not having to look at their abuser while testifying, such as using the “speaker view” setting or covering their abuser’s face on the screen with a sticky note.[17]

Additional Trauma-Informed Benefits: In addition to the safety threats that survivors encounter being confronted with their abuser, there are numerous other ways in which the court process is not trauma-informed. Survivors often distrust the court system, experience confusion about the court process, or find the court process itself to be traumatizing. For example, one study found that many survivors experienced shame and humiliation being forced to disclose the violence in a public setting, and some felt that court personnel were dismissive or failed to identify the behaviors of their partner as abusive.[18] A study of lawyers and advocates serving survivors, furthermore, found that 83% of respondents indicated many of their clients experienced re-traumatization due to court procedures and outcomes.[19] Being in a courtroom can be highly stressful, traumatic, and demoralizing in and of itself, further exacerbating the survivor’s trauma related to their abuse.[20] A focus on safety,

[15] California Courts (2025). Remote Proceedings have Enhanced California’s Courtrooms and Improved Court Participation. https://courts.ca.gov/news/remote-proceedings-have-enhanced-californias-courtrooms-and-improved-court-participation

[16] Wechsler, R. J. (2024). Intimate Partner Violence: Access to Protection Beyond the Pandemic. https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=2192&context=facpubs

[17] Smith, J., Davis, B., & Abbasi, N. (2022). COVID-19 and Domestic Violence: Lessons Learned from Court Responses. Center for Court Innovation. https://www.innovatingjustice.org/wp-content/uploads/2022/08/Monograph_DV_COVID19_pageview_08162022.pdf

[18] Gutowski & Goodman, supra note 6.

[19] Katirai, N. (2020). Retraumatized in Court. Arizona Law Review, 62(1), 81-124. https://arizonalawreview.org/pdf/62-1/62arizlrev81.pdf

[20] Johnson, supra note 8.

trustworthiness, choice, collaboration, and empowerment can help minimize trauma and re-victimization.[21] Giving survivors choices for how they participate in court, including the option for a remote hearing, can foster a sense of empowerment and control over their situation.

Reduced Costs and Transportation Barriers: Transportation can be a significant barrier for survivors, particularly if they live in rural areas or areas with limited public transportation. Remote hearings eliminate the need for physical travel, making it easier for survivors to engage with the court system, eliminating the need to take additional time off work, reducing travel, parking time and travel-related costs, and costs of time for legal representation.[22, 23, 24] Additionally, it may reduce or eliminate other costs associated with attending court in person, such as obtaining childcare.[25]

Increased Safety for Immigrant Survivors: Attending in-person court hearings can be an added safety concern for survivors with uncertain immigration status.[26] Through remote court hearings, survivors can engage with the legal process without the need to physically attend court,

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[21] Carter & Kelley, supra note 13.

[22] Bender, M. (2021). Unmuted: Solutions to Safeguard Constitutional Rights in Virtual Courtrooms, 66 VILL.L. REV. 1, 58 (2021).

[23] Schneider, supra note 10.

[24] Smith, supra note 17.

[25] Id. See also, Duhart Clarke, S. E. & Smith, J. (2021). Virtual Court Proceedings in North Carolina: Adapting to a Global Pandemic. Chapel Hill, NC: UNC School of Governement, Criminal Justice Innovation Lab. https://cjil.sog.unc.edu/wp-content/uploads/sites/19452/2021/03/Virtual-Courts-Findings-Report-FINAL-3.15.2021docx.pdf

[26] Women's Law (2023). https://www.womenslaw.org/about-abuse/abuse-specific-communities/abuse-immigrant-communities

potentially minimizing exposure to immigration authorities. This is especially important in the current environment of heightened immigration enforcement activity, which has exacerbated fear and distrust of law enforcement and other public agencies and locations where immigrants may be vulnerable to encounters with immigration officials.

Time and Resource Efficiency: Remote hearings offer more efficient processing, saving valuable time and resources for all parties involved.[27] They are more cost-effective as there are reduced overhead expenses and require fewer court personnel for each hearing.[28] For participants, this includes less time waiting at the courthouse for their hearing to be called. Also of importance, empirical studies specifically on Temporary Protective Orders (TPOs) found no difference in the average time it takes for a court to process a protective order virtually compared to in-person hearings.[29] Thus, shifting to a virtual TPO process does not impact survivor safety in terms of the time it takes to get the order approved, however, one policy group noted that if courts use e-filing for TPO petitions, the receiving clerk's office needs a process to flag those filings for immediate ex parte review by a judge so they do not get queued with other (non-emergency) civil case filings.[30]

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[27] Turner, supra note 1 at 55.

[28] Bender, supra note 22 at 55.

[29] Yamagata, H., & Fox, D. (2017). Evaluating the Use of Videoconferencing Technology in Domestic Violence Ex Parte Hearings: Assessing Procedural Consistency. Justice System Journal, 38(2), 135–148. https://www.tandfonline.com/doi/abs/10.1080/0098261X.2016.1251363

[30] Scartz, C. M., White, S. & Boorman, J. (2022). Lessons from a Pandemic: Recommendations from the Georgia TPO Forum for Strengthening Protections Against Domestic Violence. Family Law Quarterly, 55(2), 123-146.

Improved Language Access and Interpretation: Many videoconferencing platforms (such as Zoom) allow for simultaneous interpretation, which is preferable to consecutive interpretation that is often used in physical courtrooms. Courts can also access and secure higher quality interpreters and greater diversity of languages (including ASL) by sourcing remote interpreters who do not need to be located in or near the court jurisdiction.[31]

Increased Access for People with Disabilities: The availability of remote hearings can improve court access for people with disabilities, as different disabilities create varying accessibility challenges.[32, 33] As noted above, videoconferencing can increase access for people who are deaf through the use of ASL interpreters. For participants who are hard-of-hearing, videoconferencing platforms can also offer captioning, along with the ability for the participant to adjust their volume settings as needed. In addition, eliminating the need to physically travel to the court can significantly increase access for those with physical disabilities, particularly for individuals with limited mobility, those who require transportation support, or who have conditions that can be unpredictable.

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[31] Smith, supra note 17.

[32] Wechsler, supra note 16.

[33] Jacob, supra note 7.

Enhanced Witness Testimony: Witness testimony can be more complete and secure in a remote hearing setting. Witnesses who may feel intimidated or unsafe testifying in the presence of the defendant may be more willing to speak openly in a remote setting, where physical proximity is not a concern.[34]

Improved Court Participation: For all the reasons listed above, it is not surprising that studies have shown that the availability of virtual court hearings has resulted in improved court attendance and participation.[35] Regarding survivors of domestic violence specifically, knowing that virtual participation is an option may increase the likelihood of pursuing a Protective Order. A study of survivors who participated virtually in Protective Order proceedings found that most were highly satisfied with the process, and a majority (although not all) expressed a preference for virtual court participation.[36] Additionally, a National Center for State Courts (NCSC) poll conducted in 2020 found that 64% of respondents would be likely to access courts virtually if they had the option to do so.[37] Other research has found that litigants report feeling more comfortable when testifying remotely and find the overall process to be more user-friendly.[38]

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[34] Turner, supra note 1 at 213.

[35] California Courts, supra note 15.

[36] Wechsler, supra note 16.

[37] Munro, L. B., & RIEL, N. M. (2021). Our Virtual Reality: Facing the Constitutional Dimensions of Virtual Family Court. Family Law Quarterly, 54(3), 245–267. https://www.pullcom.com/media/publication/352_Extract%20Page%20Family%20Law%20Quarterly.pdf

[38] Bryant, K. & Kunkel, T. (2022). Do Remote Hearings Help – or Hurt – Access to Justice? Judicature, 106(1). https://judicature.duke.edu/articles/do-remote-hearings-help-or-hurt-access-to-justice/



Potential Concerns of Remote Court Hearings for Survivors of Domestic Violence:

Hinder Effective Communication: Some argue that the use of remote proceedings may hinder effective communication, confrontation of witnesses, and presentation of evidence, raising concerns about the quality of legal proceedings.[39] In particular, concerns have been raised about the ability of participants to communicate with their attorney during virtual proceedings,[40] although this might be less pressing in the case of TPO proceedings, where participants are most often pro se. Poor internet connections may also impact communication during proceedings, as discussed in more detail below.

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[39] Turner, supra note 1 at 199-207.

[40] Jacob, supra note 7.

Negative Perception: The use of video during remote hearings may negatively impact how the court perceives survivors, potentially influencing judgments.[41] Concerns have been raised about a judge's ability to make credibility determinations in a virtual court setting.[42, 43] For example, is the judge able to observe body language, facial expressions, and other cues that are typically used to assess credibility? At the same time, there is research evidence indicating judge's decisions can be impacted by implicit biases based on participants' appearances and that trauma can manifest visually in ways that often are misinterpreted as signs of untruthfulness.[44] Therefore, it is not clear whether the limitations on visual observation that are created by virtual hearings have an overall negative impact on perceptions, or whether it may in fact reduce bias. On the other hand, without appropriate precautions by the participant, judges could be exposed to additional observations that may bias their decision-making, such as being able to see inside the participant's home.

Distractions and Background Events: Participants or the court may become distracted by events occurring on computers or in the background, potentially affecting the focus and integrity of the proceedings.[45]

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[41] Turner, supra note 1 at 199.

[42] Munro, supra note 37.

[43] Jacob, supra note 7.

[44] Wechsler, supra note 16.

[45] Turner, supra note 1 at 199.

Limited Access to Reliable Internet and/or Technology: Lack of access to reliable internet services can pose challenges for survivors in remote hearings, potentially causing disruptions or inequitable access to justice.[46] In addition, lack of access to or familiarity with the necessary technology to access remote hearings, such as smart phones, laptops, and web-based platforms such as Zoom or Skype can present barriers. Older adults, persons with disabilities, and lower socioeconomic status survivors may be disproportionately impacted by these barriers.[47]

Public Live-Streaming of Virtual Proceedings: Some states live-stream virtual proceedings on their judicial websites, which can raise privacy and security concerns for participants involved in the cases.[48, 49]

Unintended Disclosure of Location: Virtual hearings may offer survivors a sense of security by allowing them to participate from the safety of their homes.[50]

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[46] Bender, supra note 22 at 53.

[47] Moyer, R.A., Beck, C. J., Van Atter, N., McLane, A. (2022). Advocacy Services for Survivors of Intimate Partner Violence: Pivots and Lessons Learned during the COVID-19 Quarantine in Tacoma, Washington. Family Court Review, 60, 288-302. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9111632/pdf/FCRE-60-288.pdf

[48] See, e.g., Virtual Courtroom, N.J. Cts., https://njcourts.gov/public/vc/index.html (allowing individuals to check each county for its live proceedings).

[49] Jacob, supra note 7.

[50] Reed, A. & Alder, M. (2020). Virtual Hearings Put Children, Abuse Victims at Ease in Court, Bloomberg L. (July 23, 2020), https://news.bloomberglaw.com/us-law-week/virtual-hearings-put-children-abuse-victims-at-ease-in-court.

However, there is a risk of unintentionally revealing their location to the person who uses violence.[51, 52] This can be guarded against through the use of a virtual background or blurring tools. Courts might also consider a survivor's request to keep their camera turned off during the hearing, although doing so precludes the judge's ability to visually observe the survivor.

Off-camera Influences: There is a concern about the potential for off-screen coaching to occur when virtual proceedings are conducted. Especially alarming is the possibility that the person who uses violence may be present and influencing, coaching, coercing, or threatening a survivor off-screen.[53, 54] To mitigate against such threats, judges need to be particularly vigilant in watching for cues, such as a survivor continually glancing nervously at something off-screen. Courts can implemented practices such as asking a participant to move their camera around the room to show that no one else is present, although this also requires that the participant turn off any virtual background they may be using to disguise their surroundings and, in the case of survivors, this could make them vulnerable to accidentally revealing clues as to their location. Thus, there is a need to exercise caution with such practices.

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[51] See e.g. Jessica Klein, Virtual Parental Visitation Could Have Unintended Consequences for Abuse Survivors, Atlantic (June 23, 2020), https://www.theatlantic.com/family/archive/2020/06/dangers-virtual-visitation-abuse-victims/613243/.

[52] Munro, supra note 37.

[53] Id

[54] Jacob, supra note 7.

Limiting Survivor Access to Courts: Moving applications for court proceedings, such as protective orders, fully or only online may limit a survivor's access to the courts, especially if their internet use is monitored by the person who uses violence or if they have limited access to public services and spaces.[55] It has also been noted that if petitioners have to navigate electronic filing systems on their own, they may find the process confusing or tedious, which may result in errors in their filing or incomplete information.[56, 57] The difficulties of navigating such systems without access to support could thus present new barriers to survivors' access to justice.

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[55] Id. See also, Cheryl Thomas, Domestic Violence and Court Services During COVID-19, Jurist (Apr. 25, 2020, 1:12 AM), https://www.jurist.org/commentary/2020/04/cheryl-thomas-covid19-domestic-violence/.

[56] Schneider, supra note 10.

[57] Scartz, supra note 30.

Recommendations

Many believe that the positives of virtual hearings, specifically for domestic violence survivors, outweigh the negatives and advocate for virtual hearings to remain in place. New York has already stated that they are going to keep the virtual hearing process for domestic violence survivors in place permanently and Oregon has adopted these virtual proceedings as "standard practice."[58] Advocates in Georgia have argued that for ex parte hearings in particular, e-filing and virtual hearings should be permitted for those who want this option.[59] Advocates agree that virtual hearings would be a benefit to survivors for whom the multiple court hearings related to a TPO represent a significant hardship, and sometimes an absolute barrier to completing the process; however, an in-person option for survivors who face technology issues should be maintained.

The ideal solution would be to give survivors the option to decide whether they would feel more comfortable attending court in-person or virtually. This supports survivor agency in making decisions about what is best for them, a key component of survivor-centered practice. While remote court hearings offer significant benefits for many survivors, they may not be the best option for all situations. Current research evidence provides strong support for a flexible, pluralistic approach that facilitates IPV survivors' autonomy, access to protection, and empowerment.[60] By embracing a hybrid approach, the legal system can not only capitalize on the numerous practical advantages they offer but also demonstrate a commitment to providing a safer, more empowering, and accessible environment for all parties involved, especially for survivors of domestic violence. Specific recommendations for expanding access while ensuring safety are as follows:

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[58] Johnson, supra note 8.

[59] Scartz, supra note 30.

[60] Wechsler, supra note 16.

States should expand access to remote testimony and e-filing options for survivors of domestic violence to increase access, mitigate the risk of witness intimidation, and amplify survivors' willingness to participate in proceedings. The pathways to implementation are either through state and federal legislation or modification of state court's rules regarding the practice of remote testimony. State legislators should model laws similar to the newly enacted Washington Senate Bill 1320 ("Wash. S.B. 320") and California Senate Bill 538 ("Cal. S.B. 538") that permit remote testimony for survivors.[61]

Of note, Georgia law simply states that a judge must review the petitioner's sworn statements and determine whether to order relief. Therefore, judges have the authority to issue temporary ex parte orders based solely on the pleadings. Multiple jurisdictions in Georgia now commonly approve TPO petitions without a hearing, allowing judges to review more cases per day and significantly reduce how long a victim must wait for a court response.[62]

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[61] Harris, supra note 9.

[62] Harris, supra note 9.

If courts use e-filing for TPO petitions, it is absolutely essential that the receiving clerk's office is prepared to flag those filings for immediate ex parte review by a judge. Courts should also ensure that survivors have access to support (such as an advocacy organization) to assist them with the e-filing process. Attorneys and advocates should be prepared to affirmatively contact the court when a petition is e-filed to ensure it is addressed in a timely fashion.[63]

Courts should provide the option to opt-out of the technological components when they create barriers for participants, as well as provide accessible locations with the available technology and assistance necessary to ensure that low-income individuals are not barred from accessing justice.[64] Some courthouses have set up designated virtual Zoom kiosks or conference centers where individuals can attend virtual court with a reliable connection in a safe and quiet location.[65]

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[63] Id.

[64] Norton, K. L.W. (2023). Accessing Justice in Hybrid Courts: Addressing the Needs of Low-Income Litigants in Blended in-Person and Virtual Proceedings. Georgetown Journal on Poverty Law Policy, Vol. XXX, No. 3, Available at SSRN: https://ssrn.com/abstract=4533869

[65] Bender, supra note 22 at 53.

Courts should ensure that participants are informed ahead of time about the process for connecting to virtual hearings and have access to support to help them navigate the process. Advocates should always plan to make contact prior to the hearing, both to make sure the survivor understands the substantive matters in the hearing and to ensure the survivor is adequately prepared to connect to the court's online system.[66]

Connect survivors to advocates ahead of virtual court hearings so that they can assist in creating a safety plan.[67] Advocates should help prepare survivors for court by going over potential safety concerns the survivor may not have considered (e.g., using a virtual background to prevent unintentional disclosure of their location) as well as advising them on best practices for how to present themselves effectively in a virtual court setting. Courts should also allow advocates to join virtual hearings so they can provide emotional support to survivors and use breakout rooms so that parties can confidentially speak to their advocates or attorneys.

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[66] Scartz, supra note 30.

[67] Smith, supra note 17.

- Use virtual waiting rooms so that parties are not in the same virtual space waiting for the case to be called.[68] Using virtual waiting rooms also allows the court to control who is let in to the virtual courtroom, further helping to protect the privacy of participants.

- Disable the chat-box function so that the abusive partner cannot message the survivor during the hearing.[69]

- Train all court personnel (judges, bailiff, court clerk) on how to run virtual platforms and assist with monitoring for safety. Judges may wish to ask abusive partners to turn their devices around to confirm that they are not in the presence of the victim. Courts may also “spotlight” or “pin” the videos of the active parties. This reduces the number of people displayed on the screen, so that court staff and security can better monitor for safety concerns.[70]

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[68] Id.

[69] Id.

[70] Id.

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