

IN THE COURT OF APPEALS OF MARYLAND
ADMINISTRATIVE ORDER ON VIDEO CONFERENCING PILOT PROGRAMS

WHEREAS, The Maryland Judiciary is considering the use of video conferencing as an alternative means of adjudicating various disputes; and

WHEREAS, The establishment, in the trial courts, of Pilot Programs using video conferencing for certain types of hearings and/or appeals, subject to appropriate oversight and control, is desirable; and

WHEREAS, It is necessary to establish, by Administrative Order, a process that must be followed prior to implementation of a Pilot Program; and

WHEREAS, Each Pilot Program shall be evaluated by the State Court Administrator, and may be monitored by a committee appointed by the Chief Judge of the Court of Appeals; and

WHEREAS, The results from each Pilot Program shall be collected and analyzed by the Administrative Office of the Courts and the Technology Oversight Board, resulting in a report and recommendation, by the State Court Administrator, to the Chief Judge of the Court of Appeals as to the efficacy of such Pilot Programs, and the propriety of referral to the Standing Committee on Rules of Practice and Procedure for preparation of a rule.

NOW, THEREFORE, I, Robert M. Bell, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 20th day of May 2009, effective immediately:

1. Definitions.

a. In this Order, the following words have the meanings indicated:

b. "Pilot Program" means any approved trial court program using video conferencing to conduct hearings and/or appeals.

c. "Plan" means a formal, written proposal, as described in Section 2(b) of this Order, that requests approval of a Pilot Program.

2. Pilot Program Plan.

a. A Plan to establish a Pilot Program may be submitted by a circuit court or by the District Court to the State Court Administrator and to the Secretariat of the Technology Oversight Board, for Board review. It shall be in writing and submitted not less than 60 days prior to the proposed inception date of the Pilot Program.

(1) Circuit Court. A County Administrative Judge shall prepare the written Plan, which shall be developed in consultation with, among others, the State Court Administrator, other judges, the Clerk of the Circuit Court, court staff, governmental stakeholders, members of the bar, other interested parties, vendors, and providers of video conferencing systems.

(2) District Court. The Chief Judge of the District Court shall prepare the written Plan, which shall be developed in consultation with, among others, the State Court Administrator, the District Administrative Judge and the District Administrative Clerk of each district included in the Program, the District Court Chief Clerk, other judges, governmental stakeholders, members of the bar, other interested parties, vendors, and providers of video conferencing systems.

(3) Existing Plans. For those Plans that existed before the promulgation of this Order, the time frames set forth in Sections 2(a) and 2(c) for submission of a written Plan to the State Court Administrator, the Secretariat of the Technology Oversight Board, and the Judicial Cabinet do not apply. Existing Plans must, however, comply with all other

aspects of this Order.

b. The written Plan prepared by the County Administrative Judge or the Chief Judge of the District Court shall contain the following information:

(i) The nature of the proceedings to be conducted by video conferencing, and the reasons therefor;

(ii) The desired benefits and potential disadvantages of conducting the specified proceedings by video conferencing;

(iii) The potential impact of conducting such proceedings by video conferencing on: due process, factfinding, safety, privacy, convenience, as well as any other fiscal, personnel or operational impact of the proposed Pilot Program on the court or the Judiciary as a whole;

(iv) The processes that must be in place to permit the filing of pleadings and other papers, in accordance with the Maryland Rules;

(v) The suitability of the proposed remote location for attaining the desired benefits of the Program;

(vi) All costs associated with the Program, who would bear such costs, and any efforts made to obtain alternative sources of funding;

(vii) A determination that the Program is consistent with the Judiciary's Procurement Policy, and any other procurement policy applicable to court operations;

(viii) The suitability of the proposed video conferencing system for accurately recording and portraying witness testimony, demeanor and appearance;

(ix) The compatibility of the proposed video conferencing system with that used by other courts within the State, as well as that used by other governmental stakeholders, if any;

(x) The approval of the Program by other governmental stakeholders, if applicable;

(xi) Subject to the limitations set forth in Section 4(a) of this Order, the

proposed inception and end dates of the Program.

c. After review of the Plan by the Technology Oversight Board, the State Court Administrator shall submit the Plan, along with the Board's recommendation, to the Judicial Cabinet for further review, at least 30 days prior to the proposed inception date of the Pilot Program.

d. The County Administrative Judge or the Chief Judge of the District Court must receive final, written approval from the Chief Judge of the Court of Appeals, prior to commencement of the Pilot Program.

3. Recording of Video Conferencing Proceedings. Pilot Programs must provide advance, written notice to all video conference participants that hearings and appeals are court proceedings and, therefore, recordings other than the official court version are prohibited, including the recording of images and sounds from the remote location.

4. Term, Monitoring and Evaluation of Pilot Programs.

a. A Pilot Program shall terminate two years after its inception date.

b. The term of a Pilot Program may be extended for a specified period beyond two years, however, by the written authorization of the Chief Judge of the Court of Appeals.

c. During the term of a Pilot Program, it shall be evaluated by the State Court Administrator, and may be monitored by a committee appointed by the Chief Judge of the Court of Appeals, consisting of one or more judges, court clerks, court administrators, members of the bar, Judicial Information Systems staff, and other interested and knowledgeable persons. Such committees shall report their findings to the State Court Administrator.

d. Notwithstanding the above provisions, the Chief Judge of the Court of Appeals has the authority to terminate a Pilot Program at any time.

5. Collection and Analysis of Pilot Program Results. The results of each Pilot Program will be collected and analyzed by the Administrative Office of the Courts and the Section 4(a) of this Order.

6. Report and Recommendation. Upon the request of the Chief Judge of the Court of Appeals, the State Court Administrator shall prepare a report and recommendation on the efficacy of the Pilot Programs analyzed and evaluated to date, and the propriety of a referral to the Standing Committee on Rules of Practice and Procedure for preparation of a rule and, if so, what a rule should contain.

/s/ Robert M. Bell
Robert M. Bell
Chief Judge of the Court of Appeals

Filed: May 21, 2009

/s/ Bessie M. Decker
Bessie M. Decker
Clerk
Court of Appeals of Maryland