

Commission to Study Best Practices for Virtual Advocacy in Nevada's Courts

Addendum to Report from the Eighth Judicial District Court Family Division  
Judge Rebecca L. Burton

Juvenile Dependency

Dependency hearings often include several people including the parents, DA, counsel for parent(s), DFS case worker(s), CAP attorneys, CASA, sometimes the child/children, placement providers and various others (such as therapists and other mental health providers, etc.) Too many people in one virtual hearing can create a lag in the system where some of the conversation is missed. In this regard, it would be helpful if DFS would improve their internet infrastructure and make sure the workers have reliable means of virtual appearance. Many NRS 432B hearings must be confidential and virtual hearings lack the security of in-person hearings as it is not always clear that someone is listening in to the hearing and not clear that the person is who they say they are when appearing by phone.

Arguably, virtual hearings are contrary to best practices in dependency because they limit the ability of parents to have in-person discussion with case workers and their attorney during court proceedings and hinders the court's ability to assess and interact with the parents and the children – especially if they are only appearing by phone and do not have video capacity. The litigant and their attorney should be expected to appear by the same platform (in-person or virtually) to facilitate attorney/client communications during the proceedings. In-person hearings allow for more engagement by the judge and observations of the individuals including interaction (or absence of interaction) between parent and child that is lacking in a virtual platform. The formality of the courtroom process facilitates the extremely short time periods required by 432B to accomplish various tasks. For example in dependency cases, after six months the Court must consider changing the permanency goal from reunification to termination of parental rights.

Nevertheless, most (but not all) of the judges in dependency prefer virtual hearings or a hybrid method to increase access to justice for the population served who often either lack transportation or lack phone or internet access and to facilitate the appearance of caseworkers out in the field or various other busy professionals involved in the matter. Virtual hearings allow the judge to get a glimpse inside the parents' home. Matters particularly suited for video hearings include status checks, unopposed

motions (e.g. a motion to establish paternity based upon paternity test results), and cases with no pressing issues that are post-Termination of Parental Rights and on track for adoption. Adjudicatory or Termination of Parental Rights trials and panel reviews for Other Planned Permanent Living Arrangement cases should be held in person.

Some CASA volunteers appreciate a virtual option because they can participate, even if they are out of town or can't take off their jobs, while other CASA volunteers prefer in-person because they are not as tech savvy and they don't always get pulled into the courtroom, especially if they have to call in.

### Juvenile Delinquency

Like Juvenile Dependency, Juvenile Delinquency cases also require the appearance by several people: the youth, the victim(s), parent(s)/guardian(s), probation officer/parole officer, DA, defense counsel and various others such as mental health providers, etc. It is convenient for these various individuals to appear virtually, and they should be able to continue to do so based on their preference and reliability of their internet connection to ensure a clear record. In this regard, it would be helpful if DJJS improved their internet infrastructure and make sure the workers have reliable means of virtual appearance. Virtual appearances by detained youth eliminate the need to shackle them for court or to walk them across campus for appearances.

It is problematic, however, that typically the attorneys representing youth or parent(s) are not in the same room with their clients (unlike civil cases) and on different devices. There is no ability for them to communicate with each other during the hearing (unless we take a recess) place them in a break-out session, allow them to talk and then when finished bring them back into the main session which does not always work efficiently. These types of situations are problematic for several reasons including effective assistance of counsel and meaningful victim participation/impact statements.

In-person hearings, on the other hand, allow the attorneys, clients, case workers, probation or parole officers the ability to communicate in the waiting areas outside of court to cover any last minute issues or resolve them before the court session begins thus eliminating the need to continue the hearing to the following week (thus wasting everyone's time). In-person appearances allows more effective communication with all participants by a "hands-on and face-to-face" interaction which is impossible with the virtual system. Accurate communication between all of the participants is extremely important, the lack of which causes delay in the court process and connecting youth and parents with the appropriate services. The formality of the courtroom process facilitates the extremely short time periods required by Chapter 62 to accomplish various tasks.

For example in delinquency case the Court must hold trial within 60 days of the filing of the petition.

For trials and disposition hearings, all necessary participants should appear in person with exceptions for a probation officer who might need to remain in the field doing their primary job, a parent who cannot physically make it to court and other participants who might be considered ancillary participants.