*** § 182.20 Electronic appearance rules.**

1. Notwithstanding any contrary provision of this chapter or any other law, the court, in its discretion, may dispense with the physical appearance of any party, including that of the defendant or any witness, and proceed by means of an electronic appearance:

(a) at a plea, sentence, or evidentiary hearing where the defendant, after consultation with counsel or a legal advisor, if any, and the prosecutor consent on the record to conducting such proceeding by electronic appearance;

(b) at an arraignment where the defendant, after consultation with counsel or a legal advisor, if any, and the prosecutor consent on the record to conducting such arraignment by electronic appearance, and where (i) the defendant is receiving treatment at a hospital or other health care facility at the time the arraignment is scheduled; (ii) the defendant is being arraigned on a desk appearance ticket, a superseding information, a superseding indictment, or a superior court information when the defendant intends to enter any authorized guilty plea to such an accusatory instrument during the same court proceeding; (iii) temporary exigent circumstances exist, such as an extreme weather event, which makes timely transporting of the defendant to court for an arraignment unreasonably hazardous, provided that the court shall make a record of why an electronic appearance under this subparagraph is necessary; or (iv) the defendant requests to be arraigned by an electronic appearance, provided that whenever an electronic appearance is conducted at the defendant's request solely pursuant to this subparagraph the only securing order which may be imposed shall be a release on recognizance; and

(c) at all other types of proceedings, including calendar calls, conferences, and arguments but not including trials or grand jury presentments, provided that, in the event any party objects to conducting such proceeding by electronic appearance, the court shall allow any such party to be heard on the record and consider whether for good cause shown the proceeding should not be conducted through an electronic appearance.

2. Where consent to an electronic appearance is given pursuant to

paragraph (a) or (b) of subdivision one of this section and the proceeding has commenced but the electronic appearance is subsequently terminated and the proceeding is adjourned pursuant to subdivision four or five of this section, such initial consent shall continue to govern that proceeding, provided that such consent shall not modify the requirement that the court terminate an electronic appearance and adjourn a proceeding for the reasons outlined in such subdivisions four and five of this section.

3. Any proceeding under this article shall provide an appropriate opportunity for any defense attorney to confidentially consult with their client or for a pro se defendant to confidentially consult with their legal advisor, if any, during the proceeding.

4. Where, due to technological problems or limitations, a party to an electronic appearance can hear and be heard but cannot see and/or cannot be seen, the court may conduct the proceeding notwithstanding such limitation, unless a party objects, in which case the electronic appearance shall be terminated and adjourned. The authorization provided by this subdivision to conduct an appearance where a party can hear and be heard but cannot see and/or cannot be seen shall not apply to an arraignment, a plea, a sentence, the testimony of a witness or the appearance of a defendant who is incarcerated at the time of the proceeding.

5. If, for any reason other than the circumstances justifying a termination and adjournment pursuant to subdivision four of this section, a party requests that an electronic appearance be terminated and adjourned after it has commenced, the court shall grant that application for good cause shown. Under this subdivision, good cause shall include, but not be limited to, a determination that due to technological problems: (a) the proceeding cannot be properly conducted; (b) an attorney does not have an adequate opportunity to confidentially consult with a client; or (c) a pro se defendant does not have an adequate opportunity to confidentially consult with a legal advisor.

6. Electronic appearances shall be recorded by a stenographer to the

same extent as would be required were the appearance conducted with such individuals physically present in court. No recording of an electronic appearance shall be made, viewed or inspected except as may be authorized by the rules of the chief administrator of the courts pursuant to section 182.30 of this article.

7. Where a defendant in a proceeding is under the age of eighteen an electronic appearance shall not be conducted.

8. Nothing in this article shall be construed as limiting a court's authority to excuse a defendant's appearance, either where they would be physically present or appearing by electronic means, during a proceeding.

9. If a statute other than this article provides different rules for conducting an electronic appearance for any particular kind of proceeding, such other statute shall govern such proceeding and the provisions of this article shall apply only to the extent this article is not inconsistent with such other statute.

* NB Repealed September 1, 2028