

US Remote Deposition and Oath Status

05.14.2021 | ATTORNEY PUBLICATIONS

Remote depositions are becoming more prevalent in the midst of the COVID-19 pandemic. This list tracks the various state and federal authorities that govern remote depositions and the administration of oaths or affirmations when the court reporter or notary is not in the same room as the witness. The list contains a link to each state's law or rule related to remote depositions and a link to any statute, executive or supreme court order authorizing remote oaths. The list is updated periodically and subject to change to reflect each state's attempts to adapt to conditions related to the COVID-19 pandemic.

Alabama	Maine	Pennsylvania
Alaska	Maryland	Rhode Island
Arizona	Massachusetts	South Carolina
Arkansas	Michigan	South Dakota
California	Minnesota	Tennessee
Colorado	Mississippi	Texas
Connecticut	Missouri	Utah
Delaware	Montana	Vermont
District of Columbia	Nebraska	Virginia
Florida	Nevada	Washington
Georgia	New Hampshire	West Virginia
Hawaii	New Jersey	Wisconsin
Idaho	New Mexico	Wyoming
Illinois	New York	
Indiana	North Carolina	
Iowa	North Dakota	
Kansas	Ohio	
Kentucky	Oklahoma	
Louisiana	Oregon	

State	Remote Deposition	Remote Oath	Additional information
Alabama	By stipulation, via telephone. 30(b)(7)	Yes, per Supreme Court order , as extended by Administrative Order No. 10 until July 29, 2021. An oath may be administered in a deposition if it is conducted via audio-vidoe communication in the State. See link for additional rules.	This applies to attorneys who are notaries or operating under the supervision thereof.
Alaska	By stipulation, via telephone or other remote electronic means 30(b)(7). See also 30.1 for Audio/Audio-Visual deposition rules.	HB 124 , as recently enacted, allows for oaths to be administered remotely.	
Arizona	By agreement of the parties, via telephone or other remote means. 30(b)(4)	Executive order 2020-26 implements SB 1030 which allows for remote notarial acts using "the internet and audio-video technology to verify identity."	
Arkansas	By stipulation, via telephone or other remote electronic means. 30(b)(7)	Yes, per executive order , section (4). This suspends the in-person requirement for notarial services so long as the witness is present via real-time audio and visual means.	Extended through May 30, 2021.

California	<u>Via telephone video conference or other remote electronic means. 3.1010(a)</u>	<u>SB1146 was signed into law which allows a deposition officer to swear in a deponent via telephone or remote electronic means.</u>	<u>See also Section 2025.310(a)</u>
Colorado	<u>By stipulation, via telephone or other remote electronic means. 30(b)(7)</u>	<u>Yes, executive order. This suspends the requirement that an individual making a statement appear personally before a notarial officer.</u>	<u>Colorado passed SB20-096 which allows for remote notarization.</u>
Connecticut	<u>By stipulation, by telephone, video conference, or other remote electronic means. Practice Book 13-30(g)</u>	<u>Yes, per executive order valid through the duration of the emergency. This allows for any notarial act to be performed using an electronic device.</u>	<u>See links for additional rules.</u>
Delaware	<u>By stipulation, via telephone or other remote electronic means. 30(b)(7)</u>	<u>Maybe. Per Supreme Court Order, notarization requirements have been lifted to allow the filing of "an unsworn declaration, verification, certificate, or statement under penalty of perjury to the Supreme Court, the Court of Chancery, the Superior Court, the Family Court, the Court of Common Pleas, or the Justice of the Peace Court in place of a sworn declaration, verification, certificate, statement, oath or affidavit." Section 10 explains states the form of the declaration.</u>	<u>See Supreme Court order which extends the earlier order suspending notarization requirements through June 1, 2021.</u>
Florida	<u>By order of court, via telephone. 1.131(b)(7)</u>	<u>Yes, per Supreme Court order AOSC20-16, allowing for oaths to be administered via audio-visual means.</u>	<u>Extended by amendment to AOSC20-23 (10.02.2020) for as long as AOSC20-32 remains in effect.</u>
Georgia	<u>By stipulation, via telephone or other remote electronic means. 9-11-30(b)(4)</u>	<u>Per executive order on April 09, 2020, which suspends the physical presence requirement and allowing for the use of audio-video technology to administer notarial acts.</u>	
Hawaii	<u>By stipulation, via telephone or other remote electronic means. 30(b)(7)</u>	<u>Per executive order, see section o., "[c]hapter 456, HRS, notaries public, and related administrative rules, to the extent necessary to suspend any requirement that would require close physical contact to accomplish notary functions."</u>	
Idaho	<u>By stipulation, via telephone or other remote means. 30(b)(4)</u>	<u>Per RON law 51-114A, which authorizes remote oaths.</u>	
Illinois	<u>Via telephone, video conference or other remote electronic means, subject to objection. 206(h)</u>	<u>The Illinois Supreme Court has temporarily amended 205(h) by removing the physical presence requirements of an officer administering the oath.</u>	

Indiana	<u>Rule 30 does not state the precise manner in which a deposition may be taken (in person or remotely).</u>	Yes, per Supreme Court Order. "All rules of procedure, court orders, and opinions applicable to remote testimony, depositions, and other legal testimony, that can be read to limit or prohibit the use of audio-video communications equipment to administer oaths remotely, are hereby suspended, and will remain suspended until removed by further order of this Court."	<u>Extended through July 1, 2021.</u>
Iowa	<u>Via telephone. 1.701(7)</u>	<u>Yes, Iowa recently updated their RON law to allow for remote oaths.</u>	
Kansas	<u>By stipulation, via telephone or other remote means. 60-230(B)(4)</u>	<u>Yes, per executive order. The order allows notaries and witnesses to act via audio-video communication technology.</u>	<u>Extended through the earlier of SB 40 expiration (05/28/2021) or the state of emergency is canceled.</u>
Kentucky	<u>CR 29 states, by stipulation, depositions may be taken "in any manner and when so taken may be used like other depositions."</u>	<u>Kentucky's remote notary act lists oaths as notarial acts that may be done remotely.</u>	
Louisiana	<u>If the parties agree, via telephone or other remote electronic means. 1436.1</u>	<u>Yes, per proclamation, section 5. This suspends the physical presence requirement and allows for notarization via electronic devices.</u>	<u>Louisiana passed HB 274 allowing for remote notarizations.</u>
Maine	<u>By stipulation, via telephone. 30(b)(7)</u>	<u>Yes, by Supreme Court order, in effect until further ordered. Allows oaths to be administered without being in the presence of the deponent.</u>	
Maryland	<u>By stipulation, via telephone. 2-418</u>	<u>Yes, per executive order, which removes the physical presence requirement of a notarial act if an appropriate "communication technology" is used. In effect until the state of emergency expires.</u>	
Massachusetts	<u>By stipulation, via telephone. 30(b)(7)</u>	<u>Yes, by Supreme Court order. "[A]n officer or other person before whom the deposition is to be taken is hereby authorized by the court to administer oaths and take testimony without being in the presence of the deponent, so long as the officer or other person before whom the deposition is to be taken can both see and hear the deponent via audio-video communication equipment or technology for purposes of positively identifying the deponent."</u>	
Michigan	<u>Michigan bar guidance says that depositions should be done remotely.</u> <u>See also here and here for more information.</u>	<u>Michigan has enacted HB6297 which enables remote notarization through January 1, 2021.</u>	<u>Remote Notarization was extended through July 1, 2021 by SB 1187.</u>

Minnesota	<u>By stipulation, via telephone or other remote electronic means. 30.02(g)</u>	Minnesota has a remote notary law allowing for remote notarial acts so long as they are physically located in the state.	
Mississippi	<u>Via telephone. 30(b)(1)</u>	Yes, per Supreme Court order, providing "that all persons qualified to administer an oath in the State of Mississippi may swear a witness remotely by audio-video communication technology from a location within the State of Mississippi, provided they can positively identify the witness." Further, "if a witness is not located within the State of Mississippi, a witness may consent to being put on oath via audio-video communication technology by a person qualified to administer an oath in the State of Mississippi.	
Missouri	<u>Via telephone. 57.03(b)(1)</u>	Yes, per Supreme Court order, which "suspends any local or Missouri Supreme Court rule that may be interpreted to require administering any oath or affirmation in-person when such oaths or affirmations can be administered remotely by available technologies, including video conferencing or teleconferencing, and is not otherwise prohibited by any statutory or constitutional provision."	
Montana	<u>By stipulation, via telephone or other remote means. 30(B)(4)</u>	Montana has a remote notary act which defines a notarial act as including taking an oath or affirmation.	
Nebraska	<u>By stipulation, via telephone or other remote means. 6-330(b)(7)</u>	Per executive order, the effective date of the RON law has been waived which allows for remote oaths.	<u>See link for RON law.</u>
Nevada	<u>By stipulation, via telephone or other remote means. 30(b)(4)</u>	30(b)(5) states that, upon stipulation, the parties do not need a court-appointed officer. Further, Nevada has a remote notary act authorizing remote oaths.	
New Hampshire	<u>Rule 26 regarding depositions does not state whether depositions may be performed remotely.</u>	Per executive order, which suspends the physical presence requirement in order to perform a notarial act.	
New Jersey	<u>Per Supreme court order, remote depositions and oaths are allowed via video technology.</u>	Yes, per Supreme Court order, remote depositions and oaths are allowed via video technology.	<u>The latest order still permits remote depositions and oaths until further ordered.</u>
New Mexico	<u>Via telephone or other remote electronic means. 1-030(B)(7)</u>	Yes, until otherwise ordered, this suspends the physical presence requirement assuming certain criteria are met.	<u>See link for additional rules from the Secretary of State.</u>
New York	<u>By stipulation, by telephone or other remote electronic means. 3113(d)</u>	<u>The officer administering the oath shall be physically present at the place of the deposition, but the parties may stipulate otherwise. 3113(d)</u>	

North Carolina	<u>By stipulation, via telephone. 30(b)(7)</u>	The governor signed the <u>COVID-19 Recovery Act SB704</u> which, in part, temporarily allows oaths to be administered remotely. N.C. Gen. Stat. §10B-25	<u>Extended via HB 196 to December 31, 2021.</u>
North Dakota	<u>By stipulation, via telephone or other remote means. 30(b)(4)</u>	Yes, see <u>44-06.1-13.1</u> , allowing for notarial acts to be performed remotely.	
Ohio	<u>By stipulation, via telephone or other remote means. 30(B)(6)</u>	Yes, <u>per Supreme Court order</u> , until the state of emergency is ceased. An oath may be administered remotely by use of audio or video technology.	
Oklahoma	<u>By stipulation, via telephone or other remote electronic means. 12-3230(B)(6)</u>	Yes, <u>an oath may be administered even if not physically present</u> . Note that this rule "authorizes the use of videoconferencing in all stages of civil or criminal proceedings."	<u>See also Oklahoma Bar Association guidance interpreting Rule 34. Videoconferencing in the District Courts to apply generally.</u>
Oregon	<u>By stipulation, via telephone. 39(C)(7)</u>	<u>An oath may be given over the phone or in-person, at the election of the party taking the deposition. 39(C)(7)</u>	
Pennsylvania	<u>No explicit rule. But the Governor granted the Secretary of State's request regarding use of remote devices during COVID-19 emergency.</u>	Remote notarization is authorized pursuant to <u>Act 15 of SB 841</u> . The authorization allowing for remote notarization will expire 60 days after the COVID-19 disaster emergency issued by the Governor.	
Rhode Island	<u>By stipulation, via telephone or other remote electronic means. 30(b)(7)</u>	<u>Per Secretary of State website</u> , Remote Online Notarization is effective through the termination of the state of emergency.	
South Carolina	<u>By stipulation, via telephone. 30(b)(7)</u>	Yes, <u>per Supreme Court order</u> . Audio and visual preferred, but audio only is permitted.	
South Dakota	<u>By stipulation, via telephone or other remote means. 15-6-30(b)(7)</u>	Yes, <u>per Supreme Court order</u> , oaths may be administered remotely provided the witness can be identified.	
Tennessee	<u>By stipulation, via telephone. 30.02(7)</u>	The court has <u>guidance</u> pertaining to electronic signatures and points to the executive order regarding remote notarizations, but see commentary in the next column.	<u>The governor issued an executive order, through April 28, 2021, regarding remote online notarization but it only applies to documents.</u>
Texas	<u>By telephone or other remote electronic means with reasonable prior written notice. 199.1(b)</u>	Yes, <u>through June 1, 2020</u> . This allows for "depositions...including but not limited to a party, attorney, witness, or court reporter...to participate remotely, such as by teleconferencing, video conferencing, or other means."	<u>As extended through June 1, 2021.</u>
Utah	<u>Via remote electronic means. 30(b)(5)</u>	There is no <u>co-location requirement</u> in the Utah code. Further, Utah passed into law a remote notary bill allowing for the use of remote notary services.	<u>See Supreme Court guidance on April 13, 2020, clarifying that 30(b)(5) does not have a physical presence requirement and permits that oaths be administered remotely.</u>

Vermont	<u>By stipulation, via telephone or other remote electronic means. 30(b)(7)</u>	Yes, per Supreme Court order, through April 15, 2020. "[A]n officer or other person authorized to administer an oath may administer the oath remotely, without being in the physical presence of the deponent as long as the administering person can both see and hear the deponent using audio-video communication for the purpose of positively identifying the deponent."	<u>Extended through March 31, 2021.</u>
Virginia	<u>Via telephone, video conferencing or teleconferencing. 4:5(b)(7)</u>	Virginia has a remote notary law (see <u>handbook</u>) which extends notary powers (including oaths) to be performed remotely.	
Washington	<u>By stipulation, via telephone or other electronic means. 30(b)(7)</u>	Yes, per Supreme Court order. This allows for the use of video/teleconferencing technology to administer oaths and suspends any law requiring in-person oaths.	
Washington, D.C.	<u>By stipulation, via telephone or other electronic means.</u>	<u>30(b)(5) allows, by stipulation, that parties not conduct a deposition before a Rule 28 officer.</u>	
West Virginia	<u>By stipulation, via telephone or other remote electronic means. 30(b)(8)</u>	Yes, <u>see 6 per executive order</u> , which waives the personal appearance requirements for a notarial act that relates to a statement made...on record.	
Wisconsin	<u>Via telephone. 804.05(8)</u>	Yes, <u>via audio-visual communications technology</u> , an oath may be administered by a person qualified to do so in the State of Wisconsin.	<u>Extended until further order by the court.</u>
Wyoming	<u>By stipulation, via telephone or other remote means. 30(b)(4)</u>	<u>30(b)(5) states that, upon stipulation, the parties do not need a court-appointed officer.</u> See also the emergency orders clarifying the process. See also the emergency orders clarifying the process.	<u>COVID-19 Order R30 - as extended through March 19, 2021 by this order.</u>

CONTACTS



Geoffrey A. Vance
Partner
Chicago
D +1.312.324.8477



Simon Joassin
Transaction Attorney
Chicago
D +1.312.263.5826

RELATED SERVICES

PRACTICES

- E-Discovery Services & Strategy
- Coronavirus (COVID-19): Guidance for Businesses

