



PUBLIC SERVICE AND TRUST COMMISSION

Committee on Alternatives to Court Appearances

Statutes and Rules Analysis Subcommittee

Meeting Minutes
December 10, 2008

Those in attendance:

Atty. Jennifer Robinson, Chair
Hon. David Borden
Hon. Emmet Cosgrove

Atty. Joseph Del Ciampo
Atty. Nancy Porter

The Subcommittee on Statutes and Rules Analysis for the Alternatives to Court Appearances Committee, met on December 10, 2008 at 225 Spring Street, Wethersfield, in the First Floor Conference Room 133 at 9:00 a.m.

The meeting was called order at 9:03 a.m. by Atty. Robinson. She provided each member with a folder including the existing Practice Book Rules, a memo prepared by Legal Services on October 21, 2005 for Joseph D'Alesio which outlines legal issues and cases in other states pertaining to the use of video conferencing, and the goals of the subcommittee.

Atty. Robinson started by discussing the goals of the subcommittee and the need to review the Practice Book and General Statutes for sections that prohibit the use of video conferencing. The group discussed the difference between video conferencing and teleconferencing. Video is done through an audio visual system whereas telephone is done through voice. Discussion regarding the Statutes and Rules subcommittee would mainly pertain to video conferencing as opposed to teleconferencing.

Justice Borden discussed how this subcommittee's goals overlap the goals of the Purposes subcommittee. Once we know what the Purposes subcommittee is suggesting for video and teleconferencing, we will have a better idea of what recommendations to makes regarding the Statutes and Rules subcommittee. Areas looked at in the past were mainly criminal, civil and family. Video conferencing for juvenile matters would require a rules change. Some other potential uses for video conferencing are pretrial and short calendar matters, arguments in Appellate and Supreme Court, administrative appeals, and uncontested dissolutions.

Atty. Del Ciampo discussed the 2005 memo that references Habeas cases that were being heard via video conferencing on a limited basis based upon the Practice Book Rules. At the time there was concern about Juvenile cases and sentencing hearings being transmitted by video.

Justice Borden raised the issue that technology is changing and advancing. In addition, video conferencing can be seen as a cultural change towards a more technologically dependent society. In the past there was not a great deal of support for video conferencing. However, now there is more support and the technology has improved.

The role of the subcommittee is to identify rules from the Purposes subcommittee's recommendations keeping in mind transparency and openness to the public, including the media. Atty. Robinson explained that the existing courtrooms were set up with openness in mind and all have screens and or monitors facing the public for viewing of the entire proceeding.

The subcommittee discussed the statutes that allow or prohibit video conferencing. The existing rules provide narrow guidelines, allowing for bail modification and sentence review (where only a potential reduction in sentence) by video conferencing with the defendant's consent. The UIFSA statute allows for video conferencing in certain types of family matters. On the other hand the arraignment statute C.G.S. §54-10 requires the presence of the defendant. Atty. Del Ciampo discussed the potential interpretations for the definition of being present. Some questions discussed were what if the defendant refuses to participate in video conferencing? Should the decision to video conference be on a case by case basis? Could individuals be sworn in at their lawyer's office?

The consensus of the subcommittee was that the advancement of our technology is ultimately based on the budget. Equipment and infrastructure costs can be balanced out by costs savings in transporting prisoners and other related expenses. In addition, some small law firms may not have or be able to afford the new technology.

Justice Borden discussed the need to identify the statutes and rules, including Appellate rules, and all provisions of the Practice Book should be reviewed. The 2005 memo should be updated to show recent developments with Connecticut case law. It is also important to look at Constitutional issues pertaining to the Confrontation clause and Due Process clause, specifically in regards to the Mathers v. Eldridge Supreme Court decision. The subcommittee should produce a memo on the findings to report to the full committee.

The meeting adjourned at 11:45 am. The next meeting will be conducted via teleconference. Atty. Robinson will send possible dates for the next meeting to be scheduled on the 1st or 2nd week of January.