

THE SUPREME COURT REQUESTS COMMENT ON THE FOLLOWING PROPOSAL:

Administrative Rule 50—Use of electronic devices in court facilities (formerly “Media Coverage of Court Proceedings”).

This proposal, initiated by the presiding judges, would replace the current Administrative Rule 50 “Media Coverage of Court Proceedings” with a new Rule 50 titled “Use of Electronic Devices in Court Facilities.” It comes as our understanding of who or what the media is evolves and as electronic devices capable of filming, photographing, recording, or streaming events become more prevalent.

The new rule focuses on conduct more than media status. It reinforces the court’s ability to ensure that the use of electronic devices or cameras to film, photograph, or record events does not disrupt or affect the integrity of its proceedings and operations. Court approval for such uses is required and that approval is subject to case- or court-specific restrictions set by individual judges or the districts’ presiding judges. Like the current rule, the administrative director retains authority to address statewide logistical and technical standards by bulletin. The rule itself includes general restrictions on sensitive or privileged content. See proposed Rule 50(a)(2).

The new rule also supports greater transparency by narrowing the scope of cases in which court approval depends on a person’s or party’s consent. Victims of sexual offenses and the parties to protective order proceedings must still consent to have their images recorded. But coverage of divorce, dissolution of marriage, child custody and visitation, paternity or other family proceedings would no longer depend on the consent of the adult parties, as the current Rule 50(c) provides. The new rule puts the decision whether to allow or restrict coverage of these proceedings in the judge’s hands rather than the party’s.

This is not to dismiss the parties’ personal privacy interests but to recognize that those interests can be protected by less restrictive means than the current Rule 50(c).

The new Rule 50(d), which addresses procedures for oral arguments in the appellate courts, includes tools to strike a balance between privacy and public interests. Paragraph (d)(2) provides for the use of pseudonyms and for any cameras be positioned to avoid capturing images of the parties or minors present. Individual trial court judges or the presiding judges on a district scale may adopt similar restrictions concerning the use of electronic devices in sensitive cases.

The new subsection (d) reflects the supreme court’s interest in making the workings of the appellate courts more accessible and transparent to the public. Since 2015, most supreme court arguments have been live streamed by 360 North. The arguments are archived and regularly broadcast on 360 North TV. Under the current Rule 50(c), few family law or CINA cases have had the necessary consents to be included. Yet these cases can raise important issues of broad concern. Rather than presume that the parties’ personal privacy interests outweigh the public’s interest in witnessing how the court wrestles with these cases, the new rule flips the presumption and leaves it to the court to determine whether any restrictions are warranted.

The oral argument notice will remind parties that unless otherwise ordered for good cause, the appellate argument will be recorded for broadcast. If a party has a concern, the party should

raise it.

Under the proposal, Administrative Rule 50 would be rescinded and readopted to read as follows:

Rule 50. Use of Electronic Devices in Court Facilities.

(a) In the Courtroom.

(1) *Prior Approval.* No electronic devices or cameras may be used in the courtroom to film, photograph, record, transmit, stream, or broadcast sounds or images during court proceedings without prior approval of the judge presiding over the proceedings or the clerk of the appellate courts. Permission can be requested by completing the court system's [Application for Photographing, Filming, or Recording a Court Proceeding](#). [Note: Form will be hyperlinked.]

Approval may be subject to specific restrictions imposed by the judge or clerk. The administrative director may also establish statewide standards by administrative bulletin.

(2) *Restrictions on Content.* The following restrictions apply to all proceedings:

(A) A victim of a sexual offense or a party in a protective order proceeding under AS 18.65.850 – 18.65.870 or under AS 18.66.100 – 18.66.990 may not be photographed, filmed, videotaped, or sketched without consent and court approval;

(B) Jurors may not be photographed, filmed, videotaped, or sketched at any time during the proceedings;

(C) Minors may not be photographed, filmed, videotaped, or sketched at any time during the proceedings, unless the minor is being prosecuted as an adult in a criminal case;

(D) The content of bench conferences may not be recorded; and

(E) The content of confidential communications between counsel and client, between clients, or between counsel may not be recorded.

(3) *General Authority.* The use of electronic devices in a courtroom is subject at all times to the authority of the judicial officer to:

- Ensure decorum and prevent distractions;
- Ensure the fair administration of justice in the pending case; and
- Ensure the security of the court and all court users.

Judges presiding over proceedings and the clerk of the appellate courts may require that cell phones and other electronic devices be turned off or placed in silent mode.

(b) Outside the Courtroom. The use of electronic devices outside the courtroom in a court facility is subject at all times to the authority of the presiding judge, clerk of the appellate courts, or area court administrator to:

- Ensure decorum and prevent distractions;
- Ensure the fair administration of justice; and
- Ensure the security of the court and all court users.

(c) **Local Procedure.** In addition to (a) and (b) above, the presiding Judge for each judicial district may establish by order procedures or restrictions regarding the use of electronic devices in court facilities within their district.

(d) **Procedure for Oral Argument in the Supreme Court and Court of Appeals.**

(1) Unless otherwise ordered for good cause, all regularly scheduled oral arguments before the supreme court or the court of appeals may be recorded for broadcast or streaming on the internet. All requests to use cameras or recording equipment at supreme court or court of appeals oral arguments are subject to the provisions of subsection (a) and any restrictions specifically imposed by the court concerned.

(2) In divorce, dissolution of marriage, domestic violence, child custody and visitation, paternity, or other family proceedings including child in need of aid cases, or in proceedings involving involuntary commitments or the involuntary administration of medications,

(A) counsel or any self-represented party who is arguing the case may be required to use pseudonyms to protect the privacy of the parties and any affected minors;

(B) any cameras and recording equipment may need to be positioned to avoid capturing images of the parties or minors present; and

(C) the court may order that the argument not be recorded for broadcast or streaming on the internet.

Note: Presiding Judges' orders on the use of electronic devices in court facilities are available on the court's website under court rules at: <http://www.courts.alaska.gov/jord/index.htm#trial>. Copies may also be obtained from the office of the court rules attorney at 820 West 4th Avenue, Anchorage, AK, 99501, (907)264-8231.

The administrative bulletin referred to in paragraph (a)(1) is [Bulletin No. 45](#). It begins on the following page.

[*Comment:* Administrative Bulletin 45 is not reproduced here. It will be revised to conform to the new rule, if adopted.]