



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Justice Committee

Komiti Whiriwhiri Take Ture

54th Parliament

July 2024

Courts (Remote Participation) Amendment Bill

29—1

Presented to the House of Representatives
by James Meager, Chairperson

Contents

Recommendation.....	3
About the bill	3
Legislative scrutiny.....	3
Submissions on broader changes to the court system	4
Accessibility.....	4
Technology	4
Judicial discretion	4
Ability for attendees to make informed decisions	4
Potential misuse.....	5
First-principles review of the Courts (Remote Participation) Act	5
Appendix.....	6

Courts (Remote Participation) Amendment Bill

Recommendation

The Justice Committee has examined the Courts (Remote Participation) Amendment Bill and recommends that the bill proceed without amendment.

About the bill

The Courts (Remote Participation) Amendment Bill seeks to improve the speed and efficiency of the court system and increase accessibility for people participating in the courts. It would make two amendments to the Courts (Remote Participation) Act 2010 and one to the Criminal Procedure Act 2011 to enable more use of remote participation in court proceedings.

The Courts (Remote Participation) Act already enables judicial officers and court registrars to allow the use of audiovisual (AV) technology in courts, so participants can appear in a courtroom on screen rather than in person. Members of the public and media can also be authorised to view proceedings remotely. In a criminal trial determining a defendant's guilt or innocence, the defendant can appear via AV technology only if they agree.

The bill would amend the Courts (Remote Participation) Act to:

- enable victims¹ and their support people to observe criminal trials and sentencing remotely if they want and suitable technology is available
- authorise the use of audio-only links such as teleconferences for appropriate civil, family, and criminal court proceedings.

The bill would also amend the Criminal Procedure Act to make permanent a temporary change that was made during the COVID-19 pandemic. It would clarify that provisions in that Act requiring criminal court proceedings to be open to the media or the public do not affect the courts' ability to conduct hearings remotely.

Judicial officers and court registrars would still have discretion to determine whether the use of remote appearances is appropriate.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House. We also have no amendments to propose to the bill as introduced.

¹ The bill uses the terms "victim" and "offence" in line with the Victims' Rights Act 2002, where "offence" includes an alleged offence. This means that "victim" is still an appropriate term before sentencing.

Submissions on broader changes to the court system

Among the submissions we received, some submitters shared broader concerns about the court system that are not covered by the amendments proposed in this bill. We wish to acknowledge the value of their suggestions for improving the court system generally. We discuss some of these issues below.

Accessibility

Submitters emphasised that enabling remote participation in court proceedings should not take priority over improving the physical accessibility of courtrooms. We heard that any new courtroom must comply with the Building Code, which requires accessibility to be reported on and addressed before construction begins. We encourage the Ministry of Justice to make sure physical accessibility in courtrooms is prioritised as renovation and building of courthouses continues. We consider that accessibility should be a core tenet of a court system that is fair and efficient for those who participate in it.

Technology

Submitters expressed concern that limited access to technology could hamper the efficacy of the proposed changes. We agree that successful use of remote participation depends on adequate access to and quality of technology, both in the community and in Police, remand, and prison facilities. We note that under the principal Act judicial officers and court registrars must ensure that participants have sufficient access to technology before allowing the use of AV technology in court proceedings. We consider this a sufficient safeguard.

Judicial discretion

We note that the judiciary appropriately holds broad discretion over how the courts operate. Judicial officers and court registrars play an important role in ensuring that remote participation is appropriate and does not disadvantage anyone using the courts. We heard from submitters that use of remote technology in courts is inconsistent. They said that some courts have reverted since the COVID-19 pandemic to a strong preference for in-person participation, even where remote participation would be appropriate.

Appropriate use of remote participation has important benefits. In administrative court procedures it can save travel time and reduce costs for participants. It is concerning if some proceedings that would be appropriate for remote participation do not use AV technology and participants must continue to incur costs to physically attend proceedings.

We encourage the courts to consider providing training for staff and technological support for the judiciary so they can be confident in using remote participation where appropriate. We also think that the Ministry of Justice should report on the use of remote participation over time so that any further changes are well informed.

Ability for attendees to make informed decisions

Some submitters were concerned that participants could be pressured into using remote participation. Submitters noted that support and information to enable participants to make an informed decision should be available in a range of formats, including te reo Māori and alternate formats.

We note that court staff would be responsible for providing information to participants and supporting their decision making. The judicial officer or court registrar would make the final decision if they did not think it would be in the interests of the participants or justice for the hearing to be remote.

Potential misuse

Some submitters expressed concern about the use of audio-only links. They stated that participants could be pressured by people not visible to the court, or could be able to refer to material without the court's permission. It was suggested that victims observing remotely might record proceedings and use the recordings to harass defendants. However, we note that failure to comply with court requirements, such as making unauthorised recordings, is prohibited under the Contempt of Court Act 2019. We consider this sufficient to deter any misuse of audio-only links.

First-principles review of the Courts (Remote Participation) Act

We note that the Ministry of Justice is currently undertaking a first-principles review of the Courts (Remote Participation) Act. The review will consider how the legislation could be changed to further improve remote participation in the courts, balanced against procedural fairness, the rights of victims and defendants, the Crown's obligations under te Tiriti o Waitangi, and public confidence in the justice system. We consider that some issues raised by submitters should be considered as part of the ministry's review.

Appendix

Committee procedure

The Courts (Remote Participation) Amendment Bill was referred to the committee on 8 March 2024. The closing date for submissions was 5 April 2024. We received and considered submissions from 16 interested groups and individuals. We heard oral evidence from four submitters.

We received advice on the bill from the Ministry of Justice.

Committee members

James Meager (Chairperson)

Hon Ginny Andersen

Jamie Arbuckle

Cameron Brewer

Tākuta Ferris

Paulo Garcia

Dr Tracey McLellan

Rima Nakhle

Tamatha Paul

Todd Stephenson

Hon Dr Duncan Webb

Related resources

The documents that we received as advice and evidence are available on [the Parliament website](#).