



## **SUPREME COURT OF NOVA SCOTIA ADOPTS DEFAULT POSITIONS FOR THE FORMAT OF PROCEEDINGS**

**Monday, Feb. 27, 2023**

The Supreme Court of Nova Scotia has adopted presumptive default positions for how various types of civil (family and non-family) and criminal proceedings should be heard in that court. These default positions will go into effect on Wednesday, March 1, 2023.

**Please note that these are presumptive default positions only;** the presiding Judge is still in the best position to determine what is the appropriate format to hear a matter based on the individual circumstances of the case.

Ever since COVID-19 was declared a global pandemic back in March 2020, the Supreme Court has been proactively reviewing and adapting its processes to ensure court users continue to have their matters dealt with in a timely, fair, and effective manner. This included the increased use of virtual court (both by telephone and videoconferencing) when in-person court appearances had to be restricted to ensure the safety of everyone involved in the court process.

With the lifting of most public health restrictions in March 2022, the Supreme Court saw an opportunity to evaluate the benefits and challenges associated with the increased use of virtual court technology. The Supreme Court Futures Working Group was established to make recommendations on the continued use of virtual court.

The following presumptive default positions for civil (family and non-family) and criminal proceedings were adopted by the Supreme Court Judges in December 2022. Counsel and self-represented litigants should familiarize themselves with these default positions, keeping in mind that the presiding Judge maintains discretion on the format of each individual court appearance.

### **1. CIVIL PROCEEDINGS**

#### **A. NON-FAMILY PROCEEDINGS**

| <b>Type of Proceeding</b>  | <b>Consensus Default</b> |
|----------------------------|--------------------------|
| Date Assignment Conference | Telephone                |

|                                |  |
|--------------------------------|--|
| Trial Readiness Conference     | Telephone  |
| Pre-Trial Conference           | In person  |
| Judicial Settlement Conference | In person, unless both parties are represented by counsel and request virtual.   |
| Chambers                       | In person; the presiding Judge can deal with <i>ex parte</i> or uncontested matters in their Chambers if the documents are in order or may direct counsel to attend virtually. |
| Foreclosures                   | In person; the presiding Judge can deal with <i>ex parte</i> or uncontested matters in their Chambers if the documents are in order or may direct counsel to attend virtually. |
| Special Time Chambers          | In person; if there is no testimony, the Judge may permit virtual if both parties are represented by counsel and request virtual.  |
| Motion for Directions          | Virtual  |
| Application in Court           | In person  |
| Motions to Strike Affidavits   | In writing   |
| Trials                         | In person  |
| Small Claims Appeal            | In person  |
| Costs                          | In writing   |
| Appearance Day                 | In person  |

## B. FAMILY PROCEEDINGS

| Type of Proceeding   | Consensus Default |
|--|-------------------|
| Routine conferences, Date Assignment Conferences, and Pretrials  | Telephone/virtual |
| Most uncontested Child Protection appearances, except for the initial appearance   | Telephone/virtual |
| Uncontested Adult Protection Hearings  | Telephone/virtual |
| The initial appearance in child protection matters, provided there is a courtroom and Judge available in the judicial district where the child protection application originated and where no other special circumstances exist. | In person         |
| Contested Motions/Interim Proceedings where oral evidence is being received and credibility issues are being determined, particularly on parenting issues.   | In person         |
| Contested Final Hearings and Trials  | In person         |
| Contested Child Protection Matters   | In person         |
| Contempt Hearings  | In person         |
| Proceedings that require interpreters  | In person         |

## OTHER FAMILY LAW PROCEEDINGS

The Scheduling Office will initially identify the platform/forum when the following types of matters are scheduled, recognizing that the presiding Judge will ultimately determine which is the most appropriate based on the individual circumstances of the case:

- Settlement conferences
- Adoptions
- Oral decisions
- Contempt pretrials

## 2. CRIMINAL PROCEEDINGS

It is recognized that except for the initial pre-trial conference in Halifax, all criminal proceedings are required to be recorded. If a self-represented accused is involved, the default position is always an in-person appearance, although if the accused is in custody, they may appear by video.

| Type of Proceeding     | Consensus Default  |
|------------------------|--|
| Crownside              | Halifax Crownside will be in person for counsel. In appropriate circumstances, counsel can request to appear by telephone or video. The decision whether to permit appearances other than in person is for the Crownside Judge. The format in the Districts will be left to the discretion of the presiding Judge. |
| Pre-Trial Conference   | In person  |
| Case Conferences       | Virtual  |
| Pre-Trial Applications | In person  |
| Bail                   | In person  |
| Resolution Conferences | In person  |
| Trials                 | In person  |

For more information on best practices and how to prepare for virtual court appearances by telephone or videoconferencing, go to [https://www.courts.ns.ca/Virtual\\_Court.htm](https://www.courts.ns.ca/Virtual_Court.htm).

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