

In the Matter of Adopting a Uniform Trial Court Rule Out-of-Cycle to Allow Appearance at Criminal Proceedings by Means of Simultaneous Electronic Transmission and Approving Adoption of Certain Out-of-Cycle Supplementary Local Rules) CHIEF JUSTICE ORDER
) No. 05-026
)
) ORDER TO ADOPT A UNIFORM TRIAL COURT
) RULE OUT-OF-CYCLE TO ALLOW APPEARANCE
) AT CRIMINAL PROCEEDINGS BY MEANS OF
) SIMULTANEOUS ELECTRONIC TRANSMISSION
) AND APPROVE CERTAIN OUT-OF-CYCLE
) SUPPLEMENTARY LOCAL RULES

I issue this order for the following reasons:

Sections 4 through 12 of 2005 Enrolled House Bill 2282 (HB 2282) amend current statutes related to appearance in criminal proceedings in order to expand the use of court appearances by means of simultaneous electronic transmission.

Local governments, police, prosecutors, defense attorneys, and courts may experience savings in time and money by using technology as allowed by HB 2282.

HB 2282 has an emergency clause and takes effect on its passage.

HB 2282 supplants existing law regarding electronic appearance in criminal proceedings, and requires that any form of simultaneous electronic appearance used by a court must be authorized by court rule.

The courts currently using electronic appearances do not have a court rule authorizing such appearances because such a court rule has not previously been required.

Supplementary Local Rules (SLR), by statute, must be filed with the State Court Administrator for 30 days before they can take effect, but Uniform Trial Court Rules (UTCR) can take effect immediately.

The courts must take immediate action so that the electronic appearances that are now occurring are not made illegal.

An out-of-cycle change to the UTCR requires an order by the Chief Justice of the Oregon Supreme Court.

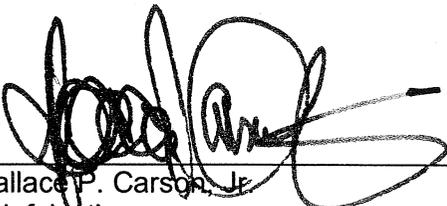
I order, pursuant to ORS 1.002(2)(b) and (e) and sections 4 through 12 of HB 2282:

1. UTCR 4.080, as shown in Attachment A, is adopted and becomes effective on the date HB 2282 takes effect.
2. Good cause having been shown, each judicial district may, pursuant to UTCR 1.050(2)(c), adopt an out-of-cycle SLR regarding appearance by simultaneous electronic transmission in a criminal proceeding, as allowed by HB 2282, if:
 - a) the rule complies with ORS 3.220, the UTCR, and HB 2282;

- b) the court provides notice of adoption of the SLR to the local and state Bars in the manner determined most appropriate by the presiding judge of the judicial district; and
 - c) the court files a certified copy (in electronic and paper form) with the State Court Administrator.
3. An out-of-cycle SLR adopted pursuant to this order becomes effective 30 days after a certified copy of the SLR is filed with the State Court Administrator.

This order takes effect on the date HB 2282 takes effect.

DATED this 12th day of July, 2005.



Wallace P. Carson, Jr.
Chief Justice

4.080 APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION

- (1) A court may conduct an appearance in a criminal proceeding at any circuit court location by the following types of simultaneous electronic transmission, as defined in section 4 of 2005 Enrolled House Bill 2282 (HB 2282), if the transmission complies with the requirements of sections 4 through 12 of HB 2282:
 - (a) telephone;
 - (b) television;
 - (c) video conference; and
 - (d) internet.
- (2) A court that has an existing practice, on the effective date of HB 2282, of conducting an appearance in a criminal proceeding by a type of simultaneous electronic transmission not listed in section 1 of this rule may continue, until February 1, 2006, such practice if the simultaneous electronic transmission complies with the requirements of sections 4 through 12 of HB 2282. After February 1, 2006, the type of simultaneous electronic transmission used by the court must be in compliance with sections 4 through 12 of HB 2282 and must be authorized by Uniform Trial Court Rule or Supplementary Local Rule (SLR).
- (3) SLR 4.081 is reserved for judicial districts to adopt a local rule regarding appearance at criminal proceedings by means of simultaneous electronic transmission.