

## Proposed Amendment to Rule 9.1

### Rule 9.1. The Defendant's Waiver of the Right to Be Present

~~Except for sentencing or as these rules otherwise provide, a defendant's voluntary absence waives the right to be present at any proceeding. The court may infer that a defendant's absence is voluntary if the defendant had actual notice of the date and time of the proceeding, notice of the right to be present, and notice that the proceeding would go forward in the defendant's absence.~~

**(a) When Required.** Unless provided by this or other rules, the defendant must be present at:

- (1) the initial appearance, the initial arraignment, and the plea;
- (2) every trial stage, including jury impanelment and the return of the verdict; and
- (3) sentencing.

**(b) When Not Required.** A defendant need not be present under any of the following circumstances:

- (1) **Organizational Defendant.** The defendant is an organization represented by counsel who is present.
- (2) **Misdemeanor Offense.** The offense is punishable by fine or by imprisonment for not more than one year, or both, and with the defendant's written consent, the court permits arraignment, plea, trial, and sentencing to occur by video teleconferencing or in the defendant's absence.
- (3) **Conference or Hearing on a Legal Question.** The proceeding involves only a conference or hearing on a question of law.

**(c) Waiving Continued Presence.**

**(1) In General.** A defendant who was initially present at trial, or who had pleaded guilty or nolo contendere, waives the right to be present under the following circumstances:

(A) when the defendant is voluntarily absent after the trial has begun, regardless of whether the court informed the defendant of an obligation to remain during trial;

(B) in a noncapital case, when the defendant is voluntarily absent during sentencing; or

(C) when the court warns the defendant forfeits the right due to disruptive conduct as provided in [Rule 9.2](#).

**(2) Waiver's Effect.** If the defendant waives the right to be present, the trial may proceed to completion, including the verdict's return, during the defendant's absence.