

Law number 339-22 that enables and regulates the use of digital media for judicial processes and administrative proceedings of the Judiciary

Enacted on July 21st., 2022

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The law number 339-22 enables and regulates the use of digital media for judicial processes and administrative procedures of the Judiciary (hereinafter, Law 339-22). It came into force on July 30th, 2022, after its enactment and publication in the Official Gazette number 11076, on July 29, 2022; inaugurating the Supreme Court of Justice's legislative initiative provided for in the Constitution.

Law 339-22 establishes the use of the digital signature or the qualified electronic signature by the different actors of the Judiciary for the validation of documents of a judicial or administrative nature; and, in all matters except criminal issues, virtual hearings on an optional basis with the prior consent of the parties. It also grants electronic access to the judicial file based on the documents submitted and the actions generated by the jurisdiction in charge of the case; allows for receiving notices through the digital judicial mailbox; among others.

Likewise, the legislation foresees that in the event of a state of emergency and / or situations of partial or total calamity that prevents maintaining the face-to-face operation of the administration of justice, the Supreme Court, in plenary session, can ex officio, or at the request of an interested party, and by reasoned resolution, mandate the use of digital media for all actions of the processes, except criminal matters, at the request of the accused.

1. PURPOSE AND SCOPE OF THE LAW

Law 339-22 establishes the legal framework that will allow the use of digital media in the judicial processes and, in turn, in the administrative procedures of the Judiciary, in the entire country.

The basic application principles of Law 339-22 are as follows:

- *Promptness*, so that users can receive a prompt response within the terms provided by law.
- *Optional*, considering that virtuality constitutes an alternative when making requests and procedures before the courts, keeping face-to-face procedures enabled.
- *Good faith* of the users who intervene, making a correct use of the digital platforms.

- *Standardization of processes* so that they are homogeneous throughout the national territory.
- *Fidelity of the actions* in the procedures and processes before the Judiciary so that they are registered and kept in full and in successive order.
- *Publicity*, to guarantee impartiality and diligence in the administration of justice.
- *Continuous updating of information systems* according to technological advances and the demands of new technologies.
- *Diligent procedural promotion*, for strict compliance of digital notifications to ensure full compliance with the rules of effective judicial protection.
- *Gratuity*, since the services offered by digital means are free of charge.

2. DEFINITIONS

CONCEPT	DEFINITION
Electronic jurisdictional act	This is any decision, or any other action issued by a competent court or judicial body, in format or through digital means, after payment of the fees and taxes established by the law.
Digital judicial mailbox	Component of the judicial portal that facilitates notices or delivery to the user of any document or information that, due to its judicial nature, merits official communication by the courts of the Judiciary, guaranteeing the date and time of the information sent and obtained for purposes of computation of deadlines and judicial actions. The digital judicial mailbox will only be available to duly authenticated users on the virtual platforms of the Judiciary.
Electronic file	Set of documents, data, procedures, and actions, corresponding to a case or judicial process, which have been incorporated into a digital medium, regardless of the type of information it contains and the format in which it has been generated. It has the same effectiveness and validity as the physical file.
Judicial Portal	Virtual platform where judicial services are provided, in accordance with the jurisdictional competence of each body, without prejudice of the provision of face-to-face services.

3. THE USE OF DIGITAL MEDIA AND THE JUDICIAL PORTAL

A) The use of digital media

The use of digital platforms is conceived and stands as an alternative measure of the jurisdictional bodies and the administrative units of the Judiciary, respecting the formal and material requirements in accordance with the applicable and current procedural rules for each matter.

The procedures carried out by digital means will have the same legal effects as those carried out in person, and, consequently, the documents generated are considered valid with all evidentiary effectiveness.

B) The Judicial Portal

This platform will allow users of the Judiciary, in an optional manner, to carry out the following actions, upon payment of the fees or taxes established by law, namely:

- Make requests or submit matters.
- Access all the information related to the services offered, as well as processes, procedures, judgments, information about officials and auxiliaries and justice actors and hearing schedules.
- Receive all kinds of public records.

To have access to the Judicial Portal, users may register as natural or legal persons, in accordance with the requirements established by the Judiciary to guarantee the security, accessibility, veracity and updating of the information contained in the portal.

The requests submitted by users through the portal must include their general information, domiciles or digital addresses, landlines and mobile phones and any other information that allows their identification in an agile and efficient manner.

4. COMMUNICATIONS AND NOTICES

Users in each process will be able to choose the way in which they wish to be contacted, receive summonses, notices, and communications by the bodies of the Judiciary, optionally having the Digital Judicial Mailbox.

A) Notices, summonses, and communications of the judicial bodies made by digital means will have the same effects as the procedural laws provide for those made by face-to-face means, provided that the user has access to the Digital Judicial Mailbox.

If the user does not expressly accept the use of digital media, the face-to-face modality will prevail.

The calculation of the terms granted by digital means is conditioned by the provisions of the procedural laws of each matter, in this sense, the secretary of each court will record the action carried out, in accordance with the nature of the case in question.

For the delivery of the requested documentation the secretary of the court has a period of five (5) business days to deliver said documents.

All the documents filed by the parties, and the actions generated by the administrative body or court, will be archived in physical or digital form, in a repository arranged by the Council of the Judiciary, to conform the electronic judicial file.

The administrative body or the court will guarantee that both the physical and digital documentation, which make up the file, are consistent and will allow access to the file in person or virtually.

5. THE USE OF DIGITAL OR ELECTRONIC SIGNATURE

The use of the qualified digital or electronic signature to sign judgements, resolutions, orders, and any other document related to a jurisdictional or administrative process will be an alternative that judges, secretaries, officers, and judicial servants will have.

Documents signed in digital format will have the same validity, authenticity, evidentiary and liberatory force in the terms established for documents produced manually, under the Civil Code and the Code of Civil Procedure.

6. VIRTUAL HEARINGS

At the beginning a judicial process, the parties are called to indicate the type of modality in which they require the hearing to be known. In the absence of indication or in the absence of consensus between the parties, the face-to-face modality will prevail.

Except for criminal matters, hearings or virtual jurisdictional actions will be held in all other matters.

Exceptionally, in cases of sexual crimes, intra-family and gender violence, the presiding judge or court may order at the request of the party, by reasoned resolution, the virtual participation of the victim, due to the vulnerability and the effects of the re-victimization of people in cases of this nature.

By mutual agreement, the parties may request a blended hearing before the jurisdictional bodies, in accordance with the regulations established by the Supreme Court Plenary.

The judge may pass judgment in absentia against the party not appearing at a virtual hearing, if it has been regularly summoned and there is evidence of its consent to the holding the hearing by digital means. The party not appearing will have a term of ten (10) free days to justify their non-appearance through a debate reopening request. If the judge considers the failure to appear justified, he/she will order the continuation of the process.

In the same manner, Law 339-22 establishes debate reopening for cases in which a violation has occurred that has altered the possibility of a party making its defense within the framework of the virtual hearing, which may be ordered ex officio or at the request of an interested party.

The provisions of Law 339-22 will be implemented gradually, depending on the budgetary possibilities of the Judiciary and the country's connectivity conditions.

(Revisar la parte final ya que se repite en el arte) The Supreme Court Plenary has released a proposed regulation for the application of this Law 339-22, which is in consultation phase, with a term that may not exceed six (6) months for the issuance of said legal instrument.



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