

1 SB233
2 216765-1
3 By Senators Barfoot and Givhan
4 RFD: Judiciary
5 First Read: 17-FEB-22

SYNOPSIS: Under existing law, a judge may conduct pre-trial proceedings in criminal cases using audio-video communications.

This bill would provide that a judge may conduct additional proceedings in criminal cases using audio-video communication.

This bill would also provide that if a defendant objects to a virtual hearing, an in-person hearing will be required.

A BILL
TO BE ENTITLED
AN ACT

Relating to courts; to further provide for virtual hearings in criminal cases.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 15-26-1 and 15-26-2, Code of Alabama 1975, are amended to read as follows:

"§15-26-1.

1 "(a) Whenever the law requires a defendant in a
2 criminal case to appear before any judge or magistrate for a
3 first or subsequent appearance, bail, arraignment, or other
4 ~~pre-trial~~ proceeding, at the discretion of the court, the
5 proceeding may be conducted by an audio-video communication
6 device, in which case the defendant shall not be required to
7 be physically brought before the judge or magistrate. ~~The~~ For
8 a court to use audio-video communication shall enable the all
9 of the following shall occur:

10 "(1) The judge or magistrate ~~to~~ shall be able to see
11 and converse simultaneously with the defendant or other person
12 ~~and operate.~~

13 "(2) The audio-video communication device shall
14 operate so that the defendant and his or her counsel, if any,
15 can communicate privately, ~~and so that the defendant and his~~
16 ~~or her counsel are both physically present in the same place~~
17 ~~during the audio-video communication.~~

18 "(3) The signal of the audio-video communication
19 shall be transmitted live and shall be secure from
20 interception through lawful means by anyone other than the
21 persons communicating.

22 "(b) If any party objects to a hearing pursuant to
23 subsection (a), an in-person hearing shall be held. Any
24 objection to a hearing pursuant to subsection (a) shall be
25 filed within 10 days of the issuance of the order setting the
26 hearing, or at least three days prior to the hearing if the

1 order setting the hearing is issued within 10 days of the
2 hearing.

3 "(c) Nothing ~~herein~~ in this section shall be
4 construed as affecting the defendant's right to waive counsel.

5 "§15-26-2.

6 "If the court has provided for the use of an
7 audio-video communication system to facilitate communication
8 between the court and the defendant during any ~~pre-trial~~
9 proceeding, the physical presence of the defendant in open
10 court during the proceeding shall not be required."

11 Section 2. It is the intent of the Legislature that
12 pursuant to Amendment 328 of the Constitution of Alabama of
13 1901, now appearing as Section 150 of the Official
14 Recompilation of the Constitution of Alabama of 1901, as
15 amended, the Supreme Court of Alabama shall amend its rules to
16 conform with this act.

17 Section 3. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.