



Legislation 2022: remote/virtual hearings

June 29, 2022

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While the concept of virtual or remote hearings and other court proceedings pre-dates COVID-19, the pandemic did result in courts throughout the United States embracing the technology as a means to keep judicial processes moving forward at a time when access to courthouses was limited. That said, the question now is whether or not to make such changes permanent, and if so, how. For example, [Michigan's Supreme Court](#) is examining these concepts in the context of adopting rules of court, but state legislatures have also been actively looking at the issue. [NCSC's Gavel to Gavel](#) tracks legislation in this area. Among the bills being considered or have passed:

- [Alabama SB 233](#): 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. SB 233 was signed into law on April 6.
- [Hawaii HB 1580 \(as amended\)](#): Provides that upon a finding of necessity or if a defendant and the prosecuting attorney consents, the court may order that the testimony of a witness in a criminal proceeding be taken under oath through a live two-way video connection to be viewed by the court, the defendant, and the trier of fact. The attorneys for the defendant and for the State shall have the right to be physically present with the witness via live two-way video, and full direct and cross-examination shall be available as a matter of right. The bill was approved by the full House on March 3 and is pending in the Senate.
- [Iowa HF 2281](#): Provides that for an initial appearance or arraignment, upon the motion of any of the parties, the proceeding is to be conducted by videoconference if appropriate technology is available. Provides that for a pretrial conference, scheduling conference, or any other noncontested judicial proceeding, upon the motion of any of the parties, the proceeding is to be conducted by videoconference if appropriate technology is available, unless the court orders the proceeding to be held in person for good cause. Provides that for a hearing in a criminal, juvenile, or post-conviction relief proceeding, upon motion of any of the parties, the hearing may be conducted by videoconference if it is conducted in

an efficient manner and does not prejudice a substantial right of any party if appropriate technology is available. Provides that any party may file a resistance to a motion to hold a judicial proceeding by videoconference. Provides that the term “open court” includes the remote testimony of a witness by videoconference or other remote means of communication if approved by the court. HF 2281 is on the Senate floor calendar.

Is your state considering any rules and/or laws to make video/remote hearings permanent? Share them with us at Knowledge@ncsc.org or call 800-616-6164. Follow the National Center for State Courts on [Facebook](#), [Twitter](#), [LinkedIn](#), and [Vimeo](#).

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