

- Conditional discharge revocation hearing;
- Diversion revocation hearing; and
- Contempt hearing, except a direct contempt hearing; and
- Any appearance where a party or the court believes that a hearing has become a proceeding.

For any of the above hearings the defendant's attorney may be physically present with the defendant at the jail or other detention facility unless safety concerns exist, be in the courtroom, attend virtually, or attend remotely.

When a defendant is attending a hearing remotely or virtually, the defendant and his or her attorney must be provided a secure and private line of communication. The attorney shall be permitted to use a personal telephone or other device to communicate with the defendant. The facility holding the defendant shall assist in this scenario. These proceedings are public except where a portion may be heard ex parte, or is determined to be confidential by the presiding judge.

The defendant may be required to appear in person if the judge determines it is necessary to protect the rights of the defendant. Coordination with the jail or detention facility housing the prisoner must be completed no later than 4 p.m. at least two business days prior to the scheduled appearance in order to provide transport if necessary.

The jail or other detention facility holding the defendant shall cooperate with the court and all parties to effectuate compliance. If any party objects to any hearing being conducted remotely or virtually, the judge shall, for good cause, order the hearing be conducted in person. Failure to comply with any provision herein shall not be grounds to find a hearing or determination made invalid.

Actions regarding juveniles may be done remotely where otherwise permitted by law.

An attorney may appear at a hearing of any kind, other than a trial, either remotely or virtually, in a civil case before a Circuit Court, Family Court, or District Court if permitted to do so by the presiding judge.

The following association's support HB 551 HCS 1:

- Kentucky Sheriffs' Association
- County Attorneys' Association
- Kentucky Jailers' Association
- Commonwealth's Attorneys' Association

The fiscal impact of HB 551 HCS 1 on local governments is indeterminable but could be a significant cost to smaller jails that don't currently have virtual ability. Additionally, the fiber optic infrastructure needed may not be available to all areas of Kentucky. There will be cost savings realized for not transporting defendants including necessary security cost related to the transporting as well as courthouse security related to defendant attendance. Whether or not this savings will be enough to cover remote or

virtual communication expense is not known, but more than one of the associations in favor of this bill mentioned the savings in transportation and personnel cost.

Remote or virtual communication may expedite the court proceedings due to the logistics of not having to move defendants within the courthouse and courtroom and being able to immediately hear the next case.

Part III: Differences to Local Government Mandate Statement from Prior Versions

HB 551 HCS 1 keeps some of the provisions of HB 551 as introduced. The impact to local jails remains the same as the impact was for the bill as introduced, since the opportunity to appear remotely or virtually for court proceedings is determined by the defendant and continues to require the jail or other detention facility to cooperate with the court and all necessary parties to effectuate compliance with the requirements of the act.

HB 551 HCS 1 **removes** the requirement that a defendant who is confined in any jail or detention facility who is to appear in any Circuit Court, Family Court, or District Court **must** appear remotely for numerous proceedings.

The following provisions have also been added:

- The defendant's attorney may use his personal phone to communicate with his client to ensure privacy.
- Failure to comply with any of the provisions HB 551 HCS 1 shall not be grounds to find a hearing or determination invalid.
- Juvenile actions may be done remotely or virtually.

Data Source(s): LRC Staff

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