

1 AN ACT relating to virtual court proceedings.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) Any defendant who is confined in any jail or detention facility in this state and*  
6 *who is to appear in any Circuit Court or Family Court in this state shall appear*  
7 *remotely via two-way audio-video communications between the court and the jail*  
8 *or detention facility for any of the following proceedings:*

9 *(a) Arraignment;*

10 *(b) Bond reduction hearing;*

11 *(c) Non-evidentiary hearing;*

12 *(d) Pretrial conference; and*

13 *(e) An initial appearance for a:*

14 *1. Probation violation hearing,*

15 *2. Conditional discharge hearing;*

16 *3. Diversion revocation hearing; and*

17 *4. Hearing required under KRS 218A.14151.*

18 *(2) The defendant, the defendant's attorney, and the attorney for the Commonwealth*  
19 *must be present either in person or via two-way audio-video communication at*  
20 *any proceeding under subsection (1) of this section.*

21 *(3) Any defendant who is confined in any jail or detention facility in this state and*  
22 *who is to appear in any Circuit Court or Family Court in this state may appear*  
23 *remotely via two-way audio-video communications between the court and the jail*  
24 *or detention facility with the consent of the Commonwealth's attorney and the*  
25 *defendant for any of the following proceedings:*

26 *(a) Guilty plea;*

27 *(b) Sentencing;*

- 1        (c) Evidentiary hearing, not including trial; and
- 2        (d) Any of the following appearances where the ultimate issue before the court
- 3                is, as a matter of common practice, typically resolved:
- 4                1. A probation revocation hearing;
- 5                2. A conditional discharge revocation hearing;
- 6                3. A diversion revocation hearing; and
- 7                4. Any contempt hearing, except a direct contempt hearing.
- 8        (4) Any defendant appearing remotely under subsection (3) of this section shall state
- 9                on the record before the proceeding begins that he or she consents to remote
- 10                appearance.
- 11        (5) For any hearing described in this section, the defendant's attorney may:
- 12                (a) Be physically present with the defendant at the jail or detention facility
- 13                unless extraordinary circumstances regarding safety exist at the time of the
- 14                hearing;
- 15                (b) Be in the courtroom and be present with the defendant by means of two-way
- 16                audio-video communications; or
- 17                (c) Attend remotely via an audio-video link provided by the court.
- 18        (6) A secure method of audio communications shall be provided for the defendant
- 19                and the defendant's attorney to communicate privately with each other when a
- 20                defendant is attending via remote connection.
- 21        (7) The two-way audio-video communications required or authorized under this
- 22                section shall allow the defendant to simultaneously hear and observe the judge,
- 23                the Commonwealth's attorney, the defendant's attorney if the defendant's
- 24                attorney is not physically present with the defendant, and any witness if the
- 25                defendant has waived personal appearance and agreed to remote attendance of
- 26                any evidentiary hearing.
- 27        (8) The proceedings conducted under this section shall be open to the public and the

1 two-way audio-video communications shall be visible and audible to persons  
2 present at the proceedings in the judicial center or county courthouse.

3 (9) If the judge presiding over any hearing held under this section determines that  
4 the defendant's presence in the courtroom is necessary to protect the rights of the  
5 defendant, the judge may reschedule the hearing and order transport of the  
6 defendant to the hearing.

7 (10) The court conducting the hearing shall communicate with the jail or detention  
8 facility holding the defendant to confirm and coordinate the defendant's remote  
9 attendance. If the defendant is in a jail or detention facility outside of the county  
10 where the hearing is to be held, this communication shall occur no later than 4  
11 p.m. at least two (2) business days before the scheduled motion docket to provide  
12 transport if applicable.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO  
14 READ AS FOLLOWS:

15 (1) Any defendant who is confined in any jail or detention facility in this state and  
16 who is to appear in any District Court in this state shall appear remotely via two-  
17 way audio-video communications between the court and the jail or detention  
18 facility for any of the following proceedings:

19 (a) Arraignment;

20 (b) Bond reduction hearing;

21 (c) Non-evidentiary hearing;

22 (d) Pretrial conference;

23 (e) An initial appearance for a:

24 1. Probation violation hearing,

25 2. Conditional discharge hearing;

26 3. Diversion revocation hearing; and

27 4. Hearing required under KRS 218A.14151.

- 1 (2) The defendant, the defendant's attorney, and the attorney for the Commonwealth  
2 must be present either in person or via two-way audio-video communication at  
3 any proceeding under subsection (1) of this section.
- 4 (3) Any defendant who is confined in any jail or detention facility in this state and  
5 who is to appear in any district court in this state may appear remotely via two-  
6 way audio-video communications between the court and the jail or detention  
7 facility with the consent of the attorney for the Commonwealth and the defendant  
8 for any of the following proceedings:
- 9 (a) Guilty plea;  
10 (b) Sentencing;  
11 (c) Evidentiary hearing, not including trial; and  
12 (d) Any of the following appearances where the ultimate issue before the court  
13 is, as a matter of common practice, typically resolved:
- 14 1. A probation revocation hearing,  
15 2. A conditional discharge hearing;  
16 3. A diversion revocation hearing; and  
17 4. Any contempt hearing, except a direct contempt hearing.
- 18 (4) Any defendant appearing remotely under subsection (3) of this section shall state  
19 on the record before the proceeding begins that he or she consents to remote  
20 appearance.
- 21 (5) The defendant's attorney may:
- 22 (a) Be physically present with the defendant at the jail or detention facility  
23 unless extraordinary circumstances regarding safety exist at the time of the  
24 hearing;
- 25 (b) Be in the courtroom and be present with the defendant by means of two-way  
26 audio-video communications; or
- 27 (c) Attend remotely via an audio-video link provided by the court.

- 1 (6) A secure method of audio communications shall be provided for the defendant  
2 and the defendant's attorney to communicate privately with each other when a  
3 defendant is attending via remote connection.
- 4 (7) The two-way audio-video communications required or authorized under this  
5 section shall allow the defendant to simultaneously hear and observe the judge,  
6 the attorney for the Commonwealth, the defendant's attorney if the defendant's  
7 attorney is not physically present with the defendant, and any witness if the  
8 defendant has waived personal appearance and agreed to remote attendance of  
9 any evidentiary hearing.
- 10 (8) The proceedings conducted under this section shall be open to the public and the  
11 two-way audio-video communications shall be visible and audible to persons  
12 present at the proceedings in the judicial center or county courthouse.
- 13 (9) If the judge presiding over any hearing held under this section determines that  
14 the defendant's presence in the courtroom is necessary to protect the rights of the  
15 defendant, the judge may reschedule the hearing and order transport of the  
16 defendant to the hearing.
- 17 (10) The court conducting the hearing shall communicate with the jail or detention  
18 facility holding the defendant to confirm and coordinate the defendant's remote  
19 attendance. If the defendant is in a jail or detention facility outside of the county  
20 where the hearing is to be held, this communication shall occur no later than 4  
21 p.m. at least two (2) business days before the scheduled motion docket to provide  
22 transport if applicable.
- 23 (11) The Chief District Court Judge of each judicial district, after consulting with all  
24 other District Judges of the district, shall determine whether the provisions of this  
25 section shall be applied to juvenile criminal matters, with the final determination  
26 set forth in the Local Rules of Practice for that district. Notwithstanding any local  
27 determination to the contrary, the provisions of this section shall apply to any

1 *juvenile action transferred to a circuit court under KRS Chapter 640.*