## Local Government Mandate Statement Kentucky Legislative Research Commission 2021 Regular Session

## **Part I: Measure Information**

Bill Request #: 1411						
Bill #: HB 551						
<b>Document ID #:</b> 5032						
Bill Subject/Title: AN ACT relating to virtual court proceedings.						
Sponsor: Representative Chris Freeland						
Unit of Government:       X       City       X       County       X       Urban-County         Unified Local       Unified Local       Unified Local       Unified Local       Unified Local						
X Charter County X Consolidated Local X Government						
Office(s) Impacted: Jails						
Requirement: <u>X</u> Mandatory Optional						
Effect on Powers & Duties: Modifies ExistingX_ Adds New Eliminates Existing						

## Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

HB 551 requires that any defendant confined in any jail or detention facility in this state and who is to appear in any Circuit Court, Family Court, or District Court in this state **shall** do so remotely via two-way audio-video communications (AVC) between the court and the jail or detention facility. The proceedings for which this shall be available are:

- Arraignments;
- Bond reduction hearings;
- Non-evidentiary hearings;
- Pretrial conferences; and
- Initial appearances for probation violations, a conditional discharge hearings, diversion revocation hearings, and deferred prosecution hearings.

HB 551 requires the defendant and his or her attorney, and the attorney for the Commonwealth to attend in person or via AVC.

With the consent of both the Commonwealth's attorney and the defendant, the following proceedings **may** take place via AVC

- Guilty plea;
- Sentencing;
- Evidentiary hearing, not including trial;
- Probation revocation hearing;
- Conditional discharge revocation hearing;
- Diversion revocation hearing; and
- Contempt hearing, except a direct contempt hearing.

For any of the above hearings the defendant's attorney must be physically present with the defendant at the jail or detention facility unless safety concerns exist, be in the courtroom and be present with the defendant via AVC, or attend remotely via an AVC link provided by the court.

In addition to the public audio-video communication which shall be visible and audible to persons present at the proceedings, the defendant and his or her attorney must be provided a secure and private line of communication.

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 for AVC must be completed no later than 4 p.m. at least two days prior to the scheduled appearance in order to provide transport if necessary.

The Chief District Court Judge of each district shall determine if the provisions of HB 551 shall be applied to juvenile court matters. If the juvenile matter is transferred to circuit court, then the provisions of HB 551 would apply.

The fiscal impact of HB 551 on local governments is indeterminable but could be a significant cost to smaller jails that don't currently have AVC 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 AVC expense is not known.

AVC 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.

The County Attorneys Association and the Kentucky Jailers Association have been contacted for input. As of the date of this Local Government Mandate Statement, a response has not been received. Once received, this statement will be amended accordingly.

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

Part II refers to HB 551 as introduced.

**Data Source(s):** <u>LRC Staff</u>

<b>Preparer:</b>	Wendell F. Butler	<b>Reviewer:</b>	KHC	Date:	3/2/21
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