
A BILL FOR AN ACT

RELATING TO CRIMINAL PROCEDURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic has required the judiciary,
3 like many others, to reassess and transform its procedures to
4 ensure continued operations while protecting the health and
5 safety of its employees and the persons it serves. Part of its
6 strategy to transform its procedures has been leveraging the use
7 of two-way video technology as a substitute for in-person
8 presence in proceedings and hearings, allowing the judiciary to
9 continue its essential role in resolving disputes and in
10 administering justice.

11 The legislature further finds that the continued use of
12 two-way video technology, even in a post-COVID-19 environment,
13 will provide greater access to the courts, especially for
14 victims who do not reside in the State. However, the
15 legislature acknowledges that the expansion of access to the
16 courts should not occur at the expense of a defendant's right to



1 fair criminal procedures, including a defendant's right to
2 confrontation.

3 The purpose of this Act is to specify under the Hawaii
4 Rules of Evidence that courts may order that the testimony of
5 witnesses be taken through a live two-way video connection in
6 certain circumstances.

7 SECTION 2. Section 626-1, Hawaii Revised Statutes, is
8 amended by adding to article VI of the Hawaii Rules of Evidence
9 a new rule to be appropriately designated and to read as
10 follows:

11 "§626- _____ Witnesses; live two-way video testimony;
12 criminal proceedings. Upon a finding of necessity or if a
13 defendant and the prosecuting attorney consents, the court may
14 order that the testimony of a witness in a criminal proceeding
15 be taken under oath through a live two-way video connection to
16 be viewed by the court, the defendant, and the trier of fact.
17 The attorneys for the defendant and for the State shall have the
18 right to be physically present with the witness via live two-way
19 video, and full direct and cross-examination shall be available
20 as a matter of right."



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on January 1, 2222.

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Report Title:

Criminal Procedure; Witnesses; Live Two-Way Video Testimony

Description:

Specifies under the Hawaii Rules of Evidence that a court may order that the testimony of witnesses be taken through a live two-way video connection in certain circumstances. Effective 1/1/2222. (HD1)

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