

JAN 21 2022

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# 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. Chapter 626, Hawaii Revised Statutes, is  
8 amended by adding a new rule to article VI of the Hawaii Rules  
9 of Evidence 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 consents, the court may order that the testimony of a  
14 witness in a criminal proceeding be taken under oath through a  
15 live two-way video connection to be viewed by the court, the  
16 defendant, and the trier of fact. The attorneys for the  
17 defendant and for the State shall have the right to be  
18 physically present with the witness via live two-way video, and  
19 full direct cross-examination shall be available as a matter of  
20 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 upon its approval.

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INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read "Bill [unclear]".

# S.B. NO. 2087

**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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

