

1 SB233  
2 216765-2  
3 By Senators Barfoot and Givhan  
4 RFD: Judiciary  
5 First Read: 17-FEB-22

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to courts; to further provide for virtual  
12 hearings in criminal cases.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Sections 15-26-1 and 15-26-2, Code of  
15 Alabama 1975, are amended to read as follows:

16 "§15-26-1.

17 "(a) Whenever the law requires a defendant in a  
18 criminal case to appear before any judge or magistrate for a  
19 first or subsequent appearance, bail, arraignment, or other  
20 ~~pre-trial~~ proceeding, at the discretion of the court, the  
21 proceeding may be conducted by an audio-video communication  
22 device, in which case the defendant shall not be required to  
23 be physically brought before the judge or magistrate. ~~The~~ For  
24 a court to use audio-video communication shall enable the all  
25 of the following shall occur:

1           "(1) The judge or magistrate to shall be able to see  
2 and converse simultaneously with the defendant or other person  
3 ~~and operate.~~

4           "(2) The audio-video communication device shall  
5 operate so that the defendant and his or her counsel, if any,  
6 can communicate privately, ~~and so that the defendant and his~~  
7 ~~or her counsel are both physically present in the same place~~  
8 ~~during the audio-video communication.~~

9           "(3) The signal of the audio-video communication  
10 shall be transmitted live and shall be secure from  
11 interception through lawful means by anyone other than the  
12 persons communicating.

13           "(b) If any party objects to a trial or post trial  
14 hearing pursuant to subsection (a), an in-person hearing shall  
15 be held. Any objection to a hearing pursuant to subsection (a)  
16 shall be filed within 10 days of the issuance of the order  
17 setting the hearing, or at least three days prior to the  
18 hearing if the order setting the hearing is issued within 10  
19 days of the hearing.

20           "(c) Nothing herein in this section shall be  
21 construed as affecting the defendant's right to waive counsel.

22           "§15-26-2.

23           "If the court has provided for the use of an  
24 audio-video communication system to facilitate communication  
25 between the court and the defendant during any ~~pre-trial~~  
26 proceeding, the physical presence of the defendant in open  
27 court during the proceeding shall not be required."

1                   Section 2. It is the intent of the Legislature that  
2 pursuant to Amendment 328 of the Constitution of Alabama of  
3 1901, now appearing as Section 150 of the Official  
4 Recompilation of the Constitution of Alabama of 1901, as  
5 amended, the Supreme Court of Alabama shall amend its rules to  
6 conform with this act.

7                   Section 3. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Judiciary..... 17-FEB-22

Read for the second time and placed on the calen-  
dar 1 amendment..... 23-FEB-22

Read for the third time and passed as amended .... 10-MAR-22

Yeas 29  
Nays 0

Patrick Harris,  
Secretary.