

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

1 SB233

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4 ENROLLED, An Act,

5 Relating to courts; to further provide for virtual  
6 hearings in criminal cases.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10 "§15-26-1.

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

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

24 "(2) The audio-video communication device shall  
25 operate so that the defendant and his or her counsel, if any,

1 can communicate privately, ~~and so that the defendant and his~~  
2 ~~or her counsel are both physically present in the same place~~  
3 ~~during the audio-video communication.~~

4 "(3) The signal of the audio-video communication  
5 shall be transmitted live and shall be secure from  
6 interception through lawful means by anyone other than the  
7 persons communicating.

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

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

17 "§15-26-2.

18 "If the court has provided for the use of an  
19 audio-video communication system to facilitate communication  
20 between the court and the defendant during any pre-trial,  
21 bench trial, or post trial proceeding, the physical presence  
22 of the defendant in open court during the proceeding shall not  
23 be required."

24 Section 2. It is the intent of the Legislature that  
25 pursuant to Amendment 328 of the Constitution of Alabama of

1 1901, now appearing as Section 150 of the Official  
2 Recompilation of the Constitution of Alabama of 1901, as  
3 amended, the Supreme Court of Alabama shall amend its rules to  
4 conform with this act.

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB233

Senate 10-MAR-22

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Amended and passed 05-APR-22

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Senate concurred in House amendment 05-APR-22

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By: Senator Barfoot