

1 AN ACT relating to virtual court proceedings.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Any defendant who is confined in any jail or other detention facility in this state*
6 *who is to appear in any Circuit Court or Family Court in this state may appear*
7 *remotely or virtually for any nonevidentiary criminal proceeding.*

8 *(2) The defendant, the defendant's attorney, and the attorney for the Commonwealth*
9 *shall be present either in person, remotely, or virtually at any proceeding*
10 *described in subsection (1) of this section.*

11 *(3) Any defendant who is confined in any jail or other detention facility in this state*
12 *and who is to appear in any Circuit Court or Family Court in this state may*
13 *appear remotely or virtually with the consent of the attorney for the*
14 *Commonwealth and the defendant for any of the following proceedings:*

15 *(a) Guilty plea;*

16 *(b) Sentencing;*

17 *(c) Evidentiary hearing, not including trial; and*

18 *(d) Any appearance where the ultimate issue before the court is, as a matter of*
19 *common practice, typically resolved, including:*

20 *1. A probation revocation hearing;*

21 *2. A conditional discharge revocation hearing;*

22 *3. A diversion revocation hearing;*

23 *4. Any contempt hearing, except a direct contempt hearing; and*

24 *5. Where a party or the court has reason to believe that a hearing,*
25 *previously otherwise delineated, has become a proceeding described in*
26 *this subsection.*

27 *(4) For any hearing described in this section, the defendant's attorney may:*

- 1 (a) Be physically present with the defendant at the jail or other detention
2 facility holding the defendant unless extraordinary circumstances regarding
3 safety exist at the time of the hearing;
- 4 (b) Be in the courtroom and be present with the defendant by remote or virtual
5 means; or
- 6 (c) Attend remotely or virtually.
- 7 (5) A secure method of audio communication shall be provided for the defendant and
8 the defendant's attorney to communicate privately with each other when a
9 defendant is attending a hearing described in this section by remote or virtual
10 connection. Alternatively, the attorney shall be permitted to use his or her own
11 personal telephone or other device to communicate directly with the defendant
12 and the facility holding the defendant shall provide cooperation if this alternative
13 method of communication is used.
- 14 (6) All remote or virtual proceedings described in this section shall be conducted in a
15 manner that protects the statutory and constitutional rights of the defendant.
- 16 (7) The proceedings conducted under this section shall be open and made available
17 to the public, except where a proceeding or some portion of a proceeding may
18 properly be heard ex parte or is determined to be confidential by the presiding
19 judge.
- 20 (8) If the judge presiding over any hearing held under this section determines that
21 the defendant's presence in the courtroom is necessary to protect the rights of the
22 defendant, the judge may reschedule the hearing and order transport of the
23 defendant to the location of the hearing.
- 24 (9) The court conducting the hearing pursuant to this section shall communicate
25 with the jail or other detention facility holding the defendant in advance to
26 confirm and coordinate the defendant's remote attendance. If the defendant is in
27 a jail or other detention facility outside of the county where the hearing is to be

1 held, this communication shall occur no later than 4 p.m. at least two (2)
2 business days before the scheduled motion docket in order to provide transport if
3 needed.

4 (10) The jail or other detention facility holding the person who is to appear for any
5 proceeding described in this section shall cooperate with the court and all
6 necessary parties to effectuate compliance with the requirements of this section.

7 (11) Any party may object to any hearing described in this section being conducted
8 remotely or virtually, and the presiding judge shall, for good cause shown, order
9 the hearing be conducted in person.

10 (12) Failure to comply with any provision of this section shall not be grounds to find a
11 hearing, or any determination made as a result of a hearing, invalid.

12 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO
13 READ AS FOLLOWS:

14 An attorney may appear at a hearing of any kind, other than a trial, either remotely or
15 virtually, in a civil case before a Circuit Court or Family Court if permitted to do so by
16 the presiding judge.

17 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO
18 READ AS FOLLOWS:

19 (1) Any defendant who is confined in any jail or other detention facility in this state
20 who is to appear in any District Court in this state may appear remotely or
21 virtually for any nonevidentiary criminal proceeding.

22 (2) The defendant, the defendant's attorney, and the attorney for the Commonwealth
23 shall be present either in person, remotely, or virtually at any proceeding
24 described in subsection (1) of this section.

25 (3) Any defendant who is confined in any jail or other detention facility in this state
26 and who is to appear in any District Court in this state may appear remotely or
27 virtually with the consent of the attorney for the Commonwealth and the

1 defendant for any of the following proceedings:

2 (a) Guilty plea;

3 (b) Sentencing;

4 (c) Evidentiary hearing, not including trial; and

5 (d) Any appearance where the ultimate issue before the court is, as a matter of
6 common practice, typically resolved, including:

7 1. A probation revocation hearing;

8 2. A conditional discharge hearing;

9 3. A diversion revocation hearing;

10 4. Any contempt hearing, except a direct contempt hearing; and

11 5. Where a party or the court has reason to believe that a hearing,
12 previously otherwise delineated, has become a proceeding described in
13 this subsection.

14 (4) For any hearing described in this section, the defendant's attorney may:

15 (a) Be physically present with the defendant at the jail or other detention
16 facility holding the defendant unless extraordinary circumstances regarding
17 safety exist at the time of the hearing;

18 (b) Be in the courtroom and be present with the defendant by remote or virtual
19 means; or

20 (c) Attend remotely or virtually.

21 (5) A secure method of audio communication shall be provided for the defendant and
22 the defendant's attorney to communicate privately with each other when a
23 defendant is attending by remote or virtual connection. Alternatively, the attorney
24 shall be permitted to use his or her own personal telephone or other device to
25 communicate directly with the defendant and the facility holding the defendant
26 shall provide cooperation if this alternative method of communication is used.

27 (6) All remote or virtual proceedings described in this section shall be conducted in a

1 manner that protects the statutory and constitutional rights of the defendant.

2 (7) The proceedings conducted under this section shall be open and made available
3 to the public, except where a proceeding or some portion of a proceeding may
4 properly be heard ex parte or is determined to be confidential by the presiding
5 judge.

6 (8) If the judge presiding over any hearing held under this section determines that
7 the defendant's presence in the courtroom is necessary to protect the rights of the
8 defendant, the judge may reschedule the hearing and order transport of the
9 defendant to the location of the hearing.

10 (9) The court conducting the hearing pursuant to this section shall communicate
11 with the jail or detention facility holding the defendant in advance to confirm and
12 coordinate the defendant's remote or virtual attendance. If the defendant is in a
13 jail or other detention facility outside of the county where the hearing is to be
14 held, this communication shall occur no later than 4 p.m. at least two (2)
15 business days before the scheduled motion docket in order to provide transport if
16 needed.

17 (10) The jail or other detention facility holding the person who is to appear for any
18 proceeding described in this section shall cooperate with the court and all
19 necessary parties to effectuate compliance with the requirements of this section.

20 (11) Nothing in this section shall prevent a remote or virtual appearance by a
21 defendant in a juvenile action where otherwise permitted by law.

22 (12) Any party may object to any hearing described in this section being conducted
23 remotely or virtually, and the presiding judge shall, for good cause shown, order
24 the hearing be conducted in person.

25 (13) Failure to comply with any provision of this section shall not be grounds to find a
26 hearing, or any determination made as a result of a hearing, invalid.

27 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO

1 READ AS FOLLOWS:

2 *An attorney may appear at a hearing of any kind, other than a trial, either remotely or*
3 *virtually, in a civil case before a District Court if permitted to do so by the presiding*
4 *judge.*