

1 SENATE BILL NO. 187

2 INTRODUCED BY C. FRIEDEL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING REMOTE APPEARANCES BY COUNSEL IN  
5 CRIMINAL AND CERTAIN CIVIL HEARINGS; AND PROVIDING DEFINITIONS."

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7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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9 NEW SECTION. Section 1. Remote appearance by counsel -- definitions. (1) A court presiding  
10 over matters in Title 46 or civil matters when at least one party is represented by counsel assigned pursuant to  
11 47-1-104(4) shall establish a consistent, predictable process for attorneys to appear remotely in the court.

12 (2) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), A PERSON'S COUNSEL OF RECORD AND THE  
13 REPRESENTED PERSON APPEARING IN A MATTER UNDER TITLE 46 OR ANY CIVIL MATTER MAY APPEAR REMOTELY FOR A  
14 NONSUBSTANTIVE HEARING.

15 (B) A court may order an attorney to appear in person for a nonsubstantive hearing if the court  
16 finds good cause and issues an order PROVIDING THE LEGAL AND FACTUAL BASIS FOR GOOD CAUSE at least 5  
17 business days before the hearing.

18 (3) As used in this section, the following definitions apply:

19 (a) "Appear remotely" means to participate in a hearing through the use of two-way electronic  
20 audio-video communication that allows:

21 (i) all of the participants to be heard in the courtroom by all present and allows the party speaking  
22 to be seen; and

23 (ii) a defendant or person represented by counsel assigned pursuant to 47-1-104(4) to see and  
24 communicate privately with the defendant's or person's attorney.

25 (b) "Nonsubstantive hearing" means a court event in which the substantive outcome of the matter  
26 will not be decided during the event, including:

27 (i) arraignments and initial appearances;

28 (ii) bond and bail hearings;

- 1 (iii) status hearings, conferences, or court check-ins;
- 2 (iv) hearings for the purpose of scheduling;
- 3 (v) omnibus hearings;
- 4 (vi) calendar calls; and
- 5 (vii) any hearing in which substantive arguments or testimony will not be heard.

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7 ~~NEW SECTION. Section 2. — Assigned counsel may appear remotely.~~ As provided in [section 1],  
8 an attorney assigned under 47-1-104 to any civil matter may appear remotely for any nonsubstantive hearing.

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10 NEW SECTION. Section 2. Codification instruction. (1)—[Section 1] is intended to be codified as  
11 an integral part of Title 3, chapter 1, part 3, and the provisions of Title 3, chapter 1, part 3, apply to [section 1].

12 (2)—[Section 2] is intended to be codified as an integral part of Title 47, chapter 1, part 2, and the  
13 provisions of Title 47, chapter 1, part 2, apply to [section 2].

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