

1 SENATE BILL NO. 43

2 INTRODUCED BY M. MACDONALD

3 BY REQUEST OF THE STATE PUBLIC DEFENDER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF TWO-WAY ELECTRONIC ~~AUDIO-VIDEO~~
6 AUDIO OR VIDEO COMMUNICATION FOR AN OMNIBUS HEARING; AMENDING SECTION 46-13-110, MCA;
7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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11 **Section 1.** Section 46-13-110, MCA, is amended to read:12 **"46-13-110. Omnibus hearing -- use of two-way electronic ~~audio-video~~ AUDIO OR VIDEO**

13 **communication.** (1) Within a reasonable time following the entry of a not guilty plea but not less than 30 days
14 before trial, the court shall hold an omnibus hearing.

15 (2) The purpose of the hearing is to expedite the procedures leading up to the trial of the defendant.

16 (3) The presence of the defendant is not required, unless ordered by the court. The prosecutor and the
17 defendant's counsel shall attend the hearing, ~~and~~ The prosecutor and the defendant or defendant's counsel may

18 attend the hearing by two-way electronic ~~audio-video~~ AUDIO OR VIDEO communication if neither party objects and
19 the court agrees to its use. The parties must be prepared to discuss any pretrial matter appropriate to the case,

20 including but not limited to:

21 (a) joinder and severance of offenses or defendants, 46-11-404, 46-13-210, and 46-13-211;

22 (b) double jeopardy, 46-11-410, 46-11-503, and 46-11-504;

23 (c) the need for exclusion of the public and for sealing records of any pretrial proceedings, 46-11-701;

24 (d) notification of the existence of a plea agreement, 46-12-211;

25 (e) disclosure and discovery motions, Title 46, chapter 15, part 3;

26 (f) notice of reliance on certain defenses, 46-15-323;

27 (g) notice of seeking persistent felony offender status, 46-13-108;

28 (h) motion to suppress, 46-13-301 and 46-13-302;

29 (i) motion to dismiss, 46-13-401 and 46-13-402;

30 (j) motion for change of place of trial, 46-13-203 through 46-13-205;

1 (k) reasonableness of bail, Title 46, chapter 9; and

2 (l) stipulations.

3 (4) At the conclusion of the hearing, a court-approved memorandum of the matters settled must be
4 signed by the court and counsel and filed with the court.

5 (5) Any motions made pursuant to subsections (1) through (3) may be ruled on by the court at the time
6 of the hearing, where appropriate, or may be scheduled for briefing and further hearing as the court considers
7 necessary."

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9 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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