

S.12

AN ACT RELATING TO NOT REQUIRING THE PHYSICAL
PRESENCE OF A DEFENDANT OR OFFENDER AT CERTAIN
COURT PROCEEDINGS

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The general assembly finds:

(1) Since 1993, the general assembly has expressed concern at the increasing cost of transporting defendants and offenders in state custody from correctional facilities to courts. The financial burden on the ability of the state to pay for such transports has dramatically increased over the past several years.

(2) The general assembly intends to continue to preserve the due process rights granted by the United States and Vermont Constitutions to defendants and offenders in state custody, but in case-appropriate circumstances to preserve these rights through the use of available interactive technologies now deployed with great success in other states and countries.

(3) Many court hearings can be held without the physical presence of defendants and offenders in the courtroom. Some hearings, such as status conferences, pre-trial conferences, calendar calls, and other similar events, can be held without the participation of the defendant or offender, while many

others may be held with the use of telephone, IPTV, VoIP, or other interactive technology.

Sec. 2. Vermont Rule of Criminal Procedure 43(d) is added to read:

RULE 43. PRESENCE OF THE DEFENDANT

(a) Presence Required. The defendant shall be present at the arraignment, at any subsequent time at which a plea is offered, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule.

* * *

(d) Interactive Technology.

(1) The defendant may appear via interactive technology instead of being present at the proceeding in cases where there is no right to bail.

(2) An expert witness may appear at trial via interactive technology if:

(A) the prosecution and the defense consent to such appearance; or

(B) in the event the prosecution and the defense cannot reach agreement, the court orders such appearance.