

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0639.01 Jerry Barry x4341

HOUSE BILL 23-1182

HOUSE SPONSORSHIP

Epps and Mabrey, Bacon, Garcia, Marshall, Sharbini, Woodrow

SENATE SPONSORSHIP

Fields and Gardner,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT FOR REMOTE PUBLIC ACCESS TO**
102 **OBSERVE CRIMINAL COURT PROCEEDINGS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires all courts in Colorado to provide remote access for the public to observe any criminal court proceeding conducted in open court, unless the court does not have the technology available to do so or the court has ordered that the public is excluded from the proceeding. The bill also requires the court to post links on its website for the remote observation. If a court does not have the technology to allow remote

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

observation to the public but later obtains such technology, the bill requires the court to comply with the bill within 90 days after obtaining the necessary technology.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) It is the public policy of the state of Colorado to maximize
5 transparency and accessibility of criminal court proceedings;

6 (b) The Colorado judicial branch increased transparency in 2020
7 when it facilitated expanded access to remote observation of criminal
8 court proceedings in every judicial district;

9 (c) Continued access to remote court observation remains
10 inconsistent and unpredictable, both within and between jurisdictions; and

11 (d) All Coloradans benefit from consistent, predictable access to
12 observe criminal court proceedings remotely.

13 (2) Therefore, it is the intent of the general assembly to increase
14 transparency and ensure consistent, predictable statewide access for the
15 public to remotely observe criminal proceedings held in open court.

16 **SECTION 2.** In Colorado Revised Statutes, 13-1-132, **add** (3.5)
17 as follows:

18 **13-1-132. Use of interactive audiovisual devices and**
19 **communication technology in court proceedings.** (3.5) (a) ALL
20 COLORADO COURTS, INCLUDING MUNICIPAL COURTS, SHALL MAKE ANY
21 CRIMINAL COURT PROCEEDING CONDUCTED IN OPEN COURT AVAILABLE
22 FOR REMOTE PUBLIC VIEWING AND LISTENING IN REAL TIME, AT NO COST
23 TO THE PUBLIC, THROUGH AN ONLINE PLATFORM AND POST PROMINENTLY
24 ON THE COURT'S WEBSITE THE LINKS FOR REMOTE OBSERVATION, UNLESS:

1 (I) THE COURTROOM DOES NOT HAVE SUFFICIENT EXISTING STAFF
2 OR TECHNOLOGICAL CAPABILITY TO MAKE SUCH PROCEEDINGS AVAILABLE
3 TO THE PUBLIC FOR REMOTE OBSERVATION; ■

4 (II) MEMBERS OF THE PUBLIC HAVE BEEN EXCLUDED FROM THE
5 CRIMINAL PROCEEDING BY ORDER OF THE COURT;

6 (III) TECHNOLOGY, STAFFING, OR INTERNET ISSUES LIMIT OR
7 PREVENT REMOTE OBSERVATION; OR

8 (IV) AFTER A REQUEST BY A PARTY, WITNESS, OR VICTIM, THE
9 COURT MAKES FINDINGS ON THE RECORD BASED ON THE PARTICULAR
10 FACTS AND CIRCUMSTANCES OF THE CASE THAT:

11 (A) THERE IS A REASONABLE LIKELIHOOD REMOTE OBSERVATION
12 OF LIVE PROCEEDINGS RISKS COMPROMISING THE SAFETY OF ANY PERSON,
13 THE DEFENDANT'S RIGHT TO A FAIR TRIAL, OR THE VICTIM'S RIGHTS
14 PURSUANT TO SECTION 24-4.1-302.5 (1)(a);

15 (B) THERE IS NO LESS RESTRICTIVE ALTERNATIVE THAT PRESERVES
16 THE PUBLIC INTEREST IN REMOTE OBSERVATION WHILE MITIGATING THE
17 IDENTIFIED RISK. AS USED IN THIS SUBSECTION (3.5)(a)(IV)(B), "LESS
18 RESTRICTIVE ALTERNATIVE" INCLUDES ALLOWING REMOTE AUDIO-ONLY
19 OBSERVATION WHILE DISABLING VIDEO OBSERVATION OR TURNING OFF
20 REMOTE OBSERVATION FOR PARTICULAR WITNESSES OR DISCRETE
21 PORTIONS OF THE PROCEEDING.

22 (b) AS USED IN THIS SECTION, "RISKS COMPROMISING THE SAFETY"
23 INCLUDE RISKS TO PHYSICAL AND EMOTIONAL SAFETY, INTIMIDATION, AND
24 HARASSMENT.

25 (c) WHEN ALLOWING REMOTE OBSERVATION, COURTS SHALL TAKE
26 REASONABLE STEPS TO ENSURE THERE IS NO AUDIO OR VISUAL RECORDING,
27 INCLUDING PHOTOGRAPHY OR SCREENSHOTS OF THE PROCEEDINGS,

1 WITHOUT EXPLICIT PERMISSION OF THE COURT. AS USED IN THIS
2 SUBSECTION (3.5)(c), "REASONABLE STEPS" MAY INCLUDE THE COURT
3 ISSUING A VERBAL OR ON-SCREEN WARNING AND PROHIBITING REMOTE
4 OBSERVATION BY SPECIFIC INDIVIDUALS WHOM THE COURT HAS REASON
5 TO BELIEVE MAY VIOLATE THIS RULE.

6 (d) WHEN ALLOWING REMOTE OBSERVATION, COURTS SHALL TAKE
7 REASONABLE STEPS TO ENSURE NO AUDIO OR VISUAL TRANSMISSION OF
8 PRIVILEGED, CONFIDENTIAL COMMUNICATIONS OCCURS. COURTS SHALL
9 NOTIFY PARTIES AND ATTORNEYS OF THE LOCATION OF MICROPHONES AND
10 ANY ABILITY TO MUTE MICROPHONES. IF THE COURT BECOMES AWARE
11 THAT SUCH TRANSMISSIONS OCCURRED, THE COURT SHALL WORK WITH
12 THE PARTIES AND ATTORNEYS TO PREVENT REOCCURRENCE.

13 (e) IF A PROCEEDING SUBJECT TO A SEQUESTRATION ORDER IS
14 MADE AVAILABLE FOR PUBLIC REMOTE OBSERVATION, THE COURT SHALL
15 TAKE REASONABLE STEPS TO ENSURE COMPLIANCE WITH THE
16 SEQUESTRATION ORDER AND ENSURE THE RIGHT TO A FAIR TRIAL, WHICH
17 MAY INCLUDE ANNOUNCING THE SEQUESTRATION ORDER AS FREQUENTLY
18 AS NECESSARY IN OPEN COURT, REQUIRING OBSERVERS TO IDENTIFY
19 THEMSELVES TO ENSURE NONE ARE POTENTIAL WITNESSES AND THAT ANY
20 OBSERVERS WHO ARE FORBIDDEN FROM DISCUSSING THE CASE WITH
21 WITNESSES KNOW OF THAT OBLIGATION, AND TERMINATING REMOTE
22 OBSERVATION TO PROTECT THE PARTIES' RIGHT TO A FAIR TRIAL OR TO
23 ENSURE COMPLIANCE WITH THE SEQUESTRATION ORDER.

24 (f) FOR CRIMINAL COURTS THAT DO NOT HAVE SUFFICIENT
25 EXISTING STAFF OR TECHNOLOGICAL CAPABILITIES TO MAKE PROCEEDINGS
26 AVAILABLE FOR REMOTE OBSERVATION AS OF THE EFFECTIVE DATE OF THIS
27 SUBSECTION (3.5), IF THE COURT SUBSEQUENTLY OBTAINS SUCH STAFF

1 AND CAPABILITIES, THE COURT MUST COMPLY WITH THE PROVISIONS OF
2 THIS SECTION WITHIN NINETY DAYS AFTER OBTAINING SUCH STAFF AND
3 CAPABILITIES.

4 **SECTION 3.** In Colorado Revised Statutes, **amend** 13-10-103 as
5 follows:

6 **13-10-103. Applicability.** This article 10 applies to and governs
7 the operation of municipal courts in the cities and towns of this state.
8 Except for the provisions relating to the method of salary payment for
9 municipal judges, the incarceration of children pursuant to sections
10 19-2.5-305 and 19-2.5-1511, the appearance of the parent, guardian, or
11 lawful custodian of any child under eighteen years of age who is charged
12 with a municipal offense as required by section 13-10-111, the right to a
13 trial by jury for petty offenses pursuant to section 16-10-109, relief from
14 improperly entered guilty pleas pursuant to section 18-1-410.6, MAKING
15 CRIMINAL COURT PROCEEDING CONDUCTED IN OPEN COURT AVAILABLE
16 FOR REMOTE PUBLIC VIEWING AND LISTENING IN REAL TIME, rules of
17 procedure promulgated by the supreme court, and appellate procedure,
18 this article 10 may be superseded by charter or ordinance enacted by a
19 home rule city.

20 **SECTION 4. Act subject to petition - effective date.** This act
21 takes effect September 1, 2023; except that, if a referendum petition is
22 filed pursuant to section 1 (3) of article V of the state constitution against
23 this act or an item, section, or part of this act within the ninety-day period
24 after final adjournment of the general assembly, then the act, item,
25 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2024 and, in such case, will take
2 effect on the date of the official declaration of the vote thereon by the
3 governor.