

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0639.01 Jerry Barry x4341

HOUSE BILL 23-1182

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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.*

SENATE
Amended 2nd Reading
April 28, 2023

HOUSE
3rd Reading Unamended
April 14, 2023

HOUSE
Amended 2nd Reading
April 13, 2023

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, WHICH MAY INCLUDE A
24 PARTICIPATORY WEB CONFERENCING PLATFORM, AND POST PROMINENTLY

1 ON THE COURT'S WEBSITE THE LINKS FOR REMOTE OBSERVATION, UNLESS:

2 (I) THE COURTROOM DOES NOT HAVE SUFFICIENT TECHNOLOGICAL
3 CAPABILITY, SUCH AS A PARTICIPATORY WEB CONFERENCING PLATFORM,
4 TO MAKE SUCH PROCEEDINGS AVAILABLE TO THE PUBLIC FOR REMOTE
5 OBSERVATION;

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

8 (III) TECHNOLOGY, STAFFING, OR INTERNET ISSUES LIMIT OR
9 PREVENT REMOTE OBSERVATION; OR

10 (IV) AFTER A REQUEST BY A PARTY, WITNESS, OR VICTIM, OR ON
11 THE COURT'S OWN MOTION, THE COURT MAKES FINDINGS ON THE RECORD
12 BASED ON THE PARTICULAR FACTS AND CIRCUMSTANCES OF THE CASE
13 THAT:

14 (A) THERE IS A REASONABLE LIKELIHOOD REMOTE OBSERVATION
15 OF LIVE PROCEEDINGS RISKS COMPROMISING THE SAFETY OF ANY PERSON;
16 THE DEFENDANT'S RIGHT TO A FAIR TRIAL, INCLUDING VIOLATIONS OF
17 SEQUESTRATION ORDERS; OR THE VICTIM'S RIGHTS PURSUANT TO SECTION
18 24-4.1-302.5 (1)(a); AND

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

26 (b) AS USED IN THIS SECTION, "RISKS COMPROMISING THE SAFETY"
27 INCLUDE RISKS TO PHYSICAL AND EMOTIONAL SAFETY, INTIMIDATION, AND

1 HARASSMENT.

2 (c) WHEN ALLOWING REMOTE OBSERVATION, COURTS SHALL TAKE
3 REASONABLE STEPS TO ENSURE THERE IS NO AUDIO OR VISUAL RECORDING,
4 INCLUDING PHOTOGRAPHY OR SCREENSHOTS OF THE PROCEEDINGS,
5 WITHOUT EXPLICIT PERMISSION OF THE COURT. AS USED IN THIS
6 SUBSECTION (3.5)(c), "REASONABLE STEPS" MUST INCLUDE AN ON-SCREEN
7 WARNING THAT ANY RECORDING OF THE PROCEEDINGS WITHOUT A COURT
8 ORDER, INCLUDING ANY SCREEN CAPTURE, PHOTOGRAPH, OR AUDIOVISUAL
9 RECORDING, IS PROHIBITED. "REASONABLE STEPS" MAY ALSO INCLUDE THE
10 COURT ISSUING AN ADDITIONAL VERBAL OR ON-SCREEN WARNING AND
11 PROHIBITING REMOTE OBSERVATION BY SPECIFIC INDIVIDUALS WHOM THE
12 COURT HAS REASON TO BELIEVE MAY VIOLATE THIS RULE.

13 (d) WHEN ALLOWING REMOTE OBSERVATION, COURTS SHALL TAKE
14 REASONABLE STEPS TO ENSURE NO AUDIO OR VISUAL TRANSMISSION OF
15 PRIVILEGED, CONFIDENTIAL COMMUNICATIONS OCCURS. TO HELP
16 FACILITATE PRIVILEGED, CONFIDENTIAL COMMUNICATIONS IN THE
17 COURTROOM, COURTS SHALL NOTIFY PARTIES AND ATTORNEYS OF THE
18 LOCATION OF MICROPHONES AND ANY ABILITY TO MUTE MICROPHONES. IF
19 THE COURT BECOMES AWARE THAT SUCH TRANSMISSIONS OCCURRED, THE
20 COURT SHALL WORK WITH THE PARTIES AND ATTORNEYS TO PREVENT
21 REOCCURRENCE.

22 (e) IF A PROCEEDING SUBJECT TO A SEQUESTRATION ORDER IS
23 MADE AVAILABLE FOR PUBLIC REMOTE OBSERVATION, THE COURT SHALL
24 TAKE REASONABLE STEPS TO ENSURE COMPLIANCE WITH THE
25 SEQUESTRATION ORDER AND ENSURE THE RIGHT TO A FAIR TRIAL, WHICH
26 MAY INCLUDE:

27 (I) ANNOUNCING THE SEQUESTRATION ORDER AS FREQUENTLY AS

1 NECESSARY IN OPEN COURT;

2 (II) REQUIRING OBSERVERS TO IDENTIFY THEMSELVES TO ENSURE
3 NONE ARE POTENTIAL WITNESSES AND THAT ANY OBSERVERS WHO ARE
4 FORBIDDEN FROM DISCUSSING THE CASE WITH WITNESSES KNOW OF THAT
5 OBLIGATION;

6 (III) AT THE REQUEST OF A PARTY, ALLOWING THE COURT OR
7 PARTY TO INQUIRE OF ANY WITNESS, WHILE UNDER OATH AND OUTSIDE
8 THE PRESENCE OF THE JURY, IF THE WITNESS WATCHED ANY PORTION OF
9 THE PROCEEDING OR DISCUSSED ANY PORTION OF THE PROCEEDING WITH
10 ANYONE PRIOR TO TESTIFYING; AND

11 (IV) TERMINATING REMOTE OBSERVATION TO PROTECT THE
12 PARTIES' RIGHT TO A FAIR TRIAL OR TO ENSURE COMPLIANCE WITH THE
13 SEQUESTRATION ORDER.

14 (f) FOR CRIMINAL COURTS THAT DO NOT HAVE SUFFICIENT
15 EXISTING STAFF OR TECHNOLOGICAL CAPABILITIES TO MAKE PROCEEDINGS
16 AVAILABLE FOR REMOTE OBSERVATION AS OF THE EFFECTIVE DATE OF THIS
17 SUBSECTION (3.5), IF THE COURT SUBSEQUENTLY OBTAINS SUCH STAFF
18 AND CAPABILITIES, THE COURT MUST COMPLY WITH THE PROVISIONS OF
19 THIS SECTION WITHIN NINETY DAYS AFTER OBTAINING SUCH STAFF AND
20 CAPABILITIES.

21 (g) THIS SUBSECTION (3.5) DOES NOT APPLY TO JUVENILE
22 DELINQUENCY CASES PURSUANT TO TITLE 19 OR TO CASES IN WHICH A
23 JUVENILE HAS BEEN CHARGED BY DIRECT FILING OF INFORMATION OR AN
24 INDICTMENT IN DISTRICT COURT PURSUANT TO SECTION 19-2.5-801 UNTIL
25 THE COMPLETION OF A PRELIMINARY HEARING AND COMPLETION OF ANY
26 HEARING REQUESTING TO TRANSFER THE CASE TO JUVENILE COURT
27 PURSUANT TO SECTION 19-2.5-801 (4).

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

3 **13-10-103. Applicability.** This article 10 applies to and governs
4 the operation of municipal courts in the cities and towns of this state.
5 Except for the provisions relating to the method of salary payment for
6 municipal judges, the incarceration of children pursuant to sections
7 19-2.5-305 and 19-2.5-1511, the appearance of the parent, guardian, or
8 lawful custodian of any child under eighteen years of age who is charged
9 with a municipal offense as required by section 13-10-111, the right to a
10 trial by jury for petty offenses pursuant to section 16-10-109, relief from
11 improperly entered guilty pleas pursuant to section 18-1-410.6, MAKING
12 CRIMINAL COURT PROCEEDING CONDUCTED IN OPEN COURT AVAILABLE
13 FOR REMOTE PUBLIC VIEWING AND LISTENING IN REAL TIME, rules of
14 procedure promulgated by the supreme court, and appellate procedure,
15 this article 10 may be superseded by charter or ordinance enacted by a
16 home rule city.

17 **SECTION 4. Act subject to petition - effective date.** This act
18 takes effect September 1, 2023; except that, if a referendum petition is
19 filed pursuant to section 1 (3) of article V of the state constitution against
20 this act or an item, section, or part of this act within the ninety-day period
21 after final adjournment of the general assembly, then the act, item,
22 section, or part will not take effect unless approved by the people at the
23 general election to be held in November 2024 and, in such case, will take
24 effect on the date of the official declaration of the vote thereon by the
25 governor.