

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

ENGROSSED

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

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.

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, THE
11 COURT MAKES FINDINGS ON THE RECORD BASED ON THE PARTICULAR
12 FACTS AND CIRCUMSTANCES OF THE CASE THAT:

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

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

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

27 (c) WHEN ALLOWING REMOTE OBSERVATION, COURTS SHALL TAKE

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

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

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

25 (I) ANNOUNCING THE SEQUESTRATION ORDER AS FREQUENTLY AS
26 NECESSARY IN OPEN COURT;

27 (II) REQUIRING OBSERVERS TO IDENTIFY THEMSELVES TO ENSURE

1 NONE ARE POTENTIAL WITNESSES AND THAT ANY OBSERVERS WHO ARE
2 FORBIDDEN FROM DISCUSSING THE CASE WITH WITNESSES KNOW OF THAT
3 OBLIGATION;

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

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

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

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

21 **13-10-103. Applicability.** This article 10 applies to and governs
22 the operation of municipal courts in the cities and towns of this state.
23 Except for the provisions relating to the method of salary payment for
24 municipal judges, the incarceration of children pursuant to sections
25 19-2.5-305 and 19-2.5-1511, the appearance of the parent, guardian, or
26 lawful custodian of any child under eighteen years of age who is charged
27 with a municipal offense as required by section 13-10-111, the right to a

1 trial by jury for petty offenses pursuant to section 16-10-109, relief from
2 improperly entered guilty pleas pursuant to section 18-1-410.6, MAKING
3 CRIMINAL COURT PROCEEDING CONDUCTED IN OPEN COURT AVAILABLE
4 FOR REMOTE PUBLIC VIEWING AND LISTENING IN REAL TIME, rules of
5 procedure promulgated by the supreme court, and appellate procedure,
6 this article 10 may be superseded by charter or ordinance enacted by a
7 home rule city.

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