



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB1859

Introduced 2/26/2021, by Sen. Terri Bryant

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/106D-1  
725 ILCS 5/106D-5 new

Amends the Code of Criminal Procedure of 1963. Provides that the chief judge of the circuit by rule may permit the personal appearance of the defendant by means of two-way audio-visual communication, including closed circuit television and computerized video conference, at a hearing at which no witness testimony will be taken concerning the defendant's fitness to stand trial: (1) 90-day hearings; (2) trials with special provisions and assistance; (3) discharge hearings; and (4) proceedings after acquittal by reason of insanity. Provides that, subject to appropriation, the Department of Human Services and the Administrative Office of the Illinois Courts shall implement a pilot project between the circuit courts in 2 counties and Department of Human Services facilities treating persons unfit to stand trial or not guilty by reason of insanity. Provides that the purpose of the pilot project is to determine the feasibility and desirability of using video conference technology for hearings involving persons who are unfit to stand trial and persons who have been determined not guilty by reason of insanity. Provides that the Department of Human Services and the Administrative Office of the Illinois Courts shall submit a joint report to the General Assembly 6 months after the pilot project between the 2 counties and Department facilities has been operational for at least 2 years. Provides that the report shall: (1) evaluate the effectiveness of the video conference hearing process; and (2) make recommendations concerning the implementation of video conference hearings in all counties. Effective July 1, 2021.

LRB102 16981 KMF 22399 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 106D-1 and by adding Section  
6 106D-5 as follows:

7 (725 ILCS 5/106D-1)

8 Sec. 106D-1. Defendant's appearance by closed circuit  
9 television and video conference.

10 (a) Whenever the appearance in person in court, in either  
11 a civil or criminal proceeding, is required of anyone held in a  
12 place of custody or confinement operated by the State or any of  
13 its political subdivisions, including counties and  
14 municipalities, the chief judge of the circuit by rule may  
15 permit the personal appearance to be made by means of two-way  
16 audio-visual communication, including closed circuit  
17 television and computerized video conference, in the following  
18 proceedings:

19 (1) the initial appearance before a judge on a  
20 criminal complaint, at which bail will be set;

21 (2) the waiver of a preliminary hearing;

22 (3) the arraignment on an information or indictment at  
23 which a plea of not guilty will be entered;

- 1 (4) the presentation of a jury waiver;
- 2 (5) any status hearing;
- 3 (6) any hearing conducted under the Sexually Violent  
4 Persons Commitment Act at which no witness testimony will  
5 be taken; and
- 6 (7) at any hearing ~~conducted under the Sexually~~  
7 ~~Violent Persons Commitment Act~~ at which no witness  
8 testimony will be taken conducted under the following:
- 9 (A) Section 104-20 of this Code (90-day hearings);
- 10 (B) Section 104-22 of this Code (trial with  
11 special provisions and assistance);
- 12 (C) Section 104-25 of this Code (discharge  
13 hearing); or
- 14 (D) Section 5-2-4 of the Unified Code of  
15 Corrections (proceedings after acquittal by reason of  
16 insanity).

17 (b) The two-way audio-visual communication facilities must  
18 provide two-way audio-visual communication between the court  
19 and the place of custody or confinement, and must include a  
20 secure line over which the person in custody and his or her  
21 counsel, if any, may communicate.

22 (c) Nothing in this Section shall be construed to prohibit  
23 other court appearances through the use of two-way  
24 audio-visual communication, upon waiver of any right the  
25 person in custody or confinement may have to be present  
26 physically.

1 (d) Nothing in this Section shall be construed to  
2 establish a right of any person held in custody or confinement  
3 to appear in court through two-way audio-visual communication  
4 or to require that any governmental entity, or place of  
5 custody or confinement, provide two-way audio-visual  
6 communication.

7 (Source: P.A. 95-263, eff. 8-17-07.)

8 (725 ILCS 5/106D-5 new)

9 Sec. 106D-5. Pilot project; reporting.

10 (a) Subject to appropriation, the Department of Human  
11 Services and the Administrative Office of the Illinois Courts  
12 shall implement a pilot project between the circuit courts in  
13 2 counties and Department of Human Services facilities  
14 treating persons unfit to stand trial or not guilty by reason  
15 of insanity.

16 (b) The purpose of the pilot project is to determine the  
17 feasibility and desirability of using video conference  
18 technology for hearings involving persons who are unfit to  
19 stand trial and persons who have been determined not guilty by  
20 reason of insanity. The Department of Human Services and the  
21 Administrative Office of the Illinois Courts shall review the  
22 video conference technology and develop guidelines for the  
23 specific technology, means of private conferencing between the  
24 defendant and his or her attorney during the hearings, and any  
25 specific determinations that are not suitable for video

1 conference hearings. The Department of Human Services and the  
2 Administrative Office of the Illinois Courts shall submit a  
3 joint report to the General Assembly 6 months after the pilot  
4 project between the 2 counties and Department facilities has  
5 been operational for at least 2 years. Individual defendants,  
6 State's Attorneys, defense attorneys, and other personnel may  
7 submit comments to be considered in preparing the joint  
8 report. Presiding judges may submit comments to either the  
9 Department of Human Services or to the Administrative Office  
10 of the Illinois Courts. All comments submitted only to the  
11 Administrative Office of the Illinois Courts shall be  
12 confidential and also may contain the reporting judge's  
13 observations, comments, or recommendations. The reports shall:

14 (1) evaluate the effectiveness of the video conference  
15 hearing process; and

16 (2) make recommendations concerning the implementation  
17 of video conference hearings in all counties.

18 (c) The Department of Human Services shall provide all  
19 necessary administrative support for the pilot project.

20 Section 99. Effective date. This Act takes effect July 1,  
21 2021.