



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5591

by Rep. Frances Ann Hurley

#### 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) trial with special provisions and assistance; and (3) discharge hearings; and proceedings after acquittal by reason of insanity. Provides that subject to appropriations, 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 utilizing 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, 2020.

LRB101 16754 RLC 66144 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 106D-5  
6 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 a  
11 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 criminal  
20 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 Violent~~  
7 ~~Persons Commitment Act~~ at which no witness testimony will  
8 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 special  
11 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 audio-visual  
24 communication, upon waiver of any right the person in custody  
25 or confinement may have to be present physically.

26 (d) Nothing in this Section shall be construed to establish

1 a right of any person held in custody or confinement to appear  
2 in court through two-way audio-visual communication or to  
3 require that any governmental entity, or place of custody or  
4 confinement, provide two-way audio-visual communication.

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

6 (725 ILCS 5/106D-5 new)

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

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

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

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

12 (1) evaluate the effectiveness of the video conference  
13 hearing process; and

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

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

18 Section 99. Effective date. This Act takes effect July 1,  
19 2020.