87R22026 YDB-F

By:  Leach H.B. No. 3611

Substitute the following for H.B. No. 3611:

By:  Schofield C.S.H.B. No. 3611

A BILL TO BE ENTITLED

AN ACT

relating to remotely conducting court proceedings in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 21.009, Government Code, is amended by adding Subdivision (5) to read as follows:

(5)  "Remote proceeding" means a proceeding before a court in which one or more of the participants, including a judge, party, attorney, witness, court reporter, juror, or other individual, attends the proceeding remotely through the use of technology and the Internet.

SECTION 2.  Chapter 21, Government Code, is amended by adding Section 21.013 to read as follows:

Sec. 21.013.  OPTION FOR REMOTE PROCEEDING. (a) Notwithstanding any other law and except as limited by the United States Constitution, the Texas Constitution, rules adopted by the Texas Supreme Court, or this section, a court in this state as the court determines appropriate, on the court's own motion or on the motion of any party, may:

(1)  conduct a hearing or other proceeding as a remote proceeding; and

(2)  allow or require a judge, party, attorney, witness, court reporter, juror, or any other individual to participate in a remote proceeding, including a deposition, hearing, trial, or other proceeding.

(b)  A court that elects to conduct a remote proceeding must:

(1)  provide adequate notice of the remote proceeding to the parties to the proceeding;

(2)  allow a party to file with the court a motion objecting to the remote proceeding and requesting an in-person proceeding not later than the 10th day after the date the party receives the notice; and

(3)  provide a method for a person described by Subsection (a)(2) to notify the court that the person is unable to participate in the remote proceeding because the person is a person with a disability, lacks the required technology, or shows other good cause and:

(A)  provide an alternate method for the person to participate that accommodates the disability, lack of technology, or other situation;

(B)  allow the person to appear in person; or

(C)  conduct the proceeding as an in-person proceeding.

(c)  On the court's receipt from any party to a proceeding of a motion objecting to the conduct of the proceeding as a remote proceeding and requesting an in-person proceeding, the court shall consider the motion and grant the motion for good cause shown.

(d)  In any contested adversarial or contested evidentiary criminal proceeding for an offense punishable by confinement, the prosecutor and defendant must each agree for the proceeding to be conducted as a remote proceeding. If the prosecutor or defendant does not agree, the proceeding may not be held as a remote proceeding.

(e)  A district court, statutory county court, statutory probate court, or county court may not conduct a jury trial as a remote proceeding unless each party to the proceeding agrees to conduct the proceeding as a remote proceeding.

(f)  For a jury trial that is to be conducted as a remote proceeding in a justice or municipal court, the court shall consider on the record any motion or objection related to proceeding with the trial not later than the seventh day before the trial date, except that if the motion or objection is made later than the seventh day before the trial date, the court must consider the motion or objection on the record as soon as practicable.

(g)  A court that conducts a jury trial as a remote proceeding shall ensure all prospective jurors have access to the technology necessary to participate in the remote proceeding.

(h)  A court that conducts a remote proceeding at a location other than the location the court regularly conducts proceedings must provide to the public reasonable notice of the location of the remote proceeding and an opportunity to observe the remote proceeding.

(i)  The Office of Court Administration of the Texas Judicial System shall provide guidance and assistance to the extent possible to a court conducting a remote proceeding.

(j)  For purposes of any law requiring notice or citation of the time and place for a proceeding, notice of the remote means by which the proceeding will be conducted and the method for accessing the proceeding through that remote means constitutes notice of the place for the proceeding.

SECTION 3.  The following provisions are repealed:

(1)  Section 30.012(b), Civil Practice and Remedies Code; and

(2)  Section 54.012(b), Family Code.

SECTION 4.  As soon as practicable after the effective date of this Act, the Texas Supreme Court shall adopt the rules necessary to implement the changes in law made by this Act. Before adopting the rules, the supreme court must consult with interested parties, including prosecutors, criminal defense attorneys, judges, and representatives from the State Bar of Texas and Disability Rights Texas.

SECTION 5.  The Texas Legislative Council, with the assistance of the Office of Court Administration of the Texas Judicial System, shall prepare for consideration by the 88th Legislature a nonsubstantive revision of the statutes of this state as necessary to reflect the changes in law made by this Act.

SECTION 6.  This Act takes effect September 1, 2021.