

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 12, 2021

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3611 by Leach (Relating to remotely conducting court proceedings in this state.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to authorize a court, on the court's motion or the motion of any party, to conduct a hearing or other proceeding as a "remote proceeding" without the consent of the parties unless the US Constitution or Texas Constitution requires consent. The bill would also authorize a court to 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. The bill would require the Office of Court Administration (OCA) to provide guidance and assistance to the extent possible to a court conducting remote proceedings.

In any criminal proceeding that constitutionally requires consent to proceed remotely, the bill would require both the prosecution and the defense to each consent to remote proceedings, and where consent of one or the other is lacking the proceeding could not be held remotely. For remote jury trial proceedings, the bill would require the court to consider within a certain amount of time and on the record motions or objections related to proceeding with the trial and ensure all prospective jurors have access to the technology necessary to participate in the remote proceeding. Where a remote proceeding is conducted away from the court's usual location, the court would be required to provide reasonable notice to the public and an opportunity to observe the proceeding. The bill would provide that, for purposes of any law requiring notice or citation of time and place of 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.

The bill would make conforming changes, and repeal Civil Practice and Remedies Code Section 30.012(b), which provides that witness testimony at trial may be conducted by electronic means only if the witness is deposed before the commencement of the trial, and Family Code Section 54.012(b), which provides that a detention hearing cannot be held using video equipment unless it provides for certain two-way communication of image and sound at the hearing.

Based on information provided by OCA, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, SLE, BH, AF