

- SUBJECT:** Authorizing courts to conduct remote proceedings
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 8 ayes — Leach, Davis, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith
- 0 nays
- 1 absent — Dutton
- WITNESSES:** For — Nicholas Chu, Justices of the Peace and Constables Association; (*Registered, but did not testify:* Melissa Shannon, Bexar County Commissioners Court; TJ Patterson, City of Fort Worth; Sonia Gibson, Encore Capital Group; Ender Reed, Harris County Commissioners Court; Noel Johnson, Carlos Lopez and Jama Pantel, Justices of the Peace and Constables Association of Texas; Kristy Sledge, Midland Credit Management Inc.; Tom Maddox, Sheriffs Association of Texas; Lee Parsley, Texans for Lawsuit Reform; Craig Noack, Texas Creditors Bar Association; Shea Place, Texas Criminal Defense Lawyers Association; Deanna L. Kuykendall, Texas Municipal Courts Association; Julie Wheeler, Travis County Commissioners Court; Guy Herman, Travis County Probate Court; Maureen Ball)
- Against — Tracy Harting, Texas Association of Family Defense Attorneys; Laura Tamez, Texas Trial Lawyers Association
- On — Kristal Thomson, Family Law Section, State Bar of Texas; Steve Bresnen, Texas Court Reporters Association; David Slayton, Texas Judicial Council; Roy Ferguson; Julia Hatcher; Staley Heatly; Emily Miskel; (*Registered, but did not testify:* George Christian, Texas Civil Justice League)
- BACKGROUND:** Some have noted that remote court hearings can improve accessibility and efficiency, while saving time and money, and have called for allowing Texas courts to conduct certain proceedings remotely.

DIGEST: CSHB would authorize courts to conduct remote hearings, subject to the conditions in the bill.

"Remote proceedings" would be defined as 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, attended the proceeding remotely through the use of technology and the internet.

Authorization, requirements for remote proceedings. Courts could conduct a hearing or other proceeding as a remote proceeding and allow or require a judge, party, attorney, witness, court reporter, juror, or any other individual to participate in a remote proceeding. The proceedings could include a deposition, hearing, trial, or other proceeding.

Courts holding remote hearings would have to:

- provide adequate notice of the remote proceeding to the parties;
- allow a party to file a motion objecting to the remote proceeding and requesting an in-person proceeding within 10 days of receiving the notice; and
- provide a method for individuals to notify the court that they were unable to participate in the remote proceeding because they were an individual with a disability, lacked the required technology, or showed other good cause and provide an alternate method for participation, allow the person to appear in person, or conduct the proceeding as an in-person proceeding.

Courts could conduct remote hearings on the court's own motion or on the motion of any party.

The authority to conduct remote proceedings would be subject to any limits established by the U.S. and Texas constitutions and any rules adopted by the Texas Supreme Court.

Agreement to remote proceeding. If a court received an objection to the

remote proceeding and a request for an in-person proceeding, the court would have to consider the motion and grant the motion for good cause.

In contested adversarial or contested evidentiary criminal proceeding for an offense punishable by confinement, the prosecutor and defendant would have to agree for the proceeding to be remote. If the prosecutor or defendant did not agree, the proceeding could not be held as a remote proceeding.

A district court, statutory county court, statutory probate court, or county court could not conduct a jury trial as a remote proceeding unless each party to the proceeding agreed.

In justice or municipal courts holding jury trials as remote proceedings, courts would have to consider any motion or objection related to proceeding with the trial within seven days before the trial. However, if the motion or objection was made later than the seventh day before the trial date, the court would have to consider the motion or objection on the record as soon as practicable.

Notice to the public. Courts conducting remote proceedings at a location other than the location the court regularly holds proceedings would have to provide the public with reasonable notice of the location of the remote proceeding and an opportunity to observe it. To meet the requirements of any law requiring notice or citation of the time and place for a proceeding, the notice of the remote means of how the proceeding would be conducted and the method for accessing the proceeding would constitute notice of the place for the proceeding.

Assistance, effective date. The Office of Court Administration would have to provide guidance and assistance to the extent possible to a court conducting a remote proceeding.

Courts conducting a remote jury trial would have to ensure all prospective jurors had access to the technology necessary to participate.

The bill would take effect September 1, 2021. The Texas Supreme Court would have to adopt rules to implement the bill as soon as practicable after the effective date.