

By: Leach

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:

ARTICLE 1. REMOTE PROCEEDINGS

SECTION 1.001. 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 1.002. 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, a court in this state 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 without the consent of the parties unless the United States Constitution or Texas Constitution requires consent; 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) In any criminal proceeding that under the United States

1 Constitution or Texas Constitution requires the consent of the
2 parties for the proceeding to be conducted as a remote proceeding,
3 the prosecutor and defendant must each consent for the proceeding
4 to be conducted as a remote proceeding. If the prosecutor or
5 defendant does not consent, the proceeding may not be held as a
6 remote proceeding.

7 (c) For a jury trial that is to be conducted as a remote
8 proceeding, a court shall:

9 (1) consider on the record any motion or objection
10 related to proceeding with the trial not later than the seventh day
11 before the trial date, except that if the motion or objection is
12 made later than the seventh day before the trial date, the court
13 must consider the motion or objection on the record as soon as
14 practicable; and

15 (2) ensure all prospective jurors have access to the
16 technology necessary to participate in the remote proceeding.

17 (d) If a remote proceeding is conducted away from the
18 court's usual location, the court must provide reasonable notice to
19 the public and an opportunity to observe the proceeding.

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

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

ARTICLE 2. CONFORMING CHANGES

SECTION 2.001. Section 30.012(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) Subject [~~With the agreement of the parties, and subject~~] to Section 21.013, Government Code [~~Subsection (b)~~], a trial judge may order that a hearing of a preliminary matter or witness testimony at trial may be conducted by electronic means, including satellite transmission, closed-circuit television transmission, or any other method of two-way electronic communication that is available to the parties, approved by the court, and capable of visually and audibly recording the proceedings.

SECTION 2.002. Article 27.18(a), Code of Criminal Procedure, is amended to read as follows:

(a) Subject to Section 21.013, Government Code, and notwithstanding [~~Notwithstanding~~] any provision of this code requiring that a plea or a waiver of a defendant's right be made in open court, a court may accept the plea or waiver by videoconference to the court if:

(1) [~~the defendant and the attorney representing the state file with the court written consent to the use of videoconference,~~

[~~(2)~~] the videoconference provides for a simultaneous, compressed full motion video, and interactive communication of image and sound between the judge, the attorney representing the state, the defendant, and the defendant's attorney; and

(2) [~~(3)~~] on request of the defendant, the defendant

1 and the defendant's attorney are able to communicate privately
2 without being recorded or heard by the judge or the attorney
3 representing the state.

4 SECTION 2.003. Section 53.102(a), Estates Code, is amended
5 to read as follows:

6 (a) If a judge is unable to designate the time and place, or
7 the time and remote means in accordance with Section 21.013,
8 Government Code, for hearing a probate matter pending in the
9 judge's court because the judge [~~is absent from the county seat or~~
10 is on vacation, disqualified, ill, or deceased, the county clerk of
11 the county in which the matter is pending may:

12 (1) designate the time and place, or the time and
13 remote means in accordance with Section 21.013, Government Code,
14 for the hearing;

15 (2) enter the setting on the judge's docket; and

16 (3) certify on the docket the reason that the judge is
17 not acting to set the hearing.

18 SECTION 2.004. Section 1053.102(a), Estates Code, is
19 amended to read as follows:

20 (a) If a judge is unable to designate the time and place, or
21 the time and remote means in accordance with Section 21.013,
22 Government Code, for hearing a guardianship proceeding pending in
23 the judge's court because the judge [~~is absent from the county seat~~
24 ~~or~~] is on vacation, disqualified, ill, or deceased, the county
25 clerk of the county in which the proceeding is pending may:

26 (1) designate the time and place, or the time and
27 remote means in accordance with Section 21.013, Government Code,

1 for the hearing;

2 (2) enter the setting on the judge's docket; and

3 (3) certify on the docket the reason that the judge is
4 not acting to set the hearing.

5 SECTION 2.005. Section 1055.053, Estates Code, is amended
6 to read as follows:

7 Sec. 1055.053. LOCATION OR MEANS OF HEARING. (a) Except as
8 provided by Subsection (b), the judge may hold a hearing on a
9 guardianship proceeding involving an adult ward or adult proposed
10 ward at any suitable location in the county in which the
11 guardianship proceeding is pending or as a remote proceeding as
12 authorized by Section 21.013, Government Code. The hearing should
13 be held in a physical setting that is not likely to have a harmful
14 effect on the ward or proposed ward.

15 (b) On the request of the adult proposed ward, the adult
16 ward, or the attorney of the proposed ward or ward, the hearing may
17 not be held under the authority of this section at a place other
18 than the courthouse except as authorized by Section 21.013,
19 Government Code.

20 SECTION 2.006. Section 51.115(c), Family Code, is amended
21 to read as follows:

22 (c) A person required under this section to attend a hearing
23 is entitled to reasonable written or oral notice that includes a
24 statement of the location of, subject to Section 21.013, Government
25 Code, and the [place] date[] and time of, the hearing and that the
26 attendance of the person is required. The notice may be included
27 with or attached to any other notice required by this chapter to be

1 given the person. Separate notice is not required for a disposition
2 hearing that convenes on the adjournment of an adjudication
3 hearing. If a person required under this section fails to attend a
4 hearing, the juvenile court may proceed with the hearing.

5 SECTION 2.007. Section 54.012(a), Family Code, is amended
6 to read as follows:

7 (a) Subject to Section 21.013, Government Code, a [A]
8 detention hearing under Section 54.01 may be held using interactive
9 video equipment if[+]

10 [~~(1) the child and the child's attorney agree to the~~
11 ~~video hearing; and~~

12 [~~(2)~~] the parties to the proceeding have the
13 opportunity to cross-examine witnesses.

14 SECTION 2.008. Sections 22.202(a) and (g), Government Code,
15 are amended to read as follows:

16 (a) Subject to Section 21.013, the [The] Court of Appeals
17 for the First Court of Appeals District shall be held in the City of
18 Houston.

19 (g) The First Court of Appeals may transact its business in
20 any county in the First Court of Appeals District as the court
21 determines necessary and convenient or as provided by Section
22 21.013.

23 SECTION 2.009. Sections 22.203(a) and (b), Government Code,
24 are amended to read as follows:

25 (a) Subject to Section 21.013, the [The] Court of Appeals
26 for the Second Court of Appeals District shall be held in the City
27 of Fort Worth.

1 (b) The court may transact its business in any county in the
2 district as the court determines is necessary or convenient or as
3 provided by Section 21.013.

4 SECTION 2.010. Sections 22.204(a) and (b), Government Code,
5 are amended to read as follows:

6 (a) Subject to Section 21.013, the [~~The~~] Court of Appeals
7 for the Third Court of Appeals District shall be held in the City of
8 Austin.

9 (b) The court may transact its business:

10 (1) at the county seat of any of the counties within
11 its district as the court determines is necessary and convenient,
12 except that all cases originating in Travis County shall be heard
13 and transacted in that county, subject to Subdivision (2); or

14 (2) as provided by Section 21.013.

15 SECTION 2.011. Section 22.205, Government Code, is amended
16 to read as follows:

17 Sec. 22.205. FOURTH COURT OF APPEALS. (a) Subject to
18 Section 21.013, the [~~The~~] Court of Appeals for the Fourth Court of
19 Appeals District shall be held in the City of San Antonio.

20 (b) The court may transact its business:

21 (1) at the county seat of any of the counties within
22 its district, as the court determines is necessary and convenient,
23 except that all cases originating in Bexar County that the court
24 hears shall be heard and transacted in that county, subject to
25 Subdivision (2); or

26 (2) as provided by Section 21.013.

27 SECTION 2.012. Sections 22.206(a) and (b), Government Code,

1 are amended to read as follows:

2 (a) Subject to Section 21.013, the [~~The~~] Court of Appeals
3 for the Fifth Court of Appeals District shall be primarily held in
4 the City of Dallas.

5 (b) The court may transact its business in any county in the
6 district as the court determines is necessary and convenient or as
7 provided by Section 21.013.

8 SECTION 2.013. Section 22.207, Government Code, is amended
9 to read as follows:

10 Sec. 22.207. SIXTH COURT OF APPEALS. (a) Subject to
11 Section 21.013, the [~~The~~] Court of Appeals for the Sixth Court of
12 Appeals District shall be held in the City of Texarkana.

13 (b) The court may transact its business:

14 (1) in the City of Texarkana or the county seat of any
15 county in the district as the court determines is necessary or
16 convenient, except that all cases originating in Bowie County shall
17 be heard and transacted in the City of Texarkana, subject to
18 Subdivision (2); or

19 (2) as provided by Section 21.013.

20 SECTION 2.014. Section 22.208, Government Code, is amended
21 to read as follows:

22 Sec. 22.208. SEVENTH COURT OF APPEALS. Subject to Section
23 21.013, the [~~The~~] Court of Appeals for the Seventh Court of Appeals
24 District shall be held in the City of Amarillo.

25 SECTION 2.015. Section 22.209, Government Code, is amended
26 to read as follows:

27 Sec. 22.209. EIGHTH COURT OF APPEALS. (a) Subject to

1 Section 21.013, the [~~The~~] Court of Appeals for the Eighth Court of
2 Appeals District shall be held in the City of El Paso.

3 (b) The court may transact its business:

4 (1) at the county seat of any county in the district as
5 the court determines is necessary and convenient, except all cases
6 originating in El Paso County shall be heard and transacted in that
7 county, subject to Subdivision (2); or

8 (2) as provided by Section 21.013.

9 SECTION 2.016. Sections 22.210(a) and (c), Government Code,
10 are amended to read as follows:

11 (a) Subject to Section 21.013, the [~~The~~] Court of Appeals
12 for the Ninth Court of Appeals District shall be held in the City of
13 Beaumont.

14 (c) The court may transact its business in the City of
15 Beaumont or the county seat of any county in the district as the
16 court determines is necessary or convenient, or as provided by
17 Section 21.013.

18 SECTION 2.017. Section 22.211(a), Government Code, is
19 amended to read as follows:

20 (a) Subject to Section 21.013, the [~~The~~] Court of Appeals
21 for the Tenth Court of Appeals District shall be held in the City of
22 Waco or in the county seat of any county located within the Tenth
23 Court of Appeals District.

24 SECTION 2.018. Sections 22.212(a) and (c), Government Code,
25 are amended to read as follows:

26 (a) Subject to Section 21.013, the [~~The~~] Court of Appeals
27 for the Eleventh Court of Appeals District shall be held in the City

1 of Eastland.

2 (c) The court may transact its business in the City of
3 Eastland or in any county in the district as the court determines is
4 necessary or convenient, or as provided by Section 21.013.

5 SECTION 2.019. Sections 22.213(a) and (c), Government Code,
6 are amended to read as follows:

7 (a) Subject to Section 21.013, the ~~[The]~~ Court of Appeals
8 for the Twelfth Court of Appeals District shall be held in the City
9 of Tyler.

10 (c) The court may transact its business:

11 (1) in the City of Tyler or at the county seat of any
12 county in the district as the court determines is necessary or
13 convenient, except that all cases originating in Smith County shall
14 be heard and transacted in the City of Tyler, subject to Subdivision
15 (2); or

16 (2) as provided by Section 21.013.

17 SECTION 2.020. Sections 22.214(a) and (c), Government Code,
18 are amended to read as follows:

19 (a) Subject to Section 21.013, the ~~[The]~~ Court of Appeals
20 for the Thirteenth Court of Appeals District shall be held in the
21 City of Corpus Christi and the City of Edinburg.

22 (c) The court may transact its business:

23 (1) subject to Subdivision (2), at the county seat of
24 any county in the district as the court determines is necessary and
25 convenient, except that:

26 (A) ~~[(1)]~~ all cases originating in Nueces County
27 shall be heard and transacted in Nueces County, subject to

1 Subdivision (2); and

2 (B) [~~(2)~~] all cases originating in Cameron,
3 Hidalgo, or Willacy County shall be heard and transacted in
4 Cameron, Hidalgo, or Willacy County, subject to Subdivision (2); or
5 (2) as provided by Section 21.013.

6 SECTION 2.021. Sections 22.215(a) and (c), Government Code,
7 are amended to read as follows:

8 (a) Subject to Section 21.013, the [~~The~~] Court of Appeals
9 for the Fourteenth Court of Appeals District shall be held in the
10 City of Houston.

11 (c) The Fourteenth Court of Appeals may transact its
12 business in any county in the First Court of Appeals District as the
13 court determines necessary and convenient or as provided by Section
14 21.013.

15 SECTION 2.022. Subchapter A, Chapter 24, Government Code,
16 is amended by adding Section 24.0301 to read as follows:

17 Sec. 24.0301. REMOTE PROCEEDINGS. Notwithstanding Section
18 24.030 or any other provision of this chapter requiring a district
19 court to sit and conduct the court's proceedings in a specified
20 county or municipality, a district court may conduct the court's
21 proceedings as provided by Section 21.013.

22 SECTION 2.023. Section 25.0001(a), Government Code, is
23 amended to read as follows:

24 (a) This subchapter applies to each statutory county court
25 in this state. Except as provided by Section 25.00105, if [~~if~~]
26 provision of this subchapter conflicts with a specific provision
27 for a particular court or county, the specific provision controls.

1 SECTION 2.024. Subchapter A, Chapter 25, Government Code,
2 is amended by adding Section 25.00105 to read as follows:

3 Sec. 25.00105. REMOTE PROCEEDINGS. Notwithstanding any
4 other law, including a specific provision in this chapter for a
5 particular court or county that requires a statutory county court
6 to sit and conduct the court's proceedings at the county seat, a
7 statutory county court may conduct the court's proceedings as
8 provided by Section 21.013.

9 SECTION 2.025. Subchapter B, Chapter 25, Government Code,
10 is amended by adding Section 25.00305 to read as follows:

11 Sec. 25.00305. REMOTE PROCEEDINGS. Notwithstanding any
12 other law, including a specific provision in this chapter for a
13 particular court or county that requires a statutory probate court
14 to sit and conduct the court's proceedings at the county seat, a
15 statutory probate court may conduct the court's proceedings as
16 provided by Section 21.013.

17 SECTION 2.026. Section 26.002(c), Government Code, is
18 amended to read as follows:

19 (c) All terms of court must be held at the county seat,
20 except that the court may conduct the court's proceedings as
21 provided by Section 21.013.

22 SECTION 2.027. Section 27.051(b), Government Code, is
23 amended to read as follows:

24 (b) Subject to Section 21.013:

25 (1) each [~~Each~~] justice shall hold the regular term of
26 court at the justice's office at times prescribed by the
27 commissioners court; and

1 (2) the~~[-The]~~ commissioners court shall set the time
2 and place for holding justice court.

3 SECTION 2.028. Section 30.00001(c), Government Code, is
4 amended to read as follows:

5 (c) Except as provided by Section 30.00138(b)(2), if ~~[if]~~ a
6 provision of this subchapter conflicts with a specific provision
7 for a particular municipality, the specific provision controls.

8 SECTION 2.029. Section 30.00138, Government Code, is
9 amended to read as follows:

10 Sec. 30.00138. TERM OF COURT. (a) The appellate court may
11 sit for the transaction of business at any time during the year, and
12 each term begins and ends with the calendar year.

13 (b) The appellate court may:

14 (1) use the city council chambers or other appropriate
15 location as its courtroom for argument of cases and other court
16 matters; or

17 (2) conduct proceedings as provided by Section 21.013.

18 SECTION 2.030. Sections 573.012(a) and (h), Health and
19 Safety Code, are amended to read as follows:

20 (a) Except as provided by Subsection (h) and Section 21.013,
21 Government Code, an applicant for emergency detention must present
22 the application personally to a judge or magistrate. The judge or
23 magistrate shall examine the application and may interview the
24 applicant. Except as provided by Subsection (g), the judge of a
25 court with probate jurisdiction by administrative order may provide
26 that the application must be:

27 (1) presented personally to the court; or

1 (2) retained by court staff and presented to another
2 judge or magistrate as soon as is practicable if the judge of the
3 court is not available at the time the application is presented.

4 (h) A judge or magistrate may permit an applicant [~~who is a~~
5 ~~physician~~] to present an application by:

6 (1) e-mail with the application attached as a secure
7 document in a portable document format (PDF); or

8 (2) subject to Section 21.013, Government Code, secure
9 electronic means, including:

10 (A) satellite transmission;

11 (B) closed-circuit television transmission; or

12 (C) any other method of two-way electronic
13 communication that:

14 (i) is secure;

15 (ii) is available to the judge or
16 magistrate; and

17 (iii) provides for a simultaneous,
18 compressed full-motion video and interactive communication of
19 image and sound between the judge or magistrate and the applicant.

20 SECTION 2.031. Sections 574.031(a) and (b), Health and
21 Safety Code, are amended to read as follows:

22 (a) Except as provided by Subsection (b), the judge may hold
23 a hearing on an application for court-ordered mental health
24 services at any suitable location in the county or as a remote
25 proceeding as authorized by Section 21.013, Government Code. The
26 hearing should be held in a physical setting that is not likely to
27 have a harmful effect on the proposed patient.

1 (b) On the request of the proposed patient or the proposed
2 patient's attorney the hearing on the application shall be held in
3 the county courthouse except as authorized by Section 21.013,
4 Government Code.

5 SECTION 2.032. Section 574.203(a), Health and Safety Code,
6 is amended to read as follows:

7 (a) Subject to Section 21.013, Government Code, a [A]
8 hearing may be conducted in accordance with this chapter but
9 conducted by secure electronic means, including satellite
10 transmission, closed-circuit television transmission, or any other
11 method of two-way electronic communication that is secure,
12 available to the parties, approved by the court, and capable of
13 visually and audibly recording the proceedings, if:

14 (1) [~~written consent to the use of a secure electronic~~
15 ~~communication method for the hearing is filed with the court by:~~

16 [~~(A) the proposed patient or the attorney~~
17 ~~representing the proposed patient, and~~

18 [~~(B) the county or district attorney, as~~
19 ~~appropriate,~~

20 [~~2~~] the secure electronic communication method
21 provides for a simultaneous, compressed full-motion video, and
22 interactive communication of image and sound among the judge or
23 associate judge, the county or district attorney, the attorney
24 representing the proposed patient, and the proposed patient; and

25 (2) [~~3~~] on request of the proposed patient or the
26 attorney representing the proposed patient, the proposed patient
27 and the attorney can communicate privately without being recorded

1 or heard by the judge or associate judge or by the county or
2 district attorney.

3 SECTION 2.033. Section 292.001(d), Local Government Code,
4 is amended to read as follows:

5 (d) A justice of the peace court may not be housed or
6 conducted in a building located outside the court's precinct except
7 as provided by Section 21.013, 27.051(f), or 27.0515, Government
8 Code, or unless the justice of the peace court is situated in the
9 county courthouse in a county with a population of at least 275,000
10 persons but no more than 285,000 persons.

11 SECTION 2.034. The following provisions are repealed:

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

14 (2) Section 54.012(b), Family Code.

15 ARTICLE 3. EFFECTIVE DATE

16 SECTION 3.001. This Act takes effect September 1, 2021.