



[SF 2187](#) – Video Conferencing (LSB1186SZ)
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Fiscal Note Version – New

Description

[Senate File 2187](#) relates to the use of video conferences in judicial proceedings and takes effect upon enactment. The Bill does the following:

- Provides that for an initial appearance or arraignment, upon the motion of any of the parties, the proceeding is to be conducted by video conference if appropriate technology is available.
- Provides that for a pretrial conference, scheduling conference, or any other noncontested judicial proceeding, upon the motion of any of the parties, the proceeding is to be conducted by video conference if appropriate technology is available unless the court orders the proceeding to be held in person for good cause.
- Provides that for a hearing in a criminal, juvenile, or postconviction relief proceeding, upon motion of any of the parties, the hearing may be conducted by video conference if it is conducted in an efficient manner, does not prejudice a substantial right of any party, and if appropriate technology is available.
- Provides that any party may file a resistance to a motion to hold a judicial proceeding by video conference.
- Provides that the term “open court” includes the remote testimony of a witness by video conference or other remote means of communication if approved by the court.

Background

During the COVID-19 pandemic, the Judicial Branch temporarily allowed certain judicial proceedings to be conducted by video conference or telephone.

Currently, Iowa Code section [624.1](#) provides that all issues of fact in ordinary actions are to be tried upon oral evidence taken in open court, except that depositions may be used as provided by law. The Iowa Supreme Court held that the phrase “in open court” meant physical presence in the courtroom and ruled that allowing telephonic testimony over objection violated this statute (in re Estate of Rutter, 633 N.W.2d 745-46 (Iowa Ct. App. 2001)).

On November 4, 2022, the Iowa Supreme Court, to provide clarification and uniformity in Iowa courts, issued an order regarding remote judicial proceedings. The order stated the following for nonappellate court proceedings:

- The court has the discretion to determine when a judicial proceeding will be held remotely or in person unless otherwise provided by law.
- Any decision on whether to hold a judicial proceeding remotely must be made on a case-by-case basis.
- Courts should not have a standard practice of always having a particular proceeding occur in person or remotely.
- All contested court proceedings are presumed to occur in person.
- A contested testimonial proceeding may occur by video conference or telephone only with the consent of all parties and in the court’s discretion.

- Courts may direct, and parties may request, that uncontested court proceedings or contested nontestimonial court proceedings occur by video conference or telephone if appropriate technology is available.
- For routine, uncontested matters, courts are encouraged to utilize remote technology when available and when doing so does not prejudice a party.
- Any party may file a resistance to a proceeding being conducted remotely and request that the proceeding occur in person.
- If the court denies the request, the court is to state the reasons for the denial with particularity.

According to data collected by the Judicial Branch in January 2023:

- 95.0% of requests for noncontested proceedings to be held remotely were granted.
- 91.0% of requests for pretrial conferences to be held remotely were granted.
- 35.0% of noncontested proceedings are held remotely, regardless of whether they were done at the request of a party or on the court's initiative.
- 24.0% of pretrial conferences were held remotely, regardless of whether they were done at the request of a party or on the court's initiative.

Public defenders are funded from the State Public Defender (SPD) operating budget, and contract attorneys are funded from the Indigent Defense Fund. Both funds receive a General Fund appropriation in the annual Justice System Appropriations Act. See the [*Issue Review Indigent Defense — Overview and Funding History*](#) for more information about the indigent defense program in Iowa and the costs of providing indigent defense. See the [*Fiscal Research Brief State Public Defender Contract Attorneys*](#) for more information about SPD contract attorneys.

Assumptions

- The Office of the SPD pays mileage expenses for its attorneys to travel to judicial proceedings.
- Approximately 40.0% of proceedings for adult criminal and juvenile cases will be held by video conference under the Bill.
- Under current practice, approximately \$379,000 will be expended from the Indigent Defense Fund appropriation for mileage reimbursement in FY 2024. Senate File 2187 is estimated to reduce annual mileage by 40.0%.
- Judicial proceedings held by video conference will incur no mileage expenses to SPD attorneys and contract attorneys.
- The Judicial Branch estimates the Bill will result in the need for operational modifications for scheduling and docket management for both in-person and remote proceedings.
- The Judicial Branch will create and manage separate court time for in-person and remote proceedings and manage and assign cases from one setting to another.
- Additional motions and the need for orders to set video conference hearings will add additional work for judges, clerks, and law clerks.
- The Judicial Branch anticipates that an additional 1.0 judicial specialist full-time equivalent (FTE) position will be needed for each of the 10 largest urban counties to handle additional scheduling, filing, and technology management and for each of the 8 judicial districts to handle scheduling, filing, and technology management in rural areas, for a total of 18.0 FTE positions.
- The cost per judicial specialist FTE position is approximately \$74,000.

Fiscal Impact

Senate File 2187 is estimated to have an annual cost to the Judicial Branch of approximately \$1.3 million to add 18.0 judicial specialist FTE positions to assist with scheduling, filing, and technology management of video conferencing.

In addition, SF 2187 is estimated to reduce mileage and the need for mileage reimbursement to the State Public Defender's Office. Senate File 2187 is estimated to have an annual cost savings to the Indigent Defense Fund of approximately \$152,000.

Sources

Office of the State Public Defender
Judicial Branch
Legislative Services Agency

/s/ Jennifer Acton

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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