House Study Bill 600 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH BILL)

A BILL FOR

1 An Act relating to remote testimony in civil and criminal court
2 proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 624.1, subsection 1, Code 2022, is amended to read as follows:

1. All issues of fact in ordinary actions shall be tried upon oral evidence taken in open court, except that depositions may be used as provided by law. *"Open court"* includes remote testimony of a witness by telephone, videoconference, or other remote means of communication approved by the court.

Sec. 2. NEW SECTION. **801.6 Remote testimony.**

1. Courts may direct, and parties and attorneys may request, that noncontested criminal court proceedings other than trials be held by videoconference or telephone if appropriate technology is available. District courts may accept any noncontested criminal proceeding testimony by videoconference or telephone with the parties' consent.

2. In contested criminal cases, with the parties' consent and in the court's discretion, the court may permit jury and nonjury trials or otherwise take testimony by videoconference or telephone if appropriate technology is available.

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill authorizes the use of remote testimony in civil trials, noncontested criminal proceedings, and contested criminal proceedings with consent of the defendant. Under current law, all testimony needs to be taken in open court, except for depositions. The bill, in part, is a response to the supreme court of Iowa's decision in In re Estate of Rutter, 633 N.W.2d 740 (Iowa 2001). The court held that phrase "in open court" meant physical presence in the courtroom itself, and ruled that allowing telephonic testimony over objection violated the statute. The bill is also, in part, a response to the supreme court of Iowa's decision in State v. Rogerson, 855 N.W.2d 495 (Iowa 2014). In criminal proceedings, the court held that remote testimony of a witness would violate the Sixth Amendment's confrontation clause.