

**Senate Study Bill 3061 - 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:

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

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

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

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

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

19 EXPLANATION

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

22 This bill authorizes the use of remote testimony in civil  
23 trials, noncontested criminal proceedings, and contested  
24 criminal proceedings with consent of the defendant. Under  
25 current law, all testimony needs to be taken in open court,  
26 except for depositions. The bill, in part, is a response to  
27 the supreme court of Iowa's decision in In re Estate of Rutter,  
28 633 N.W.2d 740 (Iowa 2001). The court held that phrase "in  
29 open court" meant physical presence in the courtroom itself,  
30 and ruled that allowing telephonic testimony over objection  
31 violated the statute. The bill is also, in part, a response  
32 to the supreme court of Iowa's decision in State v. Rogerson,  
33 855 N.W.2d 495 (Iowa 2014). In criminal proceedings, the court  
34 held that remote testimony of a witness would violate the Sixth  
35 Amendment's confrontation clause.