

1 HOUSE BILL NO. 116

2 INTRODUCED BY V. MOORE

3 BY REQUEST OF THE OFFICE OF PUBLIC DEFENDER

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ATTORNEYS TO APPEAR REMOTELY IN
6 COURT; ESTABLISHING THAT PUBLIC DEFENDERS MAY APPEAR REMOTELY IN NONSUBSTANTIVE
7 HEARINGS; PROVIDING THAT A COURT MAY ORDER AN ATTORNEY TO APPEAR IN PERSON IF GOOD
8 CAUSE EXISTS; AND PROVIDING DEFINITIONS."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 NEW SECTION. Section 1. Remote appearance by counsel -- definitions. (1) All courts shall
13 establish a consistent, predictable process for attorneys to appear remotely in court.

14 (2) (a) Except as provided in subsection (2)(b), an attorney assigned pursuant to 47-1-104(4) who
15 is appearing in court for a nonsubstantive hearing may appear remotely.

16 (b) A court may order an attorney to appear in person for a specific nonsubstantive hearing if the
17 court finds good cause for the attorney's personal presence and issues an order providing the legal and factual
18 basis for good cause at least 5 business days before the specified hearing.

19 (c) For the purposes of this subsection (2), the term "good cause" includes a court's lack of
20 available technological resources or capacity to accommodate having the attorney appear remotely.

21 (3) As used in this section, the following definitions apply:

22 (a) "Appear remotely" means to participate in a hearing through the use of two-way electronic
23 audio-video communication that allows:

24 (i) all of the participants to be heard in the courtroom by all present and allows the party speaking
25 to be seen; and

26 (ii) a defendant or person represented by counsel assigned pursuant to 47-1-104(4) to see and
27 communicate privately with the defendant's or person's attorney.

28 (b) "Nonsubstantive hearing" means a court event in which the substantive outcome of the matter

1 will not be decided during the event, including:

2 (i) arraignments and initial appearances;

3 (ii) bond and bail hearings;

4 (iii) status hearings, conferences, and court check-ins;

5 (iv) hearings for the purpose of scheduling;

6 (v) omnibus hearings;

7 (vi) calendar calls; and

8 (vii) other hearings in which substantive arguments or testimony will not be heard.

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10 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
11 integral part of Title 3, chapter 1, part 3, and the provisions of Title 3, chapter 1, part 3, apply to [section 1].

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