

1 SENATE BILL NO. 187

2 INTRODUCED BY C. FRIEDEL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING REMOTE APPEARANCES BY COUNSEL IN
5 CRIMINAL AND CERTAIN CIVIL HEARINGS; AND PROVIDING DEFINITIONS."

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

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9 NEW SECTION. Section 1. Remote appearance by counsel -- definitions. (1) A court presiding
10 over matters in Title 46 or civil matters when at least one party is represented by counsel assigned pursuant to
11 47-1-104(4) shall establish a consistent, predictable process for attorneys to appear remotely in the court.

12 (2) (a) Except as provided in subsection (2)(b), a person's counsel of record and the represented
13 person appearing in a matter under Title 46 or any civil matter may appear remotely for a nonsubstantive
14 hearing.

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

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

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

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

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

25 (b) "Nonsubstantive hearing" means a court event in which the substantive outcome of the matter
26 will not be decided during the event, including:

27 (i) arraignments and initial appearances;

28 (ii) bond and bail hearings;

- 1 (iii) status hearings, conferences, or court check-ins;
- 2 (iv) hearings for the purpose of scheduling;
- 3 (v) omnibus hearings;
- 4 (vi) calendar calls; and
- 5 (vii) any hearing in which substantive arguments or testimony will not be heard.

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7 ~~NEW SECTION. Section 2. Assigned counsel may appear remotely. As provided in [section 1], an~~
8 ~~attorney assigned under 47-1-104 to any civil matter may appear remotely for any nonsubstantive hearing.~~

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

12 (2) [Section 2] is intended to be codified as an integral part of Title 47, chapter 1, part 2, and the
13 provisions of Title 47, chapter 1, part 2, apply to [section 2].

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