

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1054 Session of
2001

INTRODUCED BY SEMMEL, CLARK, HARHAI, CALTAGIRONE, COSTA,
FORCIER, GEORGE, HENNESSEY, HORSEY, JAMES, LEDERER,
MCILHATTAN, R. MILLER, S. MILLER, PALLONE, SATHER, SCHULER,
B. SMITH, SOLOBAY, STABACK, STERN, TIGUE, TRELLO, WILT AND
YOUNGBLOOD, MARCH 19, 2001

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 19, 2001

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for remote
3 appearance by live-feed video.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 5966. Remote appearance by live-feed video.

9 (a) General rule.--Notwithstanding any provision of law to
10 the contrary and subject to the limitations set forth in
11 subsection (g), the court may dispense with the personal
12 appearance of a defendant and allow the defendant's electronic
13 appearance in any pending criminal proceeding except a hearing
14 or a trial if both the following have been obtained:

15 (1) The authorization by the court administrator for use
16 of electronic appearances.

17 (2) The consent, on the record, by the defendant after

1 he has consulted with his attorney regarding consent. Consent
2 shall be required at the commencement of each electronic
3 appearance for that appearance.

4 (b) Court determination.--

5 (1) If the court determines, on its own motion or the
6 motion of a party to the proceeding, that electronic
7 appearance impairs the legal rights of the defendant, it
8 shall not permit electronic appearance in the matter.

9 (2) If either party requests at any time during an
10 electronic appearance that it be terminated, the court shall
11 grant the request and adjourn the proceedings to a date
12 certain. On that date, the proceedings shall recommence from
13 the point at which the request for terminating the electronic
14 appearance was granted.

15 (c) Transcript.--When a defendant makes an electronic
16 appearance, a court stenographer shall record testimony in the
17 same manner as if the defendant were making a personal
18 appearance. An electronic recording of an electronic appearance
19 may not be made, viewed or inspected except in accordance with
20 the rules issued under subsection (g).

21 (d) Initiation and implementation.--A judge shall submit a
22 written proposal to the court administrator for the use of
23 electronic appearance in the courtroom. Upon the court
24 administrator's approval, installation of an independent
25 audiovisual system may begin.

26 (e) Procedure.--An electronic appearance shall be conducted
27 in accordance with rules issued by the court administrator.

28 (f) Parole hearings.--The Department of Corrections may
29 install, maintain and operate an independent audiovisual system
30 in each correctional institution in this Commonwealth and at the

parole hearing site of the Pennsylvania Board of Probation and Parole for the purpose of conducting parole hearings by means of electronic appearance.

(g) Conditions and limitations.--Electronic appearance shall be subject to the following conditions and limitations:

(1) The defendant may not enter a plea of guilty to, or be sentenced upon a conviction of, a felony.

(2) The defendant may not enter a plea of not responsible by reason of mental disease or defect.

(3) The defendant may not be committed to the custody of the Department of Public Welfare.

(4) The defendant may not enter a plea of guilty to a misdemeanor conditioned upon a promise of incarceration unless such incarceration will be imposed only in the event that the defendant fails to comply with a term or condition imposed under the original sentence.

(5) A defendant who has been convicted of a misdemeanor may not be sentenced to a period of incarceration which exceeds the time the defendant has already served when sentence is imposed.

(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Electronic appearance." An appearance in which various participants, including the defendant, are not present in court, but in which, by means of an independent audiovisual system:

(1) All of the participants are able to see and hear, simultaneously, reproductions of the voices and images of the judge, counsel, defendant, police officer and any other appropriate participant.

1 (2) Counsel is present with the defendant; or, if the
2 defendant waives the presence of counsel on the record, the
3 defendant and his counsel can see and hear each other
4 electronically and can engage in private conversation via a
5 private telephone line.

6 "Independent audiovisual system." An electronic system for
7 transmitting and receiving broadcast-quality audio and visual
8 signals which employs encoded signals, frequency domain
9 multiplexing or other suitable means to preclude the
10 unauthorized reception and decoding of these signals by
11 commercially available receiving devices, channel converters or
12 television receivers.

13 Section 2. This act shall take effect in 60 days.