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# HOUSE BILL NO. 5147

Offered September 1, 2020

*A BILL to amend and reenact § 19.2-3.1 of the Code of Virginia, relating to personal appearance by two-way electronic video and audio communication; at or after trial before a judge; emergency.*

Patron—Campbell, R.R.

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-3.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-3.1. Personal appearance by two-way electronic video and audio communication; standards.**

A. Where an appearance is required or permitted *(i)* before a magistrate, intake officer, or, prior to trial, before a judge~~,~~ *or (ii) at or after trial before a judge (a) with the consent of the defendant and the Commonwealth and (b) if the defendant has waived his right to be present at trial and the court ascertains that such waiver is voluntary and intelligently made,* the appearance may be by ~~(i)~~ *(1)* personal appearance before the magistrate, intake officer, or judge or ~~(ii)~~ *(2)* use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, a magistrate, intake officer, or judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person. If two-way electronic video and audio communication is available for use by a district court for the conduct of a hearing to determine bail or to determine representation by counsel, the court shall use such communication in any such proceeding that would otherwise require the transportation of a person from outside the jurisdiction of the court in order to appear in person before the court. Any documents transmitted between the magistrate, intake officer, or judge and the person appearing before the magistrate, intake officer, or judge may be transmitted by electronically transmitted facsimile process or other electronic method. The facsimile or other electronically generated document may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures.

B. Any two-way electronic video and audio communication system used for an appearance shall meet the following standards:

1. The persons communicating must simultaneously see and speak to one another;

2. The signal transmission must be live, real time;

3. The signal transmission must be secure from interception through lawful means by anyone other than the persons communicating; and

4. Any other specifications as may be promulgated by the Chief Justice of the Supreme Court.

C. Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.

**2. That an emergency exists and this act is in force from its passage.**