

Senate Bill 344

By: Senators Mullis of the 53rd, Miller of the 49th, Dugan of the 30th, Gooch of the 51st, Kennedy of the 18th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 24-13-60 of the Official Code of Georgia Annotated, relating to
2 order requiring prisoner's delivery to serve as witness or criminal defendant generally,
3 expenses, and prisoner under death sentence as witness, so as to provide that certain
4 proceedings may be conducted by video conference; to provide for requirements for such
5 proceedings; to authorize judges to order a prisoner's appearance in court; to provide that
6 attorney-client privilege shall be preserved; to provide for the maintenance of certain records;
7 to amend Article 6 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated,
8 relating to Division of Forensic Sciences, so as to provide that employees of the state crime
9 lab or associated laboratories may appear by video teleconference in certain proceedings in
10 court; to provide for requirements for such appearances; to provide for notice and
11 continuances; to provide for related matters; to provide for an effective date and
12 applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 style="text-align:center">**SECTION 1.**

15 Code Section 24-13-60 of the Official Code of Georgia Annotated, relating to order requiring
16 prisoner's delivery to serve as witness or criminal defendant generally, expenses, and prisoner
17 under death sentence as witness, is amended by adding a new subsection to read as follows:

18 "(e)(1) A prisoner may appear for any of the foregoing proceedings via video conference:

19 (A) Determination of indigence and appointment of counsel;

20 (B) Hearings on appearance and appeal bonds;

21 (C) Initial appearance hearings;

22 (D) Probable cause hearings;

23 (E) Arraignment or waiver of arraignment;

24 (F) Pretrial motion hearings;

25 (G) Entry of pleas in criminal cases;

26 (H) Impositions of sentences upon pleas of guilty or nolo contendere;

27 (I) Probation revocation hearings;

- 28 (J) Post-sentencing proceedings in criminal cases, including hearings on motions for
29 new trial and habeas corpus petitions and pretrial diversion and post-sentencing
30 compliance hearings;
- 31 (K) Acceptance of special pleas of insanity (incompetency to stand trial);
- 32 (L) Situations involving offenders with highly sensitive medical problems or who pose
33 a high security risk;
- 34 (M) All pretrial proceedings in any civil case;
- 35 (N) All matters pending before the Office of State Administrative Hearings;
- 36 (O) All matters pending before the Georgia Tax Tribunal; and
- 37 (P) All matters pending before the Georgia State-wide Business Court.
- 38 (2) A judge may order a defendant's personal appearance in court for any hearing.
- 39 (3) Provision shall be made to preserve the confidentiality of attorney-client
40 communications and privilege in accordance with Georgia law. In all criminal
41 proceedings, the defendant and defense counsel shall be provided with a private means
42 of communication when in different locations.
- 43 (4) A record of any proceedings conducted by video conference shall be made in the
44 same manner as all such similar proceedings not conducted by video conference.
45 However, upon the consent of all parties, that portion of the proceedings conducted by
46 video conference may be recorded by an audio-visual recording system and such
47 recording shall be part of the record of the case and transmitted to courts of appeal as if
48 part of a transcript.
- 49 (5) Any video conferencing system utilized under this subsection shall conform to the
50 following minimum requirements:
- 51 (A) All participants shall be able to see, hear, and communicate with each other
52 simultaneously;
- 53 (B) All participants shall be able to see, hear, and otherwise observe any physical
54 evidence or exhibits presented during the proceeding, either by video, facsimile, or
55 other method;
- 56 (C) Video quality shall be adequate to allow participants to observe each other's
57 demeanor and nonverbal communications; and
- 58 (D) The location from which the trial judge is presiding shall be accessible to the
59 public to the same extent as such proceeding would if not conducted by video
60 conference. The court shall accommodate any request by interested parties to observe
61 the entire proceeding."

SECTION 2.

62
63 Article 6 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
64 Division of Forensic Sciences, is amended by adding a new Code section to read as follows:

65 "35-3-154.2.

66 (a) An employee of the state crime lab or an employee of a laboratory with which the state
67 crime lab has a contract for the provision of laboratory or scientific examination or analysis
68 may appear for any of the following proceedings via video conference:

69 (1) Determination of indigence and appointment of counsel;

70 (2) Hearings on appearance and appeal bonds;

71 (3) Initial appearance hearings;

72 (4) Probable cause hearings;

73 (5) Arraignment or waiver of arraignment;

74 (6) Pretrial motion hearings;

75 (7) Entry of pleas in criminal cases;

76 (8) Impositions of sentences upon pleas of guilty or nolo contendere;

77 (9) Probation revocation hearings;

78 (10) Post-sentencing proceedings in criminal cases, including hearings on motions for
79 new trial and habeas corpus petitions and pretrial diversion and post-sentencing
80 compliance hearings;

81 (11) Acceptance of special pleas of insanity (incompetency to stand trial);

82 (12) Situations involving offenders with highly sensitive medical problems or who pose
83 a high security risk;

84 (13) All pretrial proceedings in any civil case;

85 (14) All matters pending before the Office of State Administrative Hearings;

86 (15) All matters pending before the Georgia Tax Tribunal; and

87 (16) All matters pending before the Georgia State-wide Business Court.

88 (b) A record of any proceedings conducted by video conference shall be made in the same
89 manner as all such similar proceedings not conducted by video conference. However, upon
90 the consent of all parties, that portion of the proceedings conducted by video conference
91 may be recorded by an audio-visual recording system and such recording shall be part of
92 the record of the case and transmitted to courts of appeal as if part of a transcript.

93 (c) Provision shall be made to preserve the confidentiality of attorney-client
94 communications and privilege in accordance with Georgia law.

95 (d) Any video conferencing system utilized under this subsection shall conform to the
96 following minimum requirements:

97 (1) All participants shall be able to see, hear, and communicate with each other
98 simultaneously;

99 (2) All participants shall be able to see, hear, and otherwise observe any physical
100 evidence or exhibits presented during the proceeding, either by video, facsimile, or other
101 method;

102 (3) Video quality shall be adequate to allow participants to observe each other's
103 demeanor and nonverbal communications; and

104 (4) The location from which the trial judge is presiding shall be accessible to the public
105 to the same extent as such proceeding would if not conducted by video conference. The
106 court shall accommodate any request by interested parties to observe the entire
107 proceeding.

108 (e) A party seeking to use testimony pursuant to subsection (a) of this Code section shall
109 give written notice to opposing counsel within ten days of the scheduled hearing date. The
110 opposing side may object in writing any time after being given notice, but at least five days
111 prior to the hearing. If objection is made, the judge shall require the employee to be
112 present to testify. The state shall diligently investigate the witness's availability and report
113 to the court. If the witness is not available on a timely basis, the court shall grant a
114 continuance."

115 **SECTION 3.**

116 This Act shall become effective on July 1, 2020, and shall apply to all offenses committed
117 on or after such date.

118 **SECTION 4.**

119 All laws and parts of laws in conflict with this Act are repealed.