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## DIGEST

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HB 775 Original

2020 Regular Session

Marino

**Abstract:** Provides relative to the defendant's authority to appear at certain criminal proceedings by way of simultaneous audio-visual transmission.

Present law (C.Cr.P. Art. 562) provides for the following:

- (1) In a case where the offense is a **felony** or an **enhanceable misdemeanor**, the defendant, who is confined in a jail, prison, or other detention facility in La., may, with the court's consent and the consent of the district attorney, appear at the **arraignment** (C.Cr.P. Art. 551 and 562), at the **entry of his plea of guilty** (C.Cr.P. Art. 553, 556.1, and 562), at **any preliminary matter or pretrial conference that does not involve the taking of testimony** (C.Cr.P. Art. 562), and at **any revocation hearing for a probation violation** (C.Cr.P. Art. 562 and 900), including any hearing for a **contempt of court**, by simultaneous audio-visual transmission if the court, by local rule, provides for the defendant's appearance in this manner and the defendant waives his right to be physically present at the proceeding.
- (2) In a case where the offense is **not a felony** and is **not an enhanceable misdemeanor**, the court, with the consent of the district attorney, may require the defendant, who is confined in a jail, prison, or other detention facility in La., to appear at the **arraignment** (C.Cr.P. Art. 551 and 562), at the **entry of his plea of guilty** (C.Cr.P. Art. 553, 556, and 562), at **any preliminary matter or pretrial conference that does not involve the taking of testimony** (C.Cr.P. Art. 562), and at **any revocation hearing for a probation violation** (C.Cr.P. Art. 562 and 900), including any hearing for a **contempt of court**, by simultaneous audio-visual transmission if the court, by local rule, provides for the defendant's appearance in this manner.

Proposed law (C.Cr.P. Art. 562) amends present law to provide that for any **noncapital felony** or **misdemeanor** offense, the defendant who is confined in a jail, prison, or other detention facility in La., may, appear at the **entry of his plea of guilty** and at **any revocation hearing for a probation violation**, including any hearing for a **contempt of court**, by simultaneous audio-visual transmission if the court, by local rule, provides for the defendant's appearance in this manner. Proposed law removes the requirement that the district attorney consent to the defendant's appearance in this manner.

Proposed law retains the present law (C.Cr.P. Art. 551) provision which authorizes the court to allow for the defendant's appearance at the **arraignment** by way of simultaneous transmission through

audio-visual electronic equipment.

Present law (C.Cr.P. Art. 562) requires the defendant who elects to appear by simultaneous audio-visual transmission and enter a plea of guilty or nolo contendere to submit to the court a form signed by the defendant and, if represented by an attorney at the proceeding, by the defendant's attorney, stating that the defendant waives his right to be physically present at the proceeding and that he has been addressed by the court and informed of his rights pursuant to existing law. Present law requires the court, by local rule, to provide a method by which a defendant may electronically sign the waiver of presence and the waiver of rights form.

Proposed law retains the present law requirement that the defendant waive his right to be physically present at the proceeding but, consistent with other provisions of present law, removes the requirement that the waiver be in writing and signed electronically.

Proposed law repeals provisions of present law (C.Cr.P. Art. 553(C), 831(B), 832(B), and 833(C)) that are duplicative of the authority provided by other provisions of present and proposed law that allow for the defendant's appearance at the arraignment, at the entry of his plea of guilty, or both, by way of simultaneous audio-visual transmission.

(Amends C.Cr.P. Art. 551(B), 553(A), 556(E), 556.1(F), and 562(A), (B), and (D); Repeals C.Cr.P. Art. 533(C), 831(B), 832(B), and 833(C))