

- SUBJECT:** Using video teleconferencing to enter a criminal plea
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 5 ayes — Keel, Denny, Ellis, Hodge, Talton  
0 nays  
4 absent — Riddle, Dunnam, P. Moreno, Pena
- SENATE VOTE:** On final passage, May 1— 31-0, on Local and Uncontested Calendar
- WITNESSES:** No public hearing.
- BACKGROUND:** Under Code of Criminal Procedure, art. 27.18, a court may accept a plea or waiver of a defendant’s rights by closed-circuit video teleconferencing if:
- the defendant and prosecutor file written consent with the court;
  - the closed-circuit video teleconferencing system provides for a simultaneous, compressed full motion video, and interactive communication of image and sound between the judge, the prosecutor, the defendant, and the defendant’s attorney; and
  - on request of the defendant, the defendant and the defense attorney are able to communicate privately without being recorded or heard by the judge or prosecutor.
- On motion of the defendant or prosecutor, or at the court’s discretion, the court can terminate an appearance by closed-circuit video teleconferencing at any time and require an appearance by the defendant in open court.
- A recording must be made and preserved until all appellate proceedings have been disposed of, and the defendant may obtain a copy of the recording on payment of a reasonable amount or, if the defendant is indigent, at no charge.
- DIGEST:** SB 1306 would amend the Code of Criminal Procedure to specify that a defendant confined in a county other than the county where the charges against the defendant were pending could use teleconferencing to enter a plea

or waive a right in the court with jurisdiction over the case. A defendant who did so would consent to venue in the county in which the court receiving the plea or waiver was located and would waive any claim of error related to venue.

If a defendant entered a plea of guilty or no contest, the prosecutor could request at the time the plea was entered that the defendant submit a fingerprint suitable for attachment to the judgment. On request for a fingerprint, the county in which the defendant was confined would obtain it and use first-class mail or other means acceptable to the prosecutor to forward the fingerprint to the court accepting the plea.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

SB 1306 would be a logical extension of current law and would fulfill the original intent of the Legislature. In 1997, the Legislature permitted a defendant to submit a plea or a waiver of rights through broadcast by closed-circuit video teleconferencing. SB 1306 would extend this provision to a defendant confined in a county other the county in which charges were pending, which inadvertently was excluded from the original bill.

This bill would save counties money by permitting willing incarcerated defendants to use teleconferencing rather than having to transport them to another county for proceedings in open court. It can be expensive and difficult to transport defendants from jails to courthouses and move them in and out of courtrooms in a safe, efficient manner, particularly when they must be transported to another county. SB 1306 would reduce these logistical problems as well as the costs to courts and local law enforcement.

Current law contains numerous safeguards to ensure that the rights of defendant are protected, and those protections would apply to out-of-county defendants as well. For example, the defendant would have to consent to the process and could communicate privately with the attorney. Further, the defendant could make a motion to terminate the teleconference and appear in open court. Finally, a recording of the teleconference would have to be made, and defendants would have a right to a copy of the video.

**OPPONENTS  
SAY:**

SB 1306 inappropriately would expand the use of video conferencing. That form of taking pleas makes the criminal justice system more impersonal and erodes the gravity of entering a plea in a courtroom. Through face-to-face contact, some judges are able to make a real difference in defendant's lives. Making pleas through video teleconference would be an intangible but significant change from doing it in person, just like attending church or school through a video teleconference would be.