Montana State Legislature

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Annotation

CONSTITUTIONAL AND STATUTORY VALIDITY OF JUDICIAL VIDEOCONFERENCING

Fern L. Kletter, J.D.

Videoconferencing allows judicial proceedings to be conducted with participants in different locations. Audio and visual images are simultaneously transmitted, so that all participants are able to hear and see each other at the same time. The increased use of videoconferencing has enhanced the efficiency of judicial proceedings. By reducing the need to transport inmates to courtrooms, videoconferencing minimizes security risks and curtails expenses. Videoconferencing also ensures more rapid disposition of proceedings. The procedure, though, has the potential of creating certain problems in adjudicative proceedings. As personal impression is often a crucial factor in persuasion, videoconferencing may render it difficult for the fact finder to make credibility determinations and gauge demeanor. Even with advancing technology, presence via video-audio link-up remains less than the complete equivalent of actual presence. The courts have considered challenges to videoconferencing on constitutional and statutory grounds in a variety of criminal and civil proceedings. Often the focal issue is the right of the accused or litigant to be present at the proceeding, and whether videoconferencing satisfies that right. For example, in U.S. v. Torres-Palma, 290 F.3d 1244, 115 A.L.R.5th 815 (10th Cir. 2002), it was held that the use of videoconferencing to conduct a sentencing violated federal rules of criminal procedure requiring that the defendant be present at sentencing. This annotation collects and discusses all state and federal cases concerning the statutory and constitutional validity of judicial videoconferencing.

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