

30.05 DEFENDANT'S APPEARANCE BY A TWO-WAY AUDIO/VIDEO COMMUNICATION SYSTEM *(Effective 3/12/08)*

A criminal defendant may appear in court at pre-trial and post-trial proceedings by way of a two-way audio/video communication system, so long as the following conditions are met:

1. The Defendant is incarcerated; and
2. The Director of Corrections, Sheriff, or other authority has certified that facilities, including a secure line over which the defendant and the defense attorney may communicate, are available for this purpose; and
3. The court appearance is for one or more of the following purposes: *(amended 3/12/08)*
 - A. The initial appearance before a judge on a criminal complaint, at which bail will be set;
 - B. The waiver of a preliminary hearing;
 - C. The arraignment on an information or indictment at which a plea of not guilty will be entered;
 - D. The presentation of a jury waiver;
 - E. Any status hearing and;
 - F. Any hearing conducted under the Sexually Violent Persons Commitment Act at which no witness testimony will be taken.

To protect the defendant's underlying constitutional rights, a criminal defendant shall be physically present in court during witness confrontation, the presentation of a defense and impaneling of a jury, and a plea of guilty, unless these rights have been lawfully waived.

This Rule is drafted under the authority of 725 ILCS 5/106D-1, 725 ILCS 5/109-1, and *People v. Willie E. Lindsey*, 201 Ill. 2d 45 (2002) and *People v. Stroud*, 208 Ill. 2d 398 (2004). Defendant must waive right to be in court for plea of guilty. Without waiver and admonishment, plea of guilty is vacated.