

Queensland



**COURTS (VIDEO LINK)
AMENDMENT BILL 1996**

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**COURTS (VIDEO LINK) AMENDMENT
BILL 1996**

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1996

A BILL

FOR

An Act to provide for the use of video link facilities for certain court proceedings

The Parliament of Queensland enacts—

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PART 1—PRELIMINARY

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Short title

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Clause **1.** This Act may be cited as the *Courts (Video Link) Amendment Act 1996*.

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Commencement

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Clause **2.** This Act commences on a day to be fixed by proclamation.

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PART 2—AMENDMENT OF SUPREME COURT OF QUEENSLAND ACT 1991

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Act amended

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Clause **3.** This part amends the *Supreme Court of Queensland Act 1991*.

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Insertion of new pt 8A

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Clause **4.** After part 8—

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insert—

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‘PART 8A—USE OF VIDEO LINK FACILITIES

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‘Purpose of part

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‘116A. The purpose of this part is to provide for the use of video link facilities for certain proceedings before the Supreme Court.

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‘Definitions for part	1
‘116B. In this part—	2
“detainee” means—	3
(a) for section 116C(1)—someone who is in custody at a correctional institution; and	4 5
(b) otherwise—someone who is—	6
(i) in custody at a correctional institution; and	7
(ii) a party to a proceeding.	8
“proceeding” for a provision of this part, other than section 116C(1), means a proceeding to which section 116C(1) applies.	9 10
‘Use of video link facilities in proceedings	11
‘116C.(1) This section applies to a proceeding if—	12
(a) a detainee is entitled or required to be present before the Supreme Court for the proceeding; and	13 14
(b) the proceeding is about an offence with which the detainee is charged, including a proceeding for the detainee’s bail or remand; and	15 16 17
(c) video link facilities are available linking the correctional institution where the detainee is in custody and the court.	18 19
‘(2) A proceeding for the detainee’s bail or remand must be conducted using the video link facilities, unless the court, in the interests of justice, otherwise orders.	20 21 22
‘(3) In a proceeding, other than a proceeding for the detainee’s bail or remand, the court may order the proceeding be conducted using video link facilities only if all parties consent.	23 24 25
‘(4) The video link facilities may only be used to link the proceeding before the court at the place the court is sitting with the detainee, or the detainee and the detainee’s representative, at the correctional institution.	26 27 28

‘Detainee taken to be before the court

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‘**116D.(1)** A person present at the part of the correctional institution used for the conduct of a proceeding, when the proceeding is being conducted, is taken to be in the presence of the Supreme Court for all purposes.

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‘(2) The part of the correctional institution used for the proceeding is taken to be part of the court for the conduct of the proceeding.

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‘(3) Any entitlement of, or requirement for, the detainee under any law or court order to be present before the court in the proceeding is taken to be satisfied by the detainee’s use of video link facilities for the proceeding.

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‘Way video link facilities must be operated

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‘**116E.(1)** Video link facilities, when used for a proceeding, are to be operated in a way that ensures two-way audio and visual communication between the detainee and the Supreme Court.

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‘(2) If video link facilities fail during a proceeding, the court may adjourn the proceeding or make another appropriate order, as if the detainee were still in the presence of the court.

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‘Facilities for private communication

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‘**116F.(1)** The Supreme Court and the correctional institution must make facilities available for private communication between the detainee and the detainee’s representative in a proceeding if the representative is at the place where the court is sitting.

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‘(2) A communication between the detainee and the detainee’s representative is as confidential and as inadmissible in any proceeding as it would be if it took place while the detainee and the detainee’s representative were in each other’s presence.

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‘(3) Subsection (2) does not limit any other protection applying to the communication.

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‘Variation or revocation of order

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‘**116G.** The Supreme Court may, at any time, vary or revoke an order made under section 116C.’

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	Insertion of new s 127	1
Clause	5. After section 126—	2
	<i>insert—</i>	3
	‘Video link facilities	4
	‘127.(1) Part 8A ¹ applies to bail and remand proceedings whether the proceeding for the offence from which the bail or remand proceeding arose was started before or after the commencement of this section.	5 6 7
	‘(2) This section is a law to which the <i>Acts Interpretation Act 1954</i> , section 20A applies.	8 9
	‘(3) This section expires 6 months after the day it commences.’.	10
	 PART 3—AMENDMENT OF DISTRICT COURTS ACT 1967	 11 12
	Act amended	13
Clause	6. This part amends the <i>District Courts Act 1967</i> .	14
	Insertion of new pt 7A	15
Clause	7. After part 7—	16
	<i>insert—</i>	17
	‘PART 7A—USE OF VIDEO LINK FACILITIES	18
	‘Purpose of part	19
	‘110A. The purpose of this part is to provide for the use of video link facilities for certain proceedings before a District Court.	20 21

¹ Part 8A (Use of video link facilities)

‘Definitions for part	1
‘110B. In this part—	2
“detainee” means—	3
(a) for section 110C(1)—someone who is in custody at a correctional institution; and	4 5
(b) otherwise—someone who is—	6
(i) in custody at a correctional institution; and	7
(ii) a party to a proceeding.	8
“proceeding” for a provision of this part, other than section 110C(1), means a proceeding to which section 110C(1) applies.	9 10
‘Use of video link facilities in proceedings	11
‘110C.(1) This section applies to a proceeding if—	12
(a) a detainee is entitled or required to be present before a District Court for the proceeding; and	13 14
(b) the proceeding is about an offence with which the detainee is charged, including a proceeding for the detainee’s bail or remand; and	15 16 17
(c) video link facilities are available linking the correctional institution where the detainee is in custody and the court.	18 19
‘(2) A proceeding for the detainee’s bail or remand must be conducted using the video link facilities, unless the court, in the interests of justice, otherwise orders.	20 21 22
‘(3) In a proceeding, other than a proceeding for the detainee’s bail or remand, the court may order the proceeding be conducted using video link facilities only if all parties consent.	23 24 25
‘(4) The video link facilities may only be used to link the proceeding before the court at the place the court is sitting with the detainee, or the detainee and the detainee’s representative, at the correctional institution.	26 27 28

‘Detainee taken to be before the court

‘110D.(1) A person present at the part of the correctional institution used for the conduct of a proceeding, when the proceeding is being conducted, is taken to be in the presence of the District Court for all purposes.

‘(2) The part of the correctional institution used for the proceeding is taken to be part of the court for the conduct of the proceeding.

‘(3) Any entitlement of, or requirement for, the detainee under any law or court order to be present before the court in the proceeding is taken to be satisfied by the detainee’s use of video link facilities for the proceeding.

‘Way video link facilities must be operated

‘110E.(1) Video link facilities, when used for a proceeding, are to be operated in a way that ensures two-way audio and visual communication between the detainee and the District Court.

‘(2) If video link facilities fail during a proceeding, the court may adjourn the proceeding or make another appropriate order, as if the detainee were still in the presence of the court.

‘Facilities for private communication

‘110F.(1) The District Court and the correctional institution must make facilities available for private communication between the detainee and the detainee’s representative in a proceeding if the representative is at the place where the court is sitting.

‘(2) A communication between the detainee and the detainee’s representative is as confidential and as inadmissible in any proceeding as it would be if it took place between the detainee and the detainee’s representative while in each other’s presence.

‘(3) Subsection (2) does not limit any other protection applying to the communication.

‘Variation or revocation of order

‘110G. The District Court may, at any time, vary or revoke an order made under section 110C.’.

	Insertion of new s 137	1
Clause	8. After section 136—	2
	<i>insert—</i>	3
	‘Video link facilities	4
	‘137.(1) Part 7A ² applies to bail and remand proceedings whether the proceeding for the offence from which the bail or remand proceeding arose was started before or after the commencement of this section.	5 6 7
	‘(2) This section is a law to which the <i>Acts Interpretation Act 1954</i> , section 20A applies.	8 9
	‘(3) This section expires 6 months after the day it commences.’.	10
	 PART 4—AMENDMENT OF JUSTICES ACT 1886	 11
	Act amended	12
Clause	9. This part amends the <i>Justices Act 1886</i> .	13
	Insertion of new pt 6A	14
Clause	10. After part 6—	15
	<i>insert—</i>	16
	‘PART 6A—USE OF VIDEO LINK FACILITIES	17
	‘Purpose of part	18
	‘178A. The purpose of this part is to provide for the use of video link facilities for certain proceedings before a Magistrates Court.	19 20

² Part 7A (Use of video link facilities)

‘Definitions for part	1
‘178B. In this part—	2
“detainee” means—	3
(a) for section 178C(1)—someone who is in custody at a correctional institution; and	4 5
(b) otherwise—someone who is—	6
(i) in custody at a correctional institution; and	7
(ii) a party to a proceeding.	8
“proceeding” for a provision of this part, other than section 178C(1), means a proceeding to which section 178C(1) applies.	9 10
‘Use of video link facilities in proceedings	11
‘178C.(1) This section applies to a proceeding if—	12
(a) a detainee is entitled or required to be present before a Magistrates Court for the proceeding; and	13 14
(b) the proceeding is about an offence with which the detainee is charged, including a proceeding for the detainee’s bail or remand; and	15 16 17
(c) video link facilities are available linking the correctional institution where the detainee is in custody and the court.	18 19
‘(2) A proceeding for the detainee’s bail or remand must be conducted using the video link facilities, unless the court, in the interests of justice, otherwise orders.	20 21 22
‘(3) In a proceeding, other than a proceeding for the detainee’s bail or remand, the court may order the proceeding be conducted using video link facilities only if all parties consent.	23 24 25
‘(4) The video link facilities may only be used to link the proceeding before the court at the place the court is sitting with the detainee, or the detainee and the detainee’s representative, at the correctional institution.	26 27 28

‘Detainee taken to be before the court

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‘178D.(1) A person present at the part of the correctional institution used for the conduct of a proceeding, when the proceeding is being conducted, is taken to be in the presence of the Magistrates Court for all purposes.

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‘(2) The part of the correctional institution used for the proceeding is taken to be part of the court for the conduct of the proceeding.

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‘(3) Any entitlement of, or requirement for, the detainee under any law or court order to be present before the court in the proceeding is taken to be satisfied by the detainee’s use of video link facilities for the proceeding.

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‘Way video link facilities must be operated

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‘178E.(1) Video link facilities, when used for a proceeding, are to be operated in a way that ensures two-way audio and visual communication between the detainee and the Magistrates Court.

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‘(2) If video link facilities fail during a proceeding, the court may adjourn the proceeding or make another appropriate order, as if the detainee were still in the presence of the court.

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‘Facilities for private communication

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‘178F.(1) A Magistrates Court and the correctional institution must make facilities available for private communication between the detainee and the detainee’s representative in a proceeding if the representative is at the place where the court is sitting.

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‘(2) A communication between the detainee and the detainee’s representative is as confidential and as inadmissible in any proceeding as it would be if it took place between the detainee and the detainee’s representative while in each other’s presence.

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‘(3) Subsection (2) does not limit any other protection applying to the communication.

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‘Variation or revocation of order

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‘178G. A Magistrates Court may, at any time, vary or revoke an order made under section 178C.’

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	Insertion of new s 273	1
Clause	11. After section 272—	2
	<i>insert—</i>	3
	‘Video link facilities	4
	‘273.(1) Part 6A ³ applies to bail and remand proceedings whether the proceeding for the offence from which the bail or remand proceeding arose was started before or after the commencement of this section.	5 6 7
	‘(2) This section is a law to which the <i>Acts Interpretation Act 1954</i> , section 20A applies.	8 9
	‘(3) This section expires 6 months after the day it commences.’.	10 11 12

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³ Part 6A (Use of video link facilities)