

SB123 INTRODUCED



1 NNSFJJ-1
2 By Senator Coleman
3 RFD: Judiciary
4 First Read: 22-Mar-23
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SYNOPSIS:

Under existing law, when a victim or witness to a sex crime is a child or a protected person, on motion of the district attorney or Attorney General, the court may take the deposition of the victim or witness using video equipment outside of the presence of the defendant.

This bill would authorize victims of human trafficking, without regard to age, to have their depositions taken using video equipment outside of the presence of the defendant.

A BILL
TO BE ENTITLED
AN ACT

Relating to criminal procedure; to amend Section 15-25-2, Code of Alabama 1975, as last amended by Act 2022-201, 2022 Regular Session, to authorize the taking of depositions by video equipment of victims and witnesses of human trafficking under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-25-2, Code of Alabama 1975, as last amended by Act 2022-201, 2022 Regular Session, is amended



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29 to read as follows:

30 "§15-25-2

31 (a) (1) In any criminal prosecution referred to in
32 Section 15-25-1, the court, upon motion of the district
33 attorney or Attorney General, for good cause shown and after
34 notice to the defendant, may order the taking of a video
35 deposition of an alleged victim of or witness to the crime who
36 is a child or a protected person at the time of the order.

37 (2) In any criminal prosecution under Article 8 of
38 Chapter 6 of Title 13A, the court, upon motion of the district
39 attorney or Attorney General, for good cause shown and after
40 notice to the defendant, may order the taking of a video
41 deposition of an alleged victim of or witness to the crime,
42 without regard to the age of the victim or witness.

43 (b) On any motion for a video deposition of the victim
44 or a witness, the court shall consider the nature of the
45 offense, the nature of testimony that may be expected, and the
46 possible effect that the testimony in person at trial may have
47 on the victim or witness, along with any other relevant
48 matters that may be required by Supreme Court rule.

49 (c) During the recording of a video deposition, the
50 following persons shall be in the room with the ~~child or the~~
51 ~~protected person~~ victim or witness:

52 (1) The prosecuting attorney.

53 (2) The attorney for the defendant.

54 (3) A person whose presence, in the judgment of the
55 court, contributes to the well-being of the ~~child or protected~~
56 ~~person~~ victim or witness and who has dealt with the ~~child or~~



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57 ~~the protected person~~ victim or witness in a therapeutic
58 setting regarding the abuse.

59 (4) Additional persons, other than the defendant, may
60 be admitted into the room in the discretion of the court.

61 (d) Examination and cross-examination of the alleged
62 victim or witness shall proceed at the taking of the video
63 deposition as though the alleged victim or witness were
64 testifying personally in the trial of the case. The state
65 shall provide the attorney for the defendant with a copy of
66 the video deposition at a suitable and reasonable time prior
67 to the trial of the case. The court shall enter a protective
68 order prohibiting the attorney for the defendant from copying,
69 reproducing, or distributing the video deposition. Objections
70 to the introduction into the record of the deposition shall be
71 heard by the judge in whose presence the deposition was taken,
72 and unless the court determines that its introduction in lieu
73 of the victim's or witness's actual appearance as a witness at
74 the trial will unfairly prejudice the defendant, the video
75 deposition shall be entered into the record by the state in
76 lieu of the direct testimony of the alleged victim or witness
77 and shall be viewed and heard at the trial of the case.

78 (e) For the purposes of this section, "video
79 deposition" means the recording of video, with sound, of
80 witness testimony made under oath to be entered in the record
81 in a judicial proceeding.

82 (f) The Supreme Court may adopt rules of procedure
83 regarding the taking and use of video depositions in criminal
84 proceedings and juvenile cases, as well as transcription of



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85 video depositions in appeals of those cases.

86 (g) All costs associated with the recording of a
87 deposition ordered pursuant to this article shall be paid by
88 the state. The district attorney shall submit all related cost
89 bills to the state Comptroller for approval and payment from
90 the fund entitled Court Costs Not Otherwise Provided For.

91 (h) All recordings of video depositions ordered
92 pursuant to this article shall be subject to any protective
93 order of the court for the purpose of protecting the privacy
94 of the victim of the offense.

95 (i) When necessary, the operator of the equipment used
96 to record video depositions may also be in the room during the
97 taking of the deposition and the operator shall make every
98 effort to be unobtrusive.

99 (j) Only the court, the prosecuting attorney, and the
100 attorney for the defendant may question the victim or witness.
101 During the testimony of the ~~child or protected person~~ victim
102 or witness, the defendant shall be provided access to view the
103 testimony out of the presence of the ~~child or protected person~~
104 victim or witness and shall be allowed to communicate with his
105 or her attorney by any appropriate election method.

106 (k) In circumstances where a defendant in a proceeding
107 has elected to proceed without counsel, the court may appoint
108 counsel for the defendant and may order counsel to question ~~a~~
109 ~~child or a protected person~~ victim or witness on behalf of the
110 pro se defendant if the court finds that there is substantial
111 likelihood that the ~~child or protected person~~ victim or
112 witness would experience emotional harm if the defendant were



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113 allowed to question the ~~child or protected person~~ victim or
114 witness."

115 Section 2. This act shall become effective on the first
116 day of the third month following its passage and approval by
117 the Governor, or its otherwise becoming law.