

1 HB330  
2 202881-2  
3 By Representative Baker  
4 RFD: Judiciary  
5 First Read: 04-FEB-21

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ENROLLED, An Act,

Relating to depositions; to amend Section 15-25-2, Code of Alabama 1975; to remove and update outdated references to videotape from statutory requirements for the recording of video depositions in criminal prosecutions for physical or sexual abuse or exploitation of children under the age of 16.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-25-2, Code of Alabama 1975, is amended to read as follows.

"§15-25-2.

"(a) In any criminal prosecution referred to in Section 15-25-1, the court, upon motion of the district attorney or Attorney General, for good cause shown and after notice to the defendant, may order the taking of a ~~videotaped~~ video deposition of an alleged victim of or witness to the crime who is under the age of 16 at the time of the order.

"(b) On any motion for a ~~videotaped~~ video deposition of the victim or a witness, the court shall consider the age and maturity of the child, the nature of the offense, the nature of testimony that may be expected, and the possible effect that the testimony in person at trial may have on the victim or witness, along with any other relevant matters that may be required by Supreme Court rule.

1           "(c) During the ~~taping~~ recording of a ~~videotaped~~  
2 video deposition authorized pursuant to this section, the  
3 following persons shall be in the room with the child: ~~The~~ the  
4 prosecuting attorney, the attorney for the defendant, and a  
5 person whose presence, in the judgment of the court,  
6 contributes to the well-being of the child and who has dealt  
7 with the child in a therapeutic setting regarding the abuse.  
8 Additional persons, ~~such as the parent or parents or legal~~  
9 ~~guardian,~~ other than the defendant, may be admitted into the  
10 room in the discretion of the court.

11           "(d) Examination and cross-examination of the  
12 alleged victim or witness shall proceed at the taking of the  
13 ~~videotaped~~ video deposition as though the alleged victim or  
14 witness were testifying personally in the trial of the case.  
15 The state shall provide the attorney for the defendant with  
16 reasonable access and means to view and hear the ~~videotaped~~  
17 video deposition at a suitable and reasonable time prior to  
18 the trial of the case. Objections to the introduction into the  
19 record of ~~such~~ the deposition shall be heard by the judge in  
20 whose presence the deposition was taken, and unless the court  
21 determines that its introduction in lieu of the victim's or  
22 witness's actual appearance as a witness at the trial will  
23 unfairly prejudice the defendant, ~~such videotaped~~ the video  
24 deposition shall be entered into the record by the state in

1 lieu of the direct testimony of the alleged victim or witness  
2 and shall be viewed and heard at the trial of the case.

3 "(e) For the purposes of this section, "~~videotaped~~  
4 video deposition" means the ~~visual recording on a magnetic~~  
5 ~~tape, together with the associated sound of a video, with~~  
6 sound, of witness ~~testifying~~ testimony made under oath to be  
7 entered in the record in a judicial proceeding.

8 "(f) The Supreme Court may adopt rules of procedure  
9 regarding the taking and use of ~~videotaped~~ video depositions  
10 in criminal proceedings and juvenile cases, as well as ~~for the~~  
11 ~~transcribing of such~~ transcription of video depositions in the  
12 ~~event the case is thereafter appealed~~ appeals of those cases.

13 "(g) All costs associated with the ~~videotaping~~  
14 recording of a deposition ordered pursuant to this article  
15 shall be paid by the state. The district attorney shall submit  
16 all ~~such~~ related cost bills to the state Comptroller for  
17 approval and payment from the fund entitled Court Costs Not  
18 Otherwise Provided For.

19 "(h) All ~~videotapes~~ recordings of video depositions  
20 ordered pursuant to this article shall be subject to any  
21 protective order of the court for the purpose of protecting  
22 the privacy of the victim of the offense.

23 "(i) When necessary, the operator of the ~~videotaping~~  
24 equipment used to record video depositions may also be in the

1 room during the taking of the deposition and the operator  
2 shall make every effort to be unobtrusive.

3 "(j) Only the court, the prosecuting attorney, and  
4 the attorney for the defendant may question the child victim  
5 or witness. During the testimony of the child, the defendant  
6 shall be provided access to view the testimony out of the  
7 presence of the child and shall be allowed to communicate with  
8 his or her attorney by any appropriate election method.

9 "(k) This section shall not apply when the defendant  
10 is an attorney pro se."

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

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 02-MAR-21.

Jeff Woodard  
Clerk

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Senate	29-APR-21	Passed
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