

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

SYNOPSIS: Existing law provides for the recording of videotaped depositions in criminal prosecutions for physical or sexual abuse or exploitation of children under the age of 16.

This bill would remove and update outdated references to videotape from statutory requirements for the recording of video depositions in criminal prosecutions for physical or sexual abuse or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.

A BILL
TO BE ENTITLED
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Relating to depositions; to amend Section 15-25-2, Code of Alabama 1975; to remove and update outdated references to videotape from statutory requirements for the recording of video depositions in criminal prosecutions for physical or sexual abuse or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:

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

3 "§15-25-2.

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

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

17 "(c) During the ~~taping~~ recording of a ~~videotaped~~
18 video deposition authorized pursuant to this section, the
19 following persons shall be in the room with the child: ~~The~~ the
20 prosecuting attorney, the attorney for the defendant, and a
21 person whose presence, in the judgment of the court,
22 contributes to the well-being of the child and who has dealt
23 with the child in a therapeutic setting regarding the abuse.
24 Additional persons, ~~such as the parent or parents or legal~~
25 ~~guardian,~~ other than the defendant, may be admitted into the
26 room in the discretion of the court.

1 "(d) Examination and cross-examination of the
2 alleged victim or witness shall proceed at the taking of the
3 ~~videotaped~~ video deposition as though the alleged victim or
4 witness were testifying personally in the trial of the case.
5 The state shall provide the attorney for the defendant with
6 reasonable access and means to view and hear the ~~videotaped~~
7 video deposition at a suitable and reasonable time prior to
8 the trial of the case. Objections to the introduction into the
9 record of ~~such~~ the deposition shall be heard by the judge in
10 whose presence the deposition was taken, and unless the court
11 determines that its introduction in lieu of the victim's or
12 witness's actual appearance as a witness at the trial will
13 unfairly prejudice the defendant, ~~such videotaped~~ the video
14 deposition shall be entered into the record by the state in
15 lieu of the direct testimony of the alleged victim or witness
16 and shall be viewed and heard at the trial of the case.

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

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

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

7 "(h) All ~~videotapes~~ recordings of video depositions
8 ordered pursuant to this article shall be subject to any
9 protective order of the court for the purpose of protecting
10 the privacy of the victim of the offense.

11 "(i) When necessary, the operator of the ~~videotaping~~
12 equipment used to record video depositions may also be in the
13 room during the taking of the deposition and the operator
14 shall make every effort to be unobtrusive.

15 "(j) Only the court, the prosecuting attorney, and
16 the attorney for the defendant may question the child victim
17 or witness. During the testimony of the child, the defendant
18 shall be provided access to view the testimony out of the
19 presence of the child and shall be allowed to communicate with
20 his or her attorney by any appropriate election method.

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

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