

1 HB283
2 217084-1
3 By Representatives Coleman and Collins
4 RFD: Judiciary
5 First Read: 08-FEB-22

SYNOPSIS: Under existing law, when a victim or witness to a sex crime is under the age of 16 years, on motion of the district attorney or Attorney General, the court may order the testimony of the victim to be taken by closed circuit equipment outside of the presence of the defendant and jury.

This bill would authorize victims and witnesses of human trafficking, without regard to age, to have their testimony taken by closed circuit equipment outside of the presence of the defendant and jury.

A BILL
TO BE ENTITLED
AN ACT

Relating to criminal procedure; to amend Section 15-25-3, Code of Alabama 1975, to authorize the taking of testimony by closed circuit equipment of victims and witnesses of human trafficking.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 15-25-3, Code of Alabama 1975, is
3 amended to read as follows:

4 "§15-25-3.

5 "(a) (1) In those criminal prosecutions set out in
6 Section 15-25-1, the court, on motion of the state or the
7 defendant prior to the trial of the case, may order that the
8 testimony of any alleged victim of the crime or witness
9 thereto who is under the age of 16 at the time of the order
10 shall be viewed and heard at trial by the court and the finder
11 of fact by closed circuit equipment. In ruling on the motion
12 the court shall take into consideration those matters set out
13 in Section 15-25-2.

14 "(2) In any criminal prosecution under Article 8 of
15 Chapter 6 of Title 13A, the court, on motion of the state or
16 the defendant prior to the trial of the case, may order that
17 the testimony of any alleged victim of the crime or witness
18 thereto shall be viewed and heard at trial by the court and
19 the finder of fact by closed circuit equipment. In ruling on
20 the motion the court shall take into consideration those
21 matters set out in Section 15-25-2.

22 "(b) If the court orders that the victim's or
23 witness's testimony in court shall be by closed circuit
24 equipment, the testimony shall be taken outside the courtroom
25 in the judge's chambers or in another suitable location
26 designated by the judge.

1 "(c) Examination and cross-examination of the
2 alleged ~~child~~ victim or witness shall proceed as though he or
3 she were testifying in the courtroom. Present in the room with
4 the ~~child~~ victim or witness during his or her testimony shall
5 be the prosecuting attorney, the attorney of the defendant,
6 and a person whose presence, in the judgment of the court,
7 contributes to the well-being of the ~~child~~ victim or witness
8 and who has dealt with the ~~child~~ victim or witness in a
9 therapeutic setting regarding the abuse. Additional persons,
10 such as the parent or parents or legal guardian, except the
11 defendant, may be admitted into the room in the discretion of
12 the court.

13 "(d) All costs incurred by the district attorney to
14 make it possible for the court and the trier of the fact to
15 view the testimony of the victim by closed circuit equipment
16 as provided in this article shall be paid by the state. The
17 district attorney shall submit all bills for costs to the
18 state Comptroller for approval and payment from the fund
19 entitled Court Costs Not Otherwise Provided For.

20 "(e) Notwithstanding any other provision of law or
21 rule of evidence, a child victim of a physical offense, sexual
22 offense, or sexual exploitation, shall be considered a
23 competent witness and shall be allowed to testify without
24 prior qualification in any judicial proceeding. The trier of
25 fact shall be permitted to determine the weight and
26 credibility to be given to the testimony. The court may also

1 allow leading questions of the child witnesses in the interest
2 of justice.

3 "(f) The operators of the closed circuit equipment
4 may also be in the room and shall make every effort to be
5 unobtrusive.

6 "(g) Only the court, the prosecuting attorney, and
7 the attorney for the defendant may question the child victim
8 or witness under subsection (a). During the ~~child's~~ testimony
9 of the victim or witness by closed circuit equipment, the
10 defendant, the judge, and the jury shall remain in the
11 courtroom. The video feed showing the child victim or witness
12 shall remain visible to the defendant, the judge, and the jury
13 at all times during the testimony and cross-examination of the
14 ~~child~~ victim or witness.

15 "(h) The judge and the defendant shall be allowed to
16 communicate with the attorneys in the room where the ~~child~~
17 victim or witness is testifying by any appropriate electronic
18 method. The party making the motion that the testimony shall
19 be by closed circuit equipment shall make all necessary
20 arrangements regarding the equipment and the operation thereof
21 during the course of the proceeding.

22 "(i) This section may not be interpreted to
23 preclude, for purposes of identification of a defendant, the
24 presence of both the victim and the defendant in the courtroom
25 at the same time. The testimony shall be limited to purposes
26 of identification only.

1 "(j) The provisions of this section shall not apply
2 if the defendant is not represented by an attorney."

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