

By: Madden

H.B. No. 1000

A BILL TO BE ENTITLED

AN ACT

relating to the taking of witness depositions in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 39.02, Code of Criminal Procedure, is amended to read as follows:

Art. 39.02. WITNESS DEPOSITIONS [~~FOR~~ ~~DEFENDANT~~].

Depositions of witnesses may be taken by either the state or the defendant. When a party seeks [~~the defendant desires~~] to take the deposition of a witness, the party [~~he~~] shall [~~, by himself or counsel,~~] file with the clerk of the court in which the case is pending an affidavit stating the facts necessary to constitute a good reason for taking the witness's deposition [~~same,~~] and an application to take the deposition [~~same~~]. On [~~Provided that upon~~] the filing of the affidavit and [~~such~~] application, and after notice to the other party [~~attorney for the state~~], the court [~~courts~~] shall hear the application and determine if good reason exists for taking the deposition. The court shall base its [~~Such~~] determination and shall grant or deny the application [~~be~~] based on the facts made known at the hearing [~~and the court, in its judgment, shall grant or deny the application on such facts~~].

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) The change in law made by this Act applies only to a criminal case in which the indictment or information is presented to the court on or after September 1, 2003. A criminal case in which

1 the indictment or information is presented to the court before  
2 September 1, 2003, is covered by the law in effect when the  
3 indictment or information is presented, and the former law is  
4 continued in effect for that purpose.