

## **BILL ANALYSIS**

Senate Research Center

H.B. 2348  
By: Capriglione (Hagenbuch)  
Criminal Justice  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas has a duty to protect elderly and disabled individuals who may be victims or key witnesses in criminal cases and these individuals often face significant challenges in providing testimony, including health concerns, mobility limitations, or the stress of courtroom proceedings. While current Texas law provides for the depositions of elderly or disabled witnesses to be taken by the state's attorney in criminal cases, there is no clear requirement for the video recording these testimonies and, as the bill author has informed the committee, without a visual record, important nonverbal cues, demeanor, and context can be lost, potentially weakening the impact of their testimony in court. H.B. 2348 seeks to modernize Texas' legal process and allow courts to adapt to the needs of victims and witnesses to ensure justice is served effectively by providing for the video recording of depositions for elderly or disabled individuals in criminal cases and requiring the person operating the recording device to be available to testify regarding the authenticity of the video recording and the taking of the deposition for admissibility in court.

This bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. This bill also does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

H.B. 2348 amends the Code of Criminal Procedure to authorize a court, on the motion of either party in a criminal action, to order the state's attorney to take a deposition of an elderly or disabled person who is the alleged victim of or witness to an offense by video recording. The bill requires the person operating the video recording device to be available to testify regarding the authenticity of the video recording and the taking of the deposition in order for the video recording to be admissible. The bill authorizes the court to allow a party to offer the entire video recording into evidence without requiring the jury to view the entire video recording during the trial if the court finds that requiring the jury to do so would unnecessarily prolong the trial and that the video recording of the deposition is properly authenticated. This authorization expressly does not preclude the state's attorney, the defendant, or the defendant's attorney from offering into evidence and playing for the jury a portion of a video-recorded deposition. H.B. 2348 revises the provision conditioning the reading of a witness deposition taken in a criminal action on an oath being made that one of the qualifying circumstance for use of the deposition applies by specifying that this oath requirement applies to the reading or publication of a written or recorded deposition taken under state law governing witness depositions, depositions of elderly or disabled persons, or depositions of Medicaid or Medicare recipients or caregivers. H.B. 2348 applies only to a criminal proceeding that commences on or after the bill's effective date. A criminal proceeding that commences before the bill's effective date is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

H.B. 2348 amends current law relating to the video recording of a deposition taken of the testimony of certain elderly or disabled persons in a criminal case.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 39.025, Code of Criminal Procedure, by adding Subsection (b-1), as follows:

(b-1) Authorizes the court, on the motion of either party, to order the attorney representing the state to take the deposition of an elderly or disabled person by video recording. Requires the person operating the video recording device to be available to testify regarding the authenticity of the video recording and the taking of the deposition in order for the video recording to be admissible.

SECTION 2. Amends Article 39.12, Code of Criminal Procedure, as follows:

Art. 39.12. PREDICATE TO READ OR PUBLISH DEPOSITION. (a) Creates this subsection from existing text. Prohibits a written or recorded deposition taken under certain articles of the Code of Criminal Procedure in a criminal action from being read or published unless oath be made that the witness resides out of the state or other criteria are met. Deletes existing text prohibiting depositions taken in criminal actions from being read unless oath be made that the witness resides out of the state or other criteria are met.

(b) Creates this subsection from existing text. Requires that the oath, when the deposition is sought to be used by the defendant, be made by the defendant in person.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2025.