

By: Capriglione

H.B. No. 2348

A BILL TO BE ENTITLED

AN ACT

relating to the video recording of a deposition taken of the testimony of certain elderly or disabled persons in a criminal case.

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

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

(b-1) On the motion of either party, the court may order the attorney representing the state to take the deposition of an elderly or disabled person by video recording. The person operating the video recording device must 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. Article 39.12, Code of Criminal Procedure, is amended to read as follows:

Art. 39.12. PREDICATE TO READ OR PUBLISH DEPOSITION. (a) A written or recorded deposition ~~[Depositions]~~ taken under Article 39.02, 39.025, or 39.026 in a criminal action may ~~[actions shall]~~ not be read or published unless oath be made that the witness resides out of the state; or that since the deposition was taken, the witness has died; or that the witness has removed beyond the limits of the state; or that the witness has been prevented from attending the court through the act or agency of the defendant; or by the act or agency of any person whose object was to deprive the

1 state or the defendant of the benefit of the testimony; or that by  
2 reason of age or bodily infirmity, the witness cannot attend; or  
3 that the witness is a Medicaid or Medicare recipient or a caregiver  
4 or guardian of the recipient, and the recipient's Medicaid or  
5 Medicare account was charged for a product or service that was not  
6 provided or rendered to the recipient.

7       **(b)** When the deposition is sought to be used by the state,  
8 the oath may be made by any credible person. When the deposition is  
9 sought to be used by the defendant, the oath shall be made by the  
10 defendant in person.

11       SECTION 3. The change in law made by this Act applies only  
12 to a criminal proceeding that commences on or after the effective  
13 date of this Act. A criminal proceeding that commences before the  
14 effective date of this Act is governed by the law in effect on the  
15 date the proceeding commenced, and the former law is continued in  
16 effect for that purpose.

17       SECTION 4. This Act takes effect September 1, 2025.