

By: Capriglione

H.B. No. 2348

Substitute the following for H.B. No. 2348:

By: Cook

C.S.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 Subsections (b-1) and (b-2) 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.

(b-2) If the court finds that the video recording of the deposition is properly authenticated and that requiring the jury to view the entire recording would unnecessarily prolong the trial, the court may allow a party to offer the entire video recording into evidence without requiring the jury to view the entire video recording during the trial. This subsection does not preclude the attorney representing the state, the defendant, or the defendant's attorney from offering into evidence and playing for the jury a portion of a video-recorded deposition.

SECTION 2. Article 39.12, Code of Criminal Procedure, is amended to read as follows:

1 Art. 39.12. PREDICATE TO READ OR PUBLISH DEPOSITION. (a) A
2 written or recorded deposition [~~Depositions~~] taken under Article
3 39.02, 39.025, or 39.026 in a criminal action may [~~actions shall~~]
4 not be read or published unless oath be made that the witness
5 resides out of the state; or that since the deposition was taken,
6 the witness has died; or that the witness has removed beyond the
7 limits of the state; or that the witness has been prevented from
8 attending the court through the act or agency of the defendant; or
9 by the act or agency of any person whose object was to deprive the
10 state or the defendant of the benefit of the testimony; or that by
11 reason of age or bodily infirmity, the witness cannot attend; or
12 that the witness is a Medicaid or Medicare recipient or a caregiver
13 or guardian of the recipient, and the recipient's Medicaid or
14 Medicare account was charged for a product or service that was not
15 provided or rendered to the recipient.

16 **(b)** When the deposition is sought to be used by the state,
17 the oath may be made by any credible person. When the deposition is
18 sought to be used by the defendant, the oath shall be made by the
19 defendant in person.

20 SECTION 3. The change in law made by this Act applies only
21 to a criminal proceeding that commences on or after the effective
22 date of this Act. A criminal proceeding that commences before the
23 effective date of this Act is governed by the law in effect on the
24 date the proceeding commenced, and the former law is continued in
25 effect for that purpose.

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