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3 By Representative Coleman
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ENROLLED, An Act,

Relating to criminal procedure; to authorize the use of video depositions by certain victims and witnesses of human trafficking under certain conditions; and to authorize the giving of testimony by closed circuit video equipment by certain victims and witnesses of human trafficking under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) In any criminal prosecution under Article 8 of Chapter 6 of Title 13A, Code of Alabama 1975, the court, upon motion of the district attorney or Attorney General, for good cause shown and after notice to the defendant, may order the taking of a video deposition of a victim of or witness to a crime without regard to the age of the victim or witness.

(b) On any motion for a video deposition of the victim or witness, the court shall consider the nature of the offense, the nature of testimony that may be expected, and the possible effect that the testimony in person at trial may have on the victim or witness, along with any other relevant matters that may be required by rule of the Supreme Court.

(c) During the recording of a video deposition authorized pursuant to this section, the following persons shall be in the room with the victim or witness:

1 (1) The prosecuting attorney.

2 (2) The attorney for the defendant.

3 (3) A person whose presence, in the judgment of the
4 court, contributes to the well-being of the victim or witness
5 and who has dealt with the victim or witness in a therapeutic
6 setting regarding the abuse, excluding staff, employees, or
7 subcontractors, or experts employed or contracted by the
8 prosecution.

9 (4) Additional persons, other than the defendant, in
10 the discretion of the court.

11 (d) Examination and cross-examination of the victim
12 or witness shall proceed at the taking of the video deposition
13 as though the victim or witness were testifying personally in
14 the trial of the case. The state shall provide the attorney
15 for the defendant with a copy of the video deposition at a
16 suitable and reasonable time prior to the trial of the case.
17 The court shall enter a protective order prohibiting the
18 attorney for the defendant from copying, reproducing, or
19 distributing the video deposition. Objections to the
20 introduction into the record of the deposition shall be heard
21 by the judge in whose presence the deposition was taken, and
22 unless the court determines that its introduction in lieu of
23 the victim's or witness's actual appearance as a witness at
24 the trial will unfairly prejudice the defendant, the video
25 deposition shall be entered into the record by the state in

1 lieu of the direct testimony of the victim or witness and
2 shall be viewed and heard at the trial of the case.

3 (e) For the purposes of this section, "video
4 deposition" means the recording of video, with sound, of
5 witness testimony made under oath to be entered in the record
6 in a judicial proceeding.

7 (f) The Supreme Court may adopt rules of procedure
8 regarding the taking and use of video depositions in criminal
9 proceedings and juvenile cases, as well as transcription of
10 video depositions in appeals of those cases.

11 (g) All costs associated with the recording of a
12 deposition ordered pursuant to this section shall be paid by
13 the state. The district attorney or Attorney General shall
14 submit all related cost bills to the state Comptroller for
15 approval and payment from the fund entitled Court Costs Not
16 Otherwise Provided For.

17 (h) All recordings of video depositions ordered
18 pursuant to this section shall be subject to any protective
19 order of the court for the purpose of protecting the privacy
20 of the victim or witness of the offense.

21 (i) When necessary, the operator of the equipment
22 used to record video depositions may also be in the room
23 during the taking of the deposition and the operator shall
24 make every effort to be unobtrusive.

1 (j) Only the court, the prosecuting attorney, and
2 the attorney for the defendant may question the victim or
3 witness. During the testimony of the victim or witness, the
4 defendant shall be provided access to view the testimony out
5 of the presence of the victim or witness and shall be allowed
6 to communicate with his or her attorney by any appropriate
7 election method.

8 (k) In circumstances where a defendant in a
9 proceeding has elected to proceed without counsel, the court
10 may appoint counsel for the defendant and may order counsel to
11 question the victim or witness on behalf of the pro se
12 defendant if the court finds that there is a substantial
13 likelihood that the victim or witness would experience
14 emotional harm if the defendant were allowed to question the
15 victim or witness.

16 Section 2. (a) In any criminal prosecution under
17 Article 8 of Chapter 6 of Title 13A, Code of ALabama 1975, the
18 court, on motion of the state or the defendant prior to the
19 trial of the case, may order that the testimony of any victim
20 of the crime or witness to the crime shall be viewed and heard
21 at trial by the court and the finder of fact by closed circuit
22 equipment. In ruling on the motion, the court shall take into
23 consideration the nature of the offense, the nature of
24 testimony that may be expected, and the possible effect that
25 the testimony in person at trial may have on the victim or

1 witness, along with any other relevant matters that may be
2 required by Supreme Court rule.

3 (b) If the court orders that the victim's or
4 witness's testimony in court shall be by closed circuit
5 equipment, the testimony shall be taken outside the courtroom
6 in the judge's chambers or in another suitable location
7 designated by the judge.

8 (c) Examination and cross-examination of the victim
9 or witness shall proceed as though the victim or witness was
10 testifying in the courtroom. The following individuals may be
11 present in the room with the victim or witness during his or
12 her testimony:

13 (1) The prosecuting attorney.

14 (2) The attorney of the defendant.

15 (3) A person whose presence, in the judgment of the
16 court, contributes to the well-being of the victim or witness
17 and who has dealt with the victim or witness in a therapeutic
18 setting regarding the abuse, excluding staff, employees, or
19 subcontractors, or experts employed or contracted by the
20 prosecution.

21 (4) In the discretion of the court, any additional
22 person, including the parent or legal guardian, except the
23 defendant.

24 (d) All costs incurred by the district attorney or
25 Attorney General to make it possible for the court and the

1 trier of the fact to view the testimony of the victim or
 2 witness by closed circuit equipment as provided in this
 3 section shall be paid by the state. The district attorney or
 4 Attorney General shall submit all bills for costs to the state
 5 Comptroller for approval and payment from the fund entitled
 6 Court Costs Not Otherwise Provided For.

7 (e) The operators of the closed circuit equipment
 8 may also be in the room and shall make every effort to be
 9 unobtrusive.

10 (f) Only the court, the prosecuting attorney, and
 11 the attorney for the defendant may question the victim or
 12 witness. During the victim's or witness's testimony by closed
 13 circuit equipment, the defendant, the judge, and the jury
 14 shall remain in the courtroom. The video feed showing the
 15 victim or witness shall remain visible to the defendant, the
 16 judge, and the jury at all times during the testimony and
 17 cross-examination of the victim or witness.

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

1 (i) This section may not be interpreted to preclude,
2 for purposes of identification of a defendant, the presence of
3 both the victim or witness and the defendant in the courtroom
4 at the same time. The testimony shall be limited to purposes
5 of identification only.

6 (j) In circumstances where a defendant in a
7 proceeding has elected to proceed without counsel, the court
8 may appoint counsel for the defendant and may order counsel to
9 question the victim or witness on behalf of the pro se
10 defendant if the court finds that there is a substantial
11 likelihood that the victim or witness would experience
12 emotional harm if the defendant were allowed to question the
13 victim or witness.

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

