

SB124 INTRODUCED



1 I5S9WW-1
2 By Senator Coleman
3 RFD: Judiciary
4 First Read: 22-Mar-23
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SYNOPSIS:

Under existing law, when a victim or witness to a sex crime is a child or a protected person, on motion of the district attorney or Attorney General, the court may order the testimony of the victim or witness to be taken by closed circuit equipment outside of the presence of the defendant and jury.

This bill would authorize victims and witnesses of human trafficking, without regard to age, to have their testimony taken by closed circuit equipment outside of the presence of the defendant and jury.

A BILL
TO BE ENTITLED
AN ACT

Relating to criminal procedure; to amend Section 15-25-3, Code of Alabama 1975, as last amended by Act 2022-201, 2022 Regular Session, to authorize the taking of testimony by closed circuit equipment of victims and witnesses of human trafficking.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 15-25-3, Code of Alabama 1975, as last amended by Act 2022-201, 2022 Regular Session, is amended



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29 to read as follows:

30 "§15-25-3

31 (a) (1) In those criminal prosecutions set out in
32 Section 15-25-1, the court, on motion of the state or the
33 defendant prior to the trial of the case, may order that the
34 testimony of any alleged victim of the crime or a witness to
35 the crime who is a child or protected person at the time of
36 the order shall be viewed and heard at trial by the court and
37 the finder of fact by closed circuit equipment. In ruling on
38 the motion the court shall take into consideration the nature
39 of the offense, the nature of the testimony that may be
40 expected, and the possible effect that the testimony in person
41 at trial may have on the victim or witness, along with any
42 other relevant matters that may be required by Supreme Court
43 rule.

44 (2) In any criminal prosecution under Article 8 of
45 Chapter 6 of Title 13A, the court, on motion of the state or
46 the defendant prior to the trial of the case, may order that
47 the testimony of any witness to or alleged victim of the crime
48 shall be viewed and heard at trial by the court and the finder
49 of fact by closed circuit equipment. In ruling on the motion,
50 the court shall take into consideration those matters set out
51 in Section 15-25-2.

52 (b) If the court orders that the ~~victim's or witness's~~
53 testimony of a victim or witness subject to subsection (a) ~~in~~
54 ~~court~~ shall be by closed circuit equipment, the testimony
55 shall be taken outside the courtroom in the judge's chambers
56 or in another suitable location designated by the judge.



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57 (c) Examination and cross-examination of the victim or
58 witness shall proceed as though he or she were testifying in
59 the courtroom. Present in the room with the ~~child or the~~
60 ~~protected person~~ victim or witness during his or her testimony
61 shall be any of the following:

62 (1) The prosecuting attorney.

63 (2) The attorney of the defendant.

64 (3) A person whose presence, in the judgment of the
65 court, contributes to the well-being of the ~~child or protected~~
66 ~~person~~ victim or witness and who has dealt with the ~~child or~~
67 ~~protected person~~ victim or witness in a therapeutic setting
68 regarding the abuse.

69 (4) Additional ~~persons~~ individuals, except the
70 defendant, may be admitted into the room in the discretion of
71 the court.

72 (d) All costs incurred by the district attorney to make
73 it possible for the court and the trier of the fact to view
74 the testimony of the victim or witness by closed circuit
75 equipment as provided in this article shall be paid by the
76 state. The district attorney shall submit all bills for costs
77 to the state Comptroller for approval and payment from the
78 fund entitled Court Costs Not Otherwise Provided For.

79 (e) Notwithstanding any other provision of law or rule
80 of evidence, a child or protected person victim of a physical
81 offense, sexual offense, or violent offense, shall be
82 considered a competent witness and shall be allowed to testify
83 without prior qualification in any judicial proceeding. The
84 trier of fact shall be permitted to determine the weight and



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85 credibility to be given to the testimony. The court may also
86 allow leading questions of the ~~child or protected person~~
87 victim or witness in the interest of justice.

88 (f) The operators of the closed circuit equipment may
89 also be in the room and shall make every effort to be
90 unobtrusive.

91 (g) Only the court, the prosecuting attorney, and the
92 attorney for the defendant may question the ~~child or protected~~
93 ~~person~~ victim or witness. During the testimony by closed
94 circuit equipment, the defendant, the judge, and the jury
95 shall remain in the courtroom. The video feed showing the
96 ~~child or protected person~~ victim or witness shall remain
97 visible to the defendant, the judge, and the jury at all times
98 during the testimony and cross-examination of the ~~child or~~
99 ~~protected person~~ victim or witness.

100 (h) The judge and the defendant shall be allowed to
101 communicate with the attorneys in the room where the ~~child or~~
102 ~~protected person~~ victim or witness is testifying by any
103 appropriate electronic method. The party making the motion
104 that the testimony shall be by closed circuit equipment shall
105 make all necessary arrangements regarding the equipment and
106 the operation thereof during the course of the proceeding.

107 (i) This section may not be interpreted to preclude,
108 for purposes of identification of a defendant, the presence of
109 both the victim and the defendant in the courtroom at the same
110 time. The testimony shall be limited to purposes of
111 identification only.

112 (j) In circumstances where a defendant in a proceeding



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113 has elected to proceed without counsel, the court may appoint
114 counsel for the defendant and may order counsel to question a
115 ~~child or a protected person~~ victim or witness on behalf of the
116 pro se defendant if the court finds that there is substantial
117 likelihood that the ~~child or protected person~~ victim or
118 witness would experience emotional harm if the defendant were
119 allowed to question the ~~child or protected person~~ victim or
120 witness."

121 Section 2. This act shall become effective on the first
122 day of the third month following its passage and approval by
123 the Governor, or its otherwise becoming law.