

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 762

Short Title: Videotaped Depositions.

(Public)

Sponsors: Representative Hensley.

Referred to: Judiciary I.

April 5, 1995

A BILL TO BE ENTITLED

1 AN ACT TO REMOVE THE REQUIREMENT THAT DEPOSITIONS RECORDED
2 BY SOUND-AND-VISUAL MEANS MUST BE TRANSCRIBED AND TO
3 PROVIDE THAT, INSTEAD OF A TRANSCRIPTION, THE RECORDING MAY
4 BE REVIEWED BY THE DEPONENT AND MAY BE USED AS THE COURT'S
5 COPY OF THE DEPOSITION.
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7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 1A-1, Rule 30(b)(4) reads as rewritten:

9 "(4) Unless the court orders otherwise, a deposition may be recorded by
10 sound-and-visual or stenographic means. In addition to sound-and-
11 visual and stenographic means, testimony at a deposition may also be
12 taken without order of court by other means, including videotape, sound
13 recording. If the testimony is to be taken by other means in addition to
14 or in lieu of stenographic means, the notice shall state the methods by
15 which it shall be taken and the deposing party shall provide for the
16 transcribing of the testimony taken and the filing of the transcript of such
17 testimony with the clerk in the manner provided in subsection (f)(1) of this
18 rule. taken. In the case of a deposition taken by stenographic means, the
19 deposing party shall provide for the transcribing of the testimony taken.

1 The appearance or demeanor of deponents or attorneys shall not be
2 distorted through camera techniques."

3 Sec. 2. G.S. 1A-1, Rule 30(e) reads as rewritten:

4 "(e) Submission to deponent; changes; signing. — ~~When the testimony is fully~~
5 ~~transcribed the deposition shall be submitted to the deponent for examination and shall be~~
6 ~~read to or by him, unless such examination and reading are waived by the deponent and~~
7 ~~by the parties. Any changes in form or substance which the deponent desires to make~~
8 ~~shall be entered upon the deposition by the person before whom the deposition was taken~~
9 ~~with a statement of the reasons given by the deponent for making them. The deposition~~
10 The sound-and-visual recording or, in the case of a deposition taken by stenographic
11 means, the transcript shall be submitted to the deponent for examination and shall be
12 reviewed by the deponent, unless such examination and review are waived by the
13 deponent and by the parties. If there are changes in form or substance, the deponent shall
14 sign a statement reciting such changes and the reasons given by the deponent for making
15 them. The officer shall indicate in the certificate prescribed by subdivision (f)(1) whether
16 any review was requested and, if so, shall append any changes made by the deponent.
17 The certificate shall then be signed by the deponent, unless the parties by stipulation
18 waive the signing or the deponent is ill or cannot be found or refuses to sign. If the
19 deposition certificate is not signed by the deponent within 30 days of its submission to
20 him, the person before whom the deposition was taken shall sign the original thereof or,
21 if the deponent refuses to return the original, a copy thereof certificate and state on the
22 record certificate the fact of the waiver or of the illness or absence of the deponent or the
23 fact of the refusal or failure to sign together with the reason, if any, given therefor; and
24 the deposition may then be used as fully as though the certificate were signed unless on a
25 motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the
26 refusal to sign require rejection of the deposition in whole or in part."

27 Sec. 3. G.S. 1A-1, Rule 30(f) reads as rewritten:

28 "(f) Certification and filing by officer; exhibits; copies; notice of filing. —

29 (1) ~~The officer shall certify on the deposition that the deponent was duly~~
30 ~~sworn by him and that the deposition is a true record of the testimony~~
31 ~~given by the deponent. This certificate shall be in writing~~
32 ~~and accompany the sound-and-visual recording or transcript of the~~
33 ~~deposition. He shall then place the deposition in an envelope or~~
34 ~~package endorsed with the title of the action and marked 'Deposition of~~
35 ~~(here insert name of witness)' and shall personally deliver it or mail it by~~
36 ~~first class mail to the party taking the deposition or his attorney who~~
37 ~~shall preserve it as the court's copy.~~

38 Documents and things produced for inspection during the examination
39 of the deponent shall, upon the request of a party, be marked for
40 identification and annexed to and returned with the deposition, and may
41 be inspected and copied by any party, except that (i) the person
42 producing the materials may substitute copies to be marked for
43 identification, if he affords to all parties fair opportunity to verify the

1 copies by comparison with the originals, and (ii) if the person producing
2 the materials requests their return, the person before whom the
3 deposition is taken shall mark them, give each party an opportunity to
4 inspect and copy them, and return them to the person producing them,
5 and the materials may then be used in the manner as if annexed to and
6 returned with the deposition. Any party may move for an order that the
7 original be annexed to and returned with the deposition to the court,
8 pending final disposition of the case.

9 (2) Upon payment of reasonable charges therefor, the officer shall furnish a
10 copy of the deposition to any party or to the deponent.

11 (3) The clerk shall give prompt notice of the filing of a deposition to all
12 parties."

13 Sec. 4. This act becomes effective October 1, 1995, and applies to any cases
14 filed on or after that date.