

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

3

HOUSE BILL 762

Second Edition Engrossed 4/27/95

Senate Judiciary I/ Constitution Committee Substitute Adopted 6/20/95

Short Title: Videotaped Depositions.

(Public)

Sponsors:

Referred to:

April 5, 1995

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE REQUIREMENT THAT DEPOSITIONS RECORDED BY SOUND-AND-VISUAL MEANS MUST BE TRANSCRIBED AND TO PROVIDE THAT, INSTEAD OF A TRANSCRIPTION, THE RECORDING MAY BE REVIEWED BY THE DEPONENT AND MAY BE USED AS THE COURT'S COPY OF THE DEPOSITION.

The General Assembly of North Carolina enacts:

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

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

1 case of a deposition taken by stenographic means, the party that
2 provides for the stenographer shall provide for the transcribing of the
3 testimony taken. If the deposition is by sound recording only, the party
4 noticing the deposition shall provide for the transcribing of the
5 testimony taken. If the deposition is by sound-and-visual means, the
6 appearance or demeanor of deponents or attorneys shall not be distorted
7 through camera techniques. Regardless of the method stated in the
8 notice, any party or the deponent may have the testimony recorded by
9 stenographic means."

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

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

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

36 "(f) ~~Certification and filing by officer; person administering the oath; exhibits;~~
37 ~~copies; notice of filing. —~~

38 (1) ~~The officer person administering the oath shall certify on the deposition~~
39 ~~that the deponent was duly sworn by him and that the deposition is a~~
40 ~~true record of the testimony given by the ~~dependent~~ deponent. This~~
41 ~~certificate shall be in writing and accompany the sound-and-visual or~~
42 ~~sound recording or transcript of the deposition. He shall then place the~~
43 ~~deposition in an envelope or package endorsed with the title of the~~

1 action and marked 'Deposition of (here insert name of witness)' and
2 shall personally deliver it or mail it by first class mail to the party taking
3 the deposition or his attorney who shall preserve it as the court's copy.

4 Documents and things produced for inspection during the examination
5 of the deponent shall, upon the request of a party, be marked for
6 identification and annexed to and returned with the deposition, and may
7 be inspected and copied by any party, except that (i) the person
8 producing the materials may substitute copies to be marked for
9 identification, if he affords to all parties fair opportunity to verify the
10 copies by comparison with the originals, and (ii) if the person producing
11 the materials requests their return, the person before whom the
12 deposition is taken shall mark them, give each party an opportunity to
13 inspect and copy them, and return them to the person producing them,
14 and the materials may then be used in the manner as if annexed to and
15 returned with the deposition. Any party may move for an order that the
16 original be annexed to and returned with the deposition to the court,
17 pending final disposition of the case.

18 (2) Upon payment of reasonable charges therefor, the ~~officer~~person
19 administering the oath shall furnish a copy of the deposition to any party
20 or to the deponent.

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

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