

BILL ANALYSIS

Senate Research Center
78R5316 GWK-D

H.B. 1000
By: Madden (Nelson)
Criminal Justice
5/18/2003
Engrossed

DIGEST AND PURPOSE

Under current law, prosecutors may have difficulty effectively prosecuting those who prey upon the elderly or infirm because such victims may not be physically able to testify in court or may not live long enough for the case to go to trial. Amending the law to allow the state to take depositions might help prosecutors in cases of financial fraud against the elderly, election fraud cases involving elderly voters receiving mail ballots, and victims of violent crime whose condition deteriorates before the case can come to trial. H.B. 1000 authorizes depositions of witnesses to be taken by either the state or the defendant.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 39.02, Code of Criminal Procedure, as follows:

Art. 39.02. New Heading: WITNESS DEPOSITIONS. Authorizes depositions of witnesses to be taken by either the state or the defendant. Requires a party, when a party seeks, rather than when the defendant desires, to take the deposition of a witness, the party, rather than he, to file with the clerk of the court in which the case is pending an affidavit stating the facts necessary to constitute a good reason for taking the witness's deposition and an application to take the deposition. Requires the court, on the filing of the affidavit and application, and after notice to the other party, rather than the attorney for the state, to hear the application and determine if good reason exists for taking the deposition. Requires the court to base its determination and grant or deny the application based on the facts made known at the hearing. Deletes "by himself or counsel" in relation to a party filing with the clerk of the court. Deletes text requiring the court, in its judgment, to grant or deny the application on such facts.

SECTION 2. (a) Effective date: September 1, 2003.

(b) Makes application of this Act prospective.