

Regular Session, 2012

SENATE BILL NO. 482

BY SENATOR PERRY

CRIMINAL PROCEDURE. Provides relative to the taking of depositions of a child victim of sexual abuse. (8/1/12)

1 AN ACT
2 To enact Code of Criminal Procedure Article 729.7, relative to discovery in certain criminal
3 cases; to prohibit taking the deposition of the victim in certain sexual abuse cases
4 involving a minor except under certain circumstances; to provide for definitions; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 729.7 is hereby enacted to read as
8 follows:

9 **Art. 729.7. Depositions of minors in sexual abuse cases**
10 **A.(1) Notwithstanding any other provision of law, no deposition of the**
11 **victim shall be taken in the prosecution of any crime of rape, sexual battery, or**
12 **incest involving a minor, trafficking of children for sexual purposes, or sexual**
13 **offense affecting a minor under R.S. 14:80 through 81.5, except by agreement**
14 **of the parties or after approval of the court pursuant to Paragraph B of this**
15 **Article.**
16 **(2) For purposes of this Article, "minor" shall mean a person under the**
17 **age of seventeen years.**

1 **B. The court shall not approve a deposition pursuant to this Article**
2 **unless the court finds that:**

3 **(1) The testimony of the victim is necessary to assist the trial.**

4 **(2) The evidence sought is not reasonably available by any other means.**

5 **(3) The probative value of the testimony outweighs the potential**
6 **detriment to the victim of being deposed.**

7 **C. (1) If a deposition is taken pursuant to this Article, the court shall**
8 **issue a protective order to protect the deponent from emotional harm,**
9 **unnecessary annoyance, embarrassment, oppression, invasion of privacy, undue**
10 **burden or expense, or waste of time.**

11 **(2) The protective order may include, among other remedies:**

12 **(a) That the deposition may be taken only on specified terms and**
13 **conditions, including a designation of the time, place, and manner of taking the**
14 **deposition.**

15 **(b) That the deposition may be taken only by written questions.**

16 **(c) That certain matters not be inquired into, or that the scope of the**
17 **deposition be limited in certain matters.**

18 **(d) That the deposition be conducted only with such persons present as**
19 **the court may designate.**

20 **(e) That after the deposition has been taken, the recording or**
21 **transcription be sealed until further order of the court.**

22 **D. If a deposition of the victim is taken pursuant to this Article, the court**
23 **shall appoint an attorney to represent the victim for the purposes of the**
24 **deposition.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Perry (SB 482)

Proposed law provides relative to depositions of minors in sexual abuse cases.

Proposed law provides that no deposition of the victim can be taken in the prosecution of any

crime of rape, sexual battery, or incest involving a minor, trafficking of children for sexual purposes, or sexual offense affecting a minor under certain provisions of present law except by agreement of the parties or after approval of the court pursuant to proposed law.

Proposed law provides that "minor" means a person under the age of 17 years.

Proposed law provides that the court cannot approve the deposition of a minor in a sexual abuse case unless the court finds that:

1. The testimony of the victim is necessary to assist the trial.
2. The evidence sought is not reasonably available by any other means.
3. The probative value of the testimony outweighs the potential detriment to the victim of being deposed.

Proposed law provides that if a deposition is taken pursuant to proposed law, then the court must issue a protective order to protect the victim from emotional harm, unnecessary annoyance, embarrassment, oppression, invasion of privacy, undue burden or expense, or waste of time.

Proposed law provides that this protective order may include, among other remedies:

1. That the deposition may be taken only on specified terms and conditions, including a designation of the time, place, and manner of taking the deposition.
2. That the deposition may be taken only by written questions.
3. That certain matters not be inquired into, or that the scope of the deposition be limited in certain matters.
4. That the deposition be conducted only with such persons present as the court may designate.
5. That after the deposition has been taken, the recording or transcription be sealed until further order of the court.

Proposed law provides that if a deposition of the victim is taken pursuant to proposed law, then the court is to appoint an attorney to represent the victim for the purposes of the deposition.

Effective August 1, 2012.

(Adds C.Cr.P. Art. 729.7)