

005643500

## SENATE BILL NO. 385

Offered January 20, 2000

*A BILL to amend and reenact §§ 8.01-412.2 and 8.01-412.4 of the Code of Virginia, relating to the authorization and procedures for audio-visual depositions.*

Patrons—Mims, Forbes, Norment, Stolle and Trumbo; Delegates: Cantor and Howell

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-412.2 and 8.01-412.4 of the Code of Virginia are amended and reenacted as follows:**

§ 8.01-412.2. Authorization of audio-visual deposition; official record; uses.

Any deposition may be recorded by audio-visual means without a stenographic record. Any party may make, at his own expense, a simultaneous stenographic or audio record of the deposition. Upon request and at his own expense, any party is entitled to an audio or audio-visual copy of the audio-visual recording.

The audio-visual recording is an official record of the deposition. A transcript prepared by a court reporter shall also be deemed an official record of the deposition. An audio-visual deposition may be used for any purpose and under any circumstances in which a stenographic deposition may be used.

*For purpose of this Act, "audio-visual" shall include video conferencing and teleconferencing.*

§ 8.01-412.4. Procedure.

The taking of audio-visual depositions shall be in accordance with the rules of the Supreme Court generally applicable to depositions. However, the following procedure shall be observed in recording an audio-visual deposition:

The deposition must begin with an oral or written statement on camera which includes (i) the operator's name and business address *or, if applicable, the identity of the video conferencing or teleconferencing proprietor and locations participating in the video conference or teleconference*; (ii) the name and business address of the operator's employer; (iii) the date, time and place of the deposition; (iv) the caption of the case; (v) the name of the witness; (vi) the party on whose behalf the deposition is being taken; *(vii) with respect to video conferencing or teleconferencing, the identities of persons present at the deposition and the location of each such person*; and ~~(vii)~~ (viii) any stipulations by the parties.

In addition, all counsel present on behalf of any party or witness shall identify themselves on camera. The oath for witnesses shall be administered on camera. If the length of a deposition requires the use of more than one recording unit, the end of each unit and the beginning of each succeeding unit shall be announced on camera. At the conclusion of a deposition, a statement shall be made on camera that the deposition is concluded. A statement may be made on camera setting forth any stipulations made by counsel concerning the custody of the audio-visual recording and exhibits or other pertinent matters.

All objections must be made as in the case of stenographic depositions. In any case where the court orders the audio-visual recording to be edited prior to its use, the original recording shall not be altered but shall be maintained as is.

Unless otherwise stipulated by the parties, the original audio-visual recording of a deposition, any copy edited pursuant to an order of the court, and exhibits shall be filed with the clerk of the court in accordance with the rules of the Supreme Court.

INTRODUCED

SB385