

§ ~~12-21-135~~.1. Video testimony by certain witnesses.

Currentness

(a) This section shall be known as the “Alabama Armed Services Accommodation Act.”

(b) The Legislature finds it to be an important matter of public policy that an accommodation be made for military members who are asked to testify in civil or criminal trials in this state but are unable to attend in person. The purpose of this section is to ease the burdens on military personnel and their families brought on by the duty of appearing as a witness in a trial in this state when summoned. The purpose of this section is also to allow members of the armed services to assist in trials in this state as witnesses without interrupting their military service, while protecting the rights of all parties in civil or criminal litigation. The purpose of this section is also to better enable the fact-finder to obtain crucial evidence and will aid in the expeditious resolution of cases in this state by providing a procedure in which testimony of a person serving in the armed services may be taken without undue hardship.

(c) The Legislature also finds it is a matter of public policy that an accommodation be made for the employees and representatives of the Alabama Department of Forensic Sciences who are asked or required to testify in civil or criminal trials in this state. This section will allow the employees and representatives of the Alabama Department of Forensic Sciences to appear as a witness, while minimizing the amount of time required for the employees and representatives of the Alabama Department of Forensic Sciences to be out of their respective facilities.

(d) For purposes of this section, the following words shall have the following meanings:

(1) Active duty. Full-time duty status in the Armed Services of the United States, including members of the reserve and National Guard components on active duty orders pursuant to [10 U.S.C. §§ 331, 332, 333, 12301\(d\), 12302, 12304](#), and [12406](#).

(2) Armed services. The federal military forces of the United States including the Army, Navy, Marine Corps, Air Force, Coast Guard, a reserve component thereof, and the National Guard.

(3) Forensic scientist. Any employee or representative of the Alabama Department of Forensic Sciences.

(4) Two-way video conference. A conference among people in different locations by means of transmitted audio and video signals. The term includes use of all communication technologies that allow individuals in two or more locations to interact by two-way video and audio transmissions simultaneously in real time.

(e) Upon motion by either party, a circuit or district court judge may permit a witness to testify in any civil case by a two-way video conference presented in open court, if the moving party establishes all of the following to the satisfaction of the court:

(1) The witness is a member of the armed services currently on active duty status.

(2) The witness currently is not physically present in the State of Alabama.

- (3) The witness's absence from the state is a direct result of official military duty.
- (4) The testimony of the witness is given under oath and subject to cross-examination.
- (f) Upon consent of all the parties, a circuit or district court judge may permit a witness to testify in any criminal case by a two-way video conference presented in open court if the witness meets all of the requirements provided in subsection (e) for witnesses testifying in a civil case.
- (g) Upon motion by either party, and upon consent by both parties, a circuit or district court judge may permit a forensic scientist to testify in any civil or criminal case by a two-way video conference presented in open court if the testimony of the witness is given under oath and subject to cross-examination.
- (h) If the trial court authorizes testimony by a two-way video conference, the testimony shall be admissible only if it meets all of the following requirements:
- (1) The parties, the court, and the trier of fact are able to see and hear the witness.
- (2) The witness is able to see and hear the courtroom proceedings.
- (3) Any attorney who is representing a party in any criminal or civil proceeding, or who is representing a victim in a criminal proceeding, is able to see and hear the witness.
- (4) All persons present with the witness are identified on the record.
- (i) Only the following persons may be present with the witness during his or her video testimony:
- (1) The video conference technician.
- (2) Any attorney assigned to represent or advise the witness, if provided at the discretion of the military or otherwise obtained by the witness at no cost to the state.
- (3) Any person the court determines may be present.
- (j) The party seeking to introduce testimony via two-way video conference shall be responsible for coordinating the audiovisual feed into the courtroom and any associated costs. Nothing in this section shall require any court to acquire two-way video conference equipment for these purposes. Any testimony given by two-way video conference under this section shall be recorded in the same manner as any other testimony in the proceeding. The oath may be administered to the witness by two-way video conference.
- (k) Any testimony given by two-way video conference under this section must be otherwise admissible under the rules of evidence in the courts of this state.

Credits

[\(Act 2015-432, §§ 1-3.\)](#)

Ala. Code 1975 § 12-21-135.1, AL ST § 12-21-135.1

Current through Act 2015-499 of the 2015 Regular Session.