

# New Legislation Signed in 2022

## **Alabama HB 434**

Authorizes the use of video deposition and testimony by closed circuit video for minor and adult victims and witnesses of human trafficking under certain conditions. Those present during the video deposition or testimony will be the prosecuting attorney, the attorney of the defendant, and an advocate. If the defendant is proceeding without counsel the court may appoint counsel to question the witness on behalf of the defendant.

This bill was signed into law on May 19, 2022, and goes into effect on August 1, 2022.

## **Alabama HB 284**

This expanded our definition of coercion under existing human trafficking legislation to include:

- Using or threatening to use the law or legal processes in order to exert pressure on another person.
- Controlling a persons medications.
- Protections for someone who does not have the capacity to understand they are being exploited.

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1 HB434  
2 218078-3  
3 By Representative Coleman  
4 RFD: Judiciary  
5 First Read: 02-MAR-22

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ENROLLED, An Act,

Relating to criminal procedure; to authorize the use of video depositions by certain victims and witnesses of human trafficking under certain conditions; and to authorize the giving of testimony by closed circuit video equipment by certain victims and witnesses of human trafficking under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) In any criminal prosecution under Article 8 of Chapter 6 of Title 13A, Code of Alabama 1975, the court, upon motion of the district attorney or Attorney General, for good cause shown and after notice to the defendant, may order the taking of a video deposition of a victim of or witness to a crime without regard to the age of the victim or witness.

(b) On any motion for a video deposition of the victim or witness, the court shall consider the nature of the offense, the nature of testimony that may be expected, and the possible effect that the testimony in person at trial may have on the victim or witness, along with any other relevant matters that may be required by rule of the Supreme Court.

(c) During the recording of a video deposition authorized pursuant to this section, the following persons shall be in the room with the victim or witness:

1 (1) The prosecuting attorney.

2 (2) The attorney for the defendant.

3 (3) A person whose presence, in the judgment of the  
4 court, contributes to the well-being of the victim or witness  
5 and who has dealt with the victim or witness in a therapeutic  
6 setting regarding the abuse, excluding staff, employees, or  
7 subcontractors, or experts employed or contracted by the  
8 prosecution.

9 (4) Additional persons, other than the defendant, in  
10 the discretion of the court.

11 (d) Examination and cross-examination of the victim  
12 or witness shall proceed at the taking of the video deposition  
13 as though the victim or witness were testifying personally in  
14 the trial of the case. The state shall provide the attorney  
15 for the defendant with a copy of the video deposition at a  
16 suitable and reasonable time prior to the trial of the case.  
17 The court shall enter a protective order prohibiting the  
18 attorney for the defendant from copying, reproducing, or  
19 distributing the video deposition. Objections to the  
20 introduction into the record of the deposition shall be heard  
21 by the judge in whose presence the deposition was taken, and  
22 unless the court determines that its introduction in lieu of  
23 the victim's or witness's actual appearance as a witness at  
24 the trial will unfairly prejudice the defendant, the video  
25 deposition shall be entered into the record by the state in

1        lieu of the direct testimony of the victim or witness and  
2        shall be viewed and heard at the trial of the case.

3                (e) For the purposes of this section, "video  
4        deposition" means the recording of video, with sound, of  
5        witness testimony made under oath to be entered in the record  
6        in a judicial proceeding.

7                (f) The Supreme Court may adopt rules of procedure  
8        regarding the taking and use of video depositions in criminal  
9        proceedings and juvenile cases, as well as transcription of  
10       video depositions in appeals of those cases.

11               (g) All costs associated with the recording of a  
12       deposition ordered pursuant to this section shall be paid by  
13       the state. The district attorney or Attorney General shall  
14       submit all related cost bills to the state Comptroller for  
15       approval and payment from the fund entitled Court Costs Not  
16       Otherwise Provided For.

17               (h) All recordings of video depositions ordered  
18       pursuant to this section shall be subject to any protective  
19       order of the court for the purpose of protecting the privacy  
20       of the victim or witness of the offense.

21               (i) When necessary, the operator of the equipment  
22       used to record video depositions may also be in the room  
23       during the taking of the deposition and the operator shall  
24       make every effort to be unobtrusive.

1           (j) Only the court, the prosecuting attorney, and  
2 the attorney for the defendant may question the victim or  
3 witness. During the testimony of the victim or witness, the  
4 defendant shall be provided access to view the testimony out  
5 of the presence of the victim or witness and shall be allowed  
6 to communicate with his or her attorney by any appropriate  
7 election method.

8           (k) In circumstances where a defendant in a  
9 proceeding has elected to proceed without counsel, the court  
10 may appoint counsel for the defendant and may order counsel to  
11 question the victim or witness on behalf of the pro se  
12 defendant if the court finds that there is a substantial  
13 likelihood that the victim or witness would experience  
14 emotional harm if the defendant were allowed to question the  
15 victim or witness.

16           Section 2. (a) In any criminal prosecution under  
17 Article 8 of Chapter 6 of Title 13A, Code of ALabama 1975, the  
18 court, on motion of the state or the defendant prior to the  
19 trial of the case, may order that the testimony of any victim  
20 of the crime or witness to the crime shall be viewed and heard  
21 at trial by the court and the finder of fact by closed circuit  
22 equipment. In ruling on the motion, the court shall take into  
23 consideration the nature of the offense, the nature of  
24 testimony that may be expected, and the possible effect that  
25 the testimony in person at trial may have on the victim or

1 witness, along with any other relevant matters that may be  
2 required by Supreme Court rule.

3 (b) If the court orders that the victim's or  
4 witness's testimony in court shall be by closed circuit  
5 equipment, the testimony shall be taken outside the courtroom  
6 in the judge's chambers or in another suitable location  
7 designated by the judge.

8 (c) Examination and cross-examination of the victim  
9 or witness shall proceed as though the victim or witness was  
10 testifying in the courtroom. The following individuals may be  
11 present in the room with the victim or witness during his or  
12 her testimony:

13 (1) The prosecuting attorney.

14 (2) The attorney of the defendant.

15 (3) A person whose presence, in the judgment of the  
16 court, contributes to the well-being of the victim or witness  
17 and who has dealt with the victim or witness in a therapeutic  
18 setting regarding the abuse, excluding staff, employees, or  
19 subcontractors, or experts employed or contracted by the  
20 prosecution.

21 (4) In the discretion of the court, any additional  
22 person, including the parent or legal guardian, except the  
23 defendant.

24 (d) All costs incurred by the district attorney or  
25 Attorney General to make it possible for the court and the



1 trier of the fact to view the testimony of the victim or  
2 witness by closed circuit equipment as provided in this  
3 section shall be paid by the state. The district attorney or  
4 Attorney General shall submit all bills for costs to the state  
5 Comptroller for approval and payment from the fund entitled  
6 Court Costs Not Otherwise Provided For.

7 (e) The operators of the closed circuit equipment  
8 may also be in the room and shall make every effort to be  
9 unobtrusive.

10 (f) Only the court, the prosecuting attorney, and  
11 the attorney for the defendant may question the victim or  
12 witness. During the victim's or witness's testimony by closed  
13 circuit equipment, the defendant, the judge, and the jury  
14 shall remain in the courtroom. The video feed showing the  
15 victim or witness shall remain visible to the defendant, the  
16 judge, and the jury at all times during the testimony and  
17 cross-examination of the victim or witness.

18 (g) The judge and the defendant shall be allowed to  
19 communicate with the attorneys in the room where the victim or  
20 witness is testifying by any appropriate electronic method.  
21 The party making the motion that the testimony shall be by  
22 closed circuit equipment shall make all necessary arrangements  
23 regarding the equipment and the operation thereof during the  
24 course of the proceeding.

1           (i) This section may not be interpreted to preclude,  
2 for purposes of identification of a defendant, the presence of  
3 both the victim or witness and the defendant in the courtroom  
4 at the same time. The testimony shall be limited to purposes  
5 of identification only.

6           (j) In circumstances where a defendant in a  
7 proceeding has elected to proceed without counsel, the court  
8 may appoint counsel for the defendant and may order counsel to  
9 question the victim or witness on behalf of the pro se  
10 defendant if the court finds that there is a substantial  
11 likelihood that the victim or witness would experience  
12 emotional harm if the defendant were allowed to question the  
13 victim or witness.

14           Section 3. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 31-MAR-22, as amended.

Jeff Woodard  
Clerk

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Senate 07-APR-22 Passed

1 HB284  
2 216036-3  
3 By Representatives Coleman and Collins  
4 RFD: Judiciary  
5 First Read: 08-FEB-22

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ENROLLED, An Act,

Relating to human trafficking; to amend Section 13A-6-151, Code of Alabama 1975, to further provide for definitions associated with human trafficking; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, as amended by Amendment 890, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-6-151, Code of Alabama 1975, is amended to read as follows:

"§13A-6-151.

"As used in this article, the following terms shall have the following, or any combination of the following, meanings ascribed to them by this section:

"(1) COERCION. Any of the following:

"a. Causing or threatening to cause physical injury or mental suffering to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person or otherwise causing the person performing or providing labor or services to believe that the person or

1 another person will suffer physical injury, ~~or~~ mental  
2 suffering, physical restraint, or confinement.

3 "b. Implementing any scheme, plan, or pattern  
4 intended to cause a person to believe that failure to perform  
5 an act would result in physical injury, mental suffering, or  
6 physical restraint of any person.

7 "c. Destroying, concealing, removing, confiscating,  
8 or withholding from the person or another person, or  
9 threatening to destroy, conceal, remove, confiscate, or  
10 withhold from the person or another person, the person's or  
11 any person's actual or purported government records,  
12 immigration documents, identifying information, or personal or  
13 real property.

14 "d. Exposing or threatening to expose any fact or  
15 information that if revealed would tend to subject a person to  
16 criminal prosecution, criminal or immigration proceedings,  
17 hatred, contempt, or ridicule.

18 "e. Threatening to report the person or another  
19 person to immigration officials or to other law enforcement  
20 officials or otherwise blackmailing or extorting the person or  
21 another person.

22 "f. Use or threatened use of a law or legal process,  
23 whether administrative, civil, or criminal, in any manner for  
24 any purpose for which the law was not designed, in order to  
25 exert pressure on another person to cause that person or

1 another person to take some action or refrain from taking some  
 2 action.

3 "f. g. Controlling a person's access to medications  
 4 or a controlled substance, as the term is defined in Section  
 5 20-2-2.

6 "g. h. Rape, ~~or~~ sodomy, or any other sex offense  
 7 pursuant to Section 15-20A-5, or attempted or threatened rape,  
 8 or sodomy, or any other sex offense pursuant to Section  
 9 15-20A-5 of any person, as defined in this title.

10 "(2) DECEPTION. Any of the following:

11 "a. Creating or confirming an impression of any  
 12 existing fact or past event which is false and which the  
 13 accused knows or believes to be false.

14 "b. Exerting financial control over the person or  
 15 another person by placing the person or another person under  
 16 the actor's control as a security or payment of a debt, if the  
 17 value of the services as reasonably assessed is not applied  
 18 toward the liquidation of the debt or the length and nature of  
 19 those services are not respectively limited and defined or the  
 20 principal amount of the debt does not reasonably reflect the  
 21 value of the items or services for which debt was incurred or  
 22 by preventing a person from acquiring information pertinent to  
 23 the disposition of the debt, referenced in this paragraph.

24 "c. Promising benefits or the performance of  
 25 services which the accused does not intend to be delivered.

1 Evidence of failure to deliver benefits or perform services  
2 standing alone shall not be sufficient to authorize a  
3 conviction under this article.

4 "d. Using any scheme, plan, or pattern, whether  
5 overt or subtle, intended to cause any person to believe that,  
6 if the person did not perform such labor, services, acts, or  
7 performances, the person or another person would suffer  
8 physical injury or mental suffering.

9 "(3) LABOR SERVITUDE. Work or service of economic or  
10 financial value which is performed or provided by another  
11 person and is induced or obtained by coercion or deception.

12 "(4) MENTAL SUFFERING. A high degree of mental pain  
13 or emotional disturbances, such as distress, anxiety, public  
14 humiliation, or psychosomatic physical symptoms. It is more  
15 than mere disappointment, anger, resentment, wounded pride, or  
16 embarrassment and must be a direct result of the crime of  
17 human trafficking.

18 "(5) MINOR. A person under the age of 19.

19 "(6) PHYSICAL INJURY. Impairment of physical  
20 condition or substantial pain.

21 "(7) SEXUAL CONDUCT. Any of the following acts:

22 "a. Sexual Intercourse. This term shall have its  
23 ordinary meaning and occurs upon a penetration, however  
24 slight; emission is not required.

25 "b. Sodomy. As defined under Section 13A-6-60.



1           "~~bc.~~ Sexual Contact. As defined under Section  
2 13A-6-60. ~~Any known touching for the purpose of sexual~~  
3 ~~arousal, gratification, or abuse of the following:~~

4           ~~"1. The sexual or other intimate parts of the victim~~  
5 ~~by the actor.~~

6           ~~"2. The sexual or other intimate part of the actor~~  
7 ~~by the victim.~~

8           ~~"3. The clothing covering the immediate area of the~~  
9 ~~sexual or other intimate parts of the victim or actor.~~

10          "d. Sexual torture. As defined under Section  
11 13A-6-65.1.

12          ~~"c.~~ e. Sexually Explicit Performances. An act or  
13 show intended to arouse, satisfy the sexual desires of, or  
14 appeal to the prurient interests of patrons or viewers,  
15 whether public or private, live, photographed, recorded,  
16 videotaped, or projected over the Internet.

17          ~~"d.~~ f. Commercial Sex Acts. Any sex act on account  
18 of which anything of value is given, promised to, or received,  
19 directly or indirectly, by any person.

20          "(8) SEXUAL SERVITUDE.

21          "a. Except as provided in paragraph b., any Any  
22 ~~sexual conduct as defined in subdivision (3) of Section~~  
23 ~~14-11-30,~~ for which anything of value is directly or  
24 indirectly given, promised to, or received by any person,

1 which conduct is induced or obtained by coercion or deception  
2 from a person; ~~provided, however, that if.~~

3 "b. If the sexual conduct is with a minor or with  
4 any person who is incapable of consent by reason of being  
5 incapacitated, as defined in Section 13A-6-60, no coercion or  
6 deception is required.

7 "(9) TRAFFICKING VICTIM. Any person, including  
8 minors, subjected to labor servitude, sexual servitude, or  
9 involuntary servitude."

10 Section 2. Although this bill would have as its  
11 purpose or effect the requirement of a new or increased  
12 expenditure of local funds, the bill is excluded from further  
13 requirements and application under Amendment 621, as amended  
14 by Amendment 890, now appearing as Section 111.05 of the  
15 Official Recompilation of the Constitution of Alabama of 1901,  
16 as amended, because the bill defines a new crime or amends the  
17 definition of an existing crime.

18 Section 3. This act shall become effective January  
19 1, 2023, following its passage and approval by the Governor,  
20 or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 31-MAR-22.

Jeff Woodard  
Clerk

Senate

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07-APR-22

Passed