

HOUSE BILL 3380

By Sontany

AN ACT to amend Tennessee Code Annotated, Section 24-9-136, relative to persons before whom depositions cannot be taken.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 24-9-136, is amended by deleting the section in its entirety and substituting instead the following:

(a) Unless all of the parties have entered into a written stipulation otherwise pursuant to Rule 29 of the Tennessee Rules of Civil Procedure, a deposition shall not be taken before a person who is:

(1) A party to the action or an attorney for one (1) of the parties;

(2) A relative, including a spouse of one (1) of the parties or of an attorney for one (1) of the parties;

(3) An employee of one (1) of the parties or of an attorney for one (1) of the parties;

(4) Someone who has, or has had during the past two (2) years, a sexual relationship with one (1) of the parties or with an attorney for one (1) of the parties; or

(5) Someone with a financial interest in the action or its outcome.

(b)

(1) The person before whom a deposition is to be taken shall disclose to the parties in a timely fashion the existence of any facts known to the person that are relevant to factors set forth in subsection (a).

(2) A person commits a Class C misdemeanor who takes a deposition and knowingly fails or refuses to disclose any facts required by subdivision (b)(1).

(c) Notwithstanding this section, if a videotaped deposition has been agreed to or ordered by the court pursuant to Rule 30 of the Tennessee Rules of Civil Procedure, any lawyer or lawyer's agent may operate the video equipment pursuant to Rules 28.01 and 30.02(4)(B).

(d)

(1) A deposition taken by a person described in subsection (a) is voidable at the election of any party unless:

(A) After compliance with subsection (b), the parties have entered into a stipulation pursuant to Rule 29 of the Tennessee Rules of Civil Procedure;

(B) An order has been entered pursuant to Rule 30.02(4)(A) of the Tennessee Rules of Civil Procedure; or

(C) The party attempting to void the deposition has violated this section directly or through a related person described in subsection (a).

(2) An election to void a deposition pursuant to this section shall be made within thirty (30) days of discovery of the violation of this section but in no event more than one (1) year from the date the violation occurred.

(e) This section shall not apply to contracts for court reporting services for the courts, agencies or instrumentalities of the United States or the state of Tennessee.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.