

ASSEMBLY BILL

No. 2006

Introduced by Assembly Member Wagner

February 20, 2014

An act to amend Section 2025.620 of the Code of Civil Procedure, relating to depositions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2006, as introduced, Wagner. Depositions: video recordings.

Existing law prescribes the procedure for taking oral depositions inside the state, including the procedure for recording a deposition by means of audio or video technology. At the trial or any hearing in an action, existing law authorizes the use of a deposition against a party for specified purposes.

This bill would define “use of a deposition” to mean the use of a transcript or a video recording of the deposition testimony.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2025.620 of the Code of Civil Procedure
2 is amended to read:
3 2025.620. At the trial or any other hearing in the action, any
4 part or all of a deposition may be used against ~~any~~ a party who
5 was present or represented at the taking of the deposition, or who
6 had due notice of the deposition and did not serve a valid objection
7 under Section 2025.410, so far as admissible under the rules of
8 evidence applied as ~~though~~ *if* the deponent were then present and

1 testifying as a witness, ~~in accordance with the following provisions~~
 2 *as follows:*

3 (a) Any party may use a deposition for the purpose of
 4 contradicting or impeaching the testimony of the deponent as a
 5 witness, or for any other purpose permitted by the Evidence Code.

6 (b) An adverse party may use for any ~~purpose,~~ *purpose* a
 7 deposition of a party to the ~~action,~~ *action* or of anyone who at the
 8 time of taking the deposition was an officer, director, managing
 9 agent, employee, agent, or designee under Section 2025.230 of a
 10 party. It is not ground for objection to the use of a deposition of a
 11 party under this subdivision by an adverse party that the deponent
 12 is available to testify, has testified, or will testify at the trial or
 13 other hearing.

14 (c) Any party may use for any purpose the deposition of any
 15 person or organization, including that of any party to the action,
 16 if the court finds any of the following:

17 (1) The deponent resides more than 150 miles from the place
 18 of the trial or other hearing.

19 (2) The deponent, without the procurement or wrongdoing of
 20 the proponent of the deposition for the purpose of preventing
 21 testimony in open court, is any of the following:

22 (A) Exempted or precluded on the ground of privilege from
 23 testifying concerning the matter to which the deponent’s testimony
 24 is relevant.

25 (B) Disqualified from testifying.

26 (C) Dead or unable to attend or testify because of existing
 27 physical or mental illness or infirmity.

28 (D) Absent from the trial or other hearing and the court is unable
 29 to compel the deponent’s attendance by its process.

30 (E) Absent from the trial or other hearing and the proponent of
 31 the deposition has exercised reasonable diligence but has been
 32 unable to procure the deponent’s attendance by the court’s process.

33 (3) Exceptional circumstances exist that make it desirable to
 34 allow the use of any deposition in the interests of justice and with
 35 due regard to the importance of presenting the testimony of
 36 witnesses orally in open court.

37 (d) ~~Any~~ *Notwithstanding subdivision (b),* any party may use a
 38 video recording of the deposition testimony of a treating or
 39 consulting physician or of any expert witness even though the
 40 deponent is available to testify if the deposition notice under

1 Section 2025.220 reserved the right to use the ~~deposition~~ *video*
2 *recording* at trial, and if that party has complied with subdivision
3 (m) of Section 2025.340.

4 (e) *As used in this section, to “use a deposition” means to use*
5 *a transcript or a video recording of the deposition testimony.*

6 ~~(e)~~

7 (f) Subject to the requirements of this chapter, a party may offer
8 in evidence all or any part of a ~~deposition~~, and if *deposition*. If the
9 party introduces only part of the deposition, any other party may
10 introduce any other parts that are relevant to the parts introduced.

11 ~~(f)~~

12 (g) Substitution of parties does not affect the right to use
13 depositions previously taken.

14 ~~(g)~~

15 (h) ~~When~~ *If* an action has been brought in any court of the
16 United States or of any ~~state~~, *state* and another action involving
17 the same subject matter is subsequently brought between the same
18 parties or their representatives or successors in interest, all
19 depositions lawfully taken and duly filed in the initial action may
20 be used in the subsequent action as if originally taken in that
21 subsequent action. A deposition previously taken may also be used
22 as permitted by the Evidence Code.