

ASSEMBLY BILL

No. 1197

Introduced by Assembly Member Bonilla

February 27, 2015

An act to amend Section 2025.320 of the Code of Civil Procedure, relating to depositions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1197, as introduced, Bonilla. Depositions: officers.

Existing law requires that a deposition be conducted under the supervision of an officer who is authorized to administer an oath and subjects the deposition officer or entity providing the services of the deposition officer to certain restrictions. Existing law also permits a party or party's attorney attending a deposition to request a statement regarding all services and products made available to any other party, party's attorney, or 3rd party financing all or part of the action by the deposition officer or by the entity providing deposition services.

Upon this request, this bill would also require the disclosure of any contractual relationship between that party and the deposition officer or entity providing the services of the deposition officer. If a contractual relationship is disclosed, this bill would permit any other party to object to the use of that deposition officer or entity.

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 2025.320 of the Code of Civil Procedure
- 2 is amended to read:

1 2025.320. Except as provided in Section 2020.420, the
2 deposition shall be conducted under the supervision of an officer
3 who is authorized to administer an oath and is subject to all of the
4 following requirements:

5 (a) The officer shall not be financially interested in the action
6 and shall not be a relative or employee of any attorney of the
7 parties, or of any of the parties.

8 (b) Services and products offered or provided by the deposition
9 officer or the entity providing the services of the deposition officer
10 to any party or to any party’s attorney or third party who is
11 financing all or part of the action shall be offered to all parties or
12 their attorneys attending the deposition. No service or product may
13 be offered or provided by the deposition officer or by the entity
14 providing the services of the deposition officer to any party or any
15 party’s attorney or third party who is financing all or part of the
16 action unless the service or product is offered or provided to all
17 parties or their attorneys attending the deposition. All services and
18 products offered or provided shall be made available at the same
19 time to all parties or their attorneys.

20 (c) The deposition officer or the entity providing the services
21 of the deposition officer shall not provide to any party or any
22 party’s attorney or third party who is financing all or part of the
23 action any service or product consisting of the deposition officer’s
24 notations or comments regarding the demeanor of any witness,
25 attorney, or party present at the deposition. The deposition officer
26 or entity providing the services of the deposition officer shall not
27 collect any personal identifying information about the witness as
28 a service or product to be provided to any party or third party who
29 is financing all or part of the action.

30 (d) (1) Upon the request of any party or any party’s attorney
31 attending a deposition, any party or any party’s attorney attending
32 the deposition shall enter in the record of the deposition ~~at both~~
33 *of the following:*

34 (A) *A list of all services and products, if any, made available to*
35 *that party or party’s attorney or third party who is financing all or*
36 *part of the action by the deposition officer or by the entity*
37 *providing the services of the deposition officer.* ~~A~~

38 (B) *A statement disclosing the existence of a contractual*
39 *relationship between the deposition officer or the entity providing*
40 *the services of the deposition officer and that party, if any.*

1 (2) A party in the action who is not represented by an attorney
2 shall be informed by the noticing party or the party's attorney that
3 the unrepresented party may request this ~~statement~~ *information be*
4 *entered in the record.*

5 (3) *If a party discloses a contractual relationship pursuant to*
6 *subparagraph (B) of paragraph (1), any other party may object*
7 *to the use of that deposition officer or entity.*

8 (e) Any objection to the qualifications of the deposition officer
9 is waived unless made before the deposition begins or as soon
10 thereafter as the ground for that objection becomes known or could
11 be discovered by reasonable diligence.

12 (f) Violation of this section by any person may result in a civil
13 penalty of up to five thousand dollars (\$5,000) imposed by a court
14 of competent jurisdiction.