

AMENDED IN ASSEMBLY MARCH 17, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 249**

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**Introduced by Assembly Member Cunneen**

February 11, 1997

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An act to amend Sections 1343 and 1345 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as amended, Cunneen. Criminal procedure: conditional examination: ~~videotaped~~ *recorded* testimony.

Existing law authorizes the conditional examination of a witness in specified cases, requires that the testimony of the witness be reduced to writing and authenticated in the same manner as that taken in support of an information, and provides that the deposition or a certified copy may be read in evidence by either party if the court finds that the witness is unavailable.

This bill would authorize the testimony of a witness conditionally examined to be ~~recorded on videotape~~ *video-recorded* and would provide that the recording may be shown by either party at trial if the court finds that the witness is unavailable.

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 1343 of the Penal Code is  
2 amended to read:

3 1343. The testimony given by the witness shall be  
4 reduced to writing and authenticated in the same  
5 manner as the testimony of a witness taken in support of  
6 ~~an information. The testimony may also be recorded on~~  
7 ~~videotape.~~ *an information. Additionally, the testimony*  
8 *may be video-recorded.*

9 SEC. 2. Section 1345 of the Penal Code is amended to  
10 read:

11 1345. The deposition, or a certified copy of it, may be  
12 read in evidence, or if the examination was ~~recorded on~~  
13 ~~videotape, that recording~~ *video-recorded, that*  
14 *video-recording* may be shown by either party at the trial  
15 if the court finds that the witness is unavailable as a  
16 witness within the meaning of Section 240 of the  
17 Evidence Code. The same objections may be taken to a  
18 question or answer contained in the deposition or  
19 ~~videotape recording~~ *video-recording* as if the witness had  
20 been examined orally in court.

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