

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 115-22 as follows:

6 (725 ILCS 5/115-22 new)

7 Sec. 115-22. Use of depositions.

8 (a) In this Section, "law enforcement officer" is
9 defined as in Section 2 of the Law Enforcement Officers,
10 Civil Defense Workers, Civil Air Patrol Members, Paramedics,
11 Firemen, Chaplains, and State Employees Compensation Act.

12 (b) Upon leave of court, in a case in which the
13 defendant is charged with the offense of first degree murder
14 and the prosecution seeks the death penalty, or in a case in
15 which the defendant is charged with the offense of first
16 degree murder and a term of natural life imprisonment is the
17 only sentence allowed under the law following the defendant's
18 conviction, any party may take the testimony, upon oral
19 examination, of the following individuals:

20 (1) Any person who is identified as, or believed to
21 be, an eyewitness to the occurrence that is the subject
22 of the prosecution, other than a law enforcement officer,
23 a victim of the occurrence, or a member of the family of
24 such a victim or of the deceased individual. As used in
25 this paragraph (1), "member of the family" means (i) a
26 spouse, parent, child, stepchild, or other person related
27 by blood or by present marriage, (ii) a person who has or
28 allegedly has a child in common, or (iii) a person who
29 shares or allegedly shares a blood relationship through a
30 child.

31 (2) Any person whom either party intends to call at

1 trial regarding incriminating statements made by the
2 accused to a person other than a law enforcement officer
3 and other than a municipal, county, or State prosecutor.

4 (3) Any person identified as, or believed to be, an
5 alibi witness.

6 (c) The depositions shall be taken for the purpose of
7 discovery in the action. The depositions may be used for
8 purposes defined in Section 115-10.1 of this Code.

9 (d) Unless otherwise agreed, depositions shall be taken
10 in the county in which the criminal case is being prosecuted
11 and shall be taken at a place designated by the prosecution.

12 (e)(1) Absent good cause, depositions shall be completed
13 within 90 days following the disclosure of witnesses
14 described in paragraphs (1) through (3) of subsection (b)
15 of this Section.

16 (2) The parties shall have the right to compel
17 depositions under this Section by subpoena.

18 (3) The parties shall facilitate discovery and make
19 reasonable attempts to resolve differences over
20 discovery.

21 (4) In any case, including a case involving
22 multiple defendants, no person may be deposed more than
23 once except by consent of the parties.

24 (f) In determining whether to grant leave for the taking
25 of depositions under this Section, the court shall consider
26 the interests of justice, the availability of the evidence
27 through other means, and any other factors deemed relevant by
28 the court.

29 (g) In cases in which the death penalty is sought, the
30 costs of a deposition shall be paid from the Capital
31 Litigation Trust Fund. In all other cases, costs of the
32 deposition shall be borne by the party requesting the
33 deposition. If a county may be obligated to spend moneys for
34 the production of a transcript of a deposition, a party may

1 not order a copy of the transcript unless:

2 (1) the State and any defendant agree that the
3 deposition should be transcribed and that the deposed
4 witness is material; or

5 (2) the transcript is ordered by the court on a
6 showing that the deposed witness is material.

7 (h) Notwithstanding the provisions of subsection (b), a
8 witness who testifies under oath and is subject to
9 cross-examination at a preliminary hearing, trial, hearing,
10 or other proceeding and who narrates, describes, or explains
11 an event or condition of which the witness had personal
12 knowledge relevant to the pending action shall not be
13 required to submit to a discovery deposition.

14 (i) The defendant shall be barred from attending any
15 discovery deposition.

16 (j) A failure to depose any individual does not give rise
17 to an inference of ineffective assistance of counsel.

18 (k) In all other aspects, depositions taken under this
19 Section shall be governed by the Code of Civil Procedure and
20 the Rules of the Supreme Court that are applicable to
21 depositions in civil actions.

22 (l) This Section applies to all actions initiated on or
23 after its effective date.

24 (m) The provisions of this Section are severable under
25 Section 1.31 of the Statute on Statutes.

26 Section 99. Effective date. This Act takes effect on
27 January 1, 2002.