

By Senator Bennett

12-03673-08

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1 A bill to be entitled

2 An act relating to discovery depositions; creating s.  
3 914.29, F.S.; providing that a discovery deposition may  
4 not be taken in a case in which the defendant is charged  
5 only with a felony of the third degree, a misdemeanor, or  
6 a criminal traffic offense when all other discovery  
7 provided by law has been completed; providing for an  
8 exception for good cause; requiring the trial court to  
9 consider certain conditions before allowing the discovery  
10 deposition; providing that the prohibition against taking  
11 a discovery deposition does not apply under a specified  
12 circumstance; repealing Rule 3.220(h)(1)(D), Florida Rules  
13 of Criminal Procedure, relating to discovery depositions  
14 for misdemeanors; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Section 914.29, Florida Statutes, is created to  
19 read:

20 914.29 Discovery depositions; limitations.--

21 (1) A discovery deposition may not be taken in a case in  
22 which the defendant is charged only with a felony of the third  
23 degree, a misdemeanor, or a criminal traffic offense when all  
24 other discovery provided by law has been complied with unless  
25 good cause can be shown to the trial court.

26 (2) In determining whether to allow a discovery deposition,  
27 the court must consider the consequences to the defendant, the  
28 complexity of the issues involved, the complexity of the witness'

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29 testimony, and the other opportunities available to the defendant  
30 to discover the information sought by the discovery deposition.

31 (3) The prohibition against taking a discovery deposition  
32 does not apply if, following the furnishing of discovery by the  
33 defendant, the state takes the statement of a listed defense  
34 witness under s. 27.04.

35 Section 2. Rule 3.220(h)(1)(D), Florida Rules of Criminal  
36 Procedure, is repealed to the extent that it is inconsistent with  
37 this act.

38 Section 3. This act shall take effect October 1, 2008,  
39 except that section 2 of this act shall take effect only if this  
40 act enacted by a two-thirds vote of the membership of each house  
41 of the Legislature.