

By Senator Bennett

21-01611A-09

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

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17 Be It Enacted by the Legislature of the State of Florida:

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

21           914.29 Discovery depositions; limitations.-

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

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

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30 witness' testimony, and the other opportunities available to the  
31 defendant to discover the information sought by the discovery  
32 deposition.

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

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38 Procedure, is repealed to the extent that it is inconsistent  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

40 Section 3. This act shall take effect October 1, 2009,  
41 except that section 2 of this act shall take effect only if this  
42 act is enacted by a two-thirds vote of the membership of each  
43 house of the Legislature.