

AMENDED IN ASSEMBLY JULY 10, 2017

AMENDED IN ASSEMBLY JUNE 22, 2017

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL

No. 632

Introduced by Senator Monning

February 17, 2017

An act to add Section 2025.295 to the Code of Civil Procedure, relating to depositions.

LEGISLATIVE COUNSEL'S DIGEST

SB 632, as amended, Monning. Civil discovery: depositions.

Existing law authorizes any party to obtain discovery in civil actions by taking the oral deposition of any person, including any party to the action. Under existing law, a deposition examination of the witness by all counsel, other than the witness' counsel of record, is generally limited to 7 hours of total testimony. Existing law provides an exception to the 7-hour limitation for depositions taken in cases designated as complex. In such cases, the deposition examination of a witness by all counsel other than the witness' counsel of record is limited to 2 days of no more than 7 hours of total testimony each day, or 14 hours of total testimony, unless a licensed physician attests that the deponent suffers from an illness or condition that raises substantial medical doubt of the deponent's survival beyond 6 months.

This bill would require that, in any civil action for injury or illness ~~based upon exposure to asbestos~~, *that results in mesothelioma*, a deposition examination of the witness by counsel other than the witness' counsel of record be limited to 7 hours of total testimony if a licensed physician attests in a declaration that the deponent *suffers from*

mesothelioma and is either (1) over 70 years of age and his or her health is such that a deposition of more than 7 hours will prejudice the deponent's well-being, or ~~that~~, (2) without regard to age of the deponent, ~~the deponent suffers from an illness or condition that~~ *deponent's mesothelioma* raises substantial medical doubt of the survival of the deponent beyond 6 months. A party would be authorized by this bill to seek up to 7 hours of additional deposition testimony for no more than 14 hours of total testimony. The bill would prohibit an extension from being granted unless a court makes a factual finding supporting the extension beyond 7 hours, and determines that the health of the deponent does not appear to be endangered by the grant of additional time.

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 2025.295 is added to the Code of Civil
2 Procedure, to read:
3 2025.295. (a) Notwithstanding Section 2025.290, in any civil
4 action for injury or illness ~~based upon exposure to asbestos, that~~
5 *results in mesothelioma*, a deposition examination of the witness
6 by all counsel, other than the witness' counsel of record, shall be
7 limited to seven hours of total testimony if a licensed physician
8 attests in a declaration served on the parties that either:
9 (1) The deponent *suffers from mesothelioma*, is over 70 years
10 of ~~age~~ *age*, and his or her health is such that a deposition of more
11 than seven hours will prejudice the deponent's well-being.
12 (2) Without regard to the age of the deponent, the deponent
13 ~~suffers from an illness or condition that~~ *mesothelioma*, which raises
14 substantial medical doubt of the survival of the deponent beyond
15 six months.
16 (b) A party may seek up to seven hours of additional deposition
17 testimony for no more than 14 hours of total testimony. An
18 extension shall not be granted unless a court makes a factual
19 finding supporting the extension beyond seven hours, and
20 determines that the health of the deponent does not appear to be
21 endangered by the grant of additional time.
22 (c) This section does not affect the existing right of any party
23 to move for a protective order or the court's discretion to make
24 any order that justice requires to limit a deposition in order to

- 1 protect any party, deponent, or other natural person or organization
- 2 from unwarranted annoyance, embarrassment, oppression, undue
- 3 burden, or expense.

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