

## CHAPTER 137

---

**CRIMINAL LAW AND PROCEDURE**


---

**SENATE BILL 04-041**

BY SENATOR(S) Tapia, Evans, Groff, Hanna, and Veiga;  
also REPRESENTATIVE(S) McFadyen, and McGihon.

**AN ACT**

**CONCERNING APPOINTMENT OF ANOTHER JUDGE TO PRESIDE OVER A DEPOSITION TAKEN PURSUANT TO RULE 15 (d) OF THE COLORADO RULES OF CRIMINAL PROCEDURE.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 18-6.5-103.5 (3), Colorado Revised Statutes, is amended to read:

**18-6.5-103.5. Video tape depositions - at-risk adult victims and witnesses.**

(3) Upon timely receipt of the motion, the court shall make a preliminary finding regarding whether, at the time of trial, the victim or witness is likely to be medically unavailable or otherwise unavailable within the meaning of rule 804 (a) of the Colorado rules of evidence. Such finding, at a minimum, shall be based on recommendations from the victim's or witness' physician or any other person having direct contact with the victim or witness, whose recommendations are based on specific behavioral indicators exhibited by the victim or witness. If the court so finds, it shall order that the deposition be taken, PRESERVED ON A VIDEO IMAGING FORMAT, AND CONDUCTED pursuant to rule 15 (d) of the Colorado rules of criminal procedure; ~~and preserved on video tape~~ EXCEPT THAT AFTER CONSULTATION WITH THE CHIEF JUDGE OF THE JUDICIAL DISTRICT, THE TRIAL COURT MAY APPOINT AN ACTIVE OR SENIOR DISTRICT OR COUNTY COURT JUDGE TO SERVE IN ITS PLACE AND PRESIDE OVER ALL ASPECTS OF THE TAKING OF THE DEPOSITION. After the deposition is taken, the prosecution shall transmit the video tape to the clerk of the court in which the action is pending.

**SECTION 2. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 13, 2004