

By Senator Montford

6-01086B-11

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1 A bill to be entitled
2 An act relating to testimony given by children;
3 amending s. 92.55, F.S.; authorizing a court to use
4 registered service or therapy animals to aid children
5 in giving testimony in legal proceedings when
6 appropriate; requiring the court to consider certain
7 factors before permitting such testimony; requiring
8 that such registered service or therapy animals be
9 evaluated and registered according to national
10 standards; providing an effective date.

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

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14 Section 1. Section 92.55, Florida Statutes, is amended to
15 read:

16 92.55 Judicial or other proceedings involving victim or
17 witness under the age of 16 or person with mental retardation;
18 special protections; use of registered service or therapy
19 animals.—

20 (1) Upon motion of any party, upon motion of a parent,
21 guardian, attorney, or guardian ad litem for a child under the
22 age of 16 or person with mental retardation, or upon its own
23 motion, the court may enter any order necessary to protect a
24 child under the age of 16 or person with mental retardation who
25 is a victim or witness in any judicial proceeding or other
26 official proceeding from severe emotional or mental harm due to
27 the presence of the defendant if the child or person with mental
28 retardation is required to testify in open court. Such orders
29 shall relate to the taking of testimony and shall include, but

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30 not be limited to:

31 (a) Interviewing or the taking of depositions as part of a
32 civil or criminal proceeding.

33 (b) Examination and cross-examination for the purpose of
34 qualifying as a witness or testifying in any proceeding.

35 (c) The use of testimony taken outside of the courtroom,
36 including proceedings under ss. 92.53 and 92.54.

37 (2) In ruling upon the motion, the court shall take into
38 consideration:

39 (a) The age of the child, the nature of the offense or act,
40 the relationship of the child to the parties in the case or to
41 the defendant in a criminal action, the degree of emotional
42 trauma that will result to the child as a consequence of the
43 defendant's presence, and any other fact that the court deems
44 relevant; or

45 (b) The age of the person with mental retardation, the
46 functional capacity of the person with mental retardation, the
47 nature of the offenses or act, the relationship of the person
48 with mental retardation to the parties in the case or to the
49 defendant in a criminal action, the degree of emotional trauma
50 that will result to the person with mental retardation as a
51 consequence of the defendant's presence, and any other fact that
52 the court deems relevant.

53 (3) In addition to such other relief as is provided by law,
54 the court may enter orders limiting the number of times that a
55 child or person with mental retardation may be interviewed,
56 prohibiting depositions of a child or person with mental
57 retardation, requiring the submission of questions prior to
58 examination of a child or person with mental retardation,

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59 setting the place and conditions for interviewing a child or
60 person with mental retardation or for conducting any other
61 proceeding, or permitting or prohibiting the attendance of any
62 person at any proceeding. The court shall enter any order
63 necessary to protect the rights of all parties, including the
64 defendant in any criminal action.

65 (4) The court may set any other conditions on the taking of
66 testimony by children which it finds just and appropriate,
67 including the use of a registered service or therapy animal.
68 When deciding whether to permit a child to testify with the
69 assistance of a registered service or therapy animal, the court
70 shall take into consideration the age of the child, the
71 interests of the child, the rights of the parties to the
72 litigation, and any other relevant factor that would aid in the
73 facilitation of testimony by the child. Such registered service
74 or therapy animals shall be evaluated and registered according
75 to national standards.

76 Section 2. This act shall take effect July 1, 2011.