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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
05/18/2011	.	
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The Committee on Judiciary (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Between lines 16 and 17

insert:

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

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

(1) Upon motion of any party, upon motion of a parent,



13 guardian, attorney, or guardian ad litem for a child under the
14 age of 16 or person with mental retardation, or upon its own
15 motion, the court may enter any order necessary to protect a
16 child under the age of 16 or person with mental retardation who
17 is a victim or witness in any judicial proceeding or other
18 official proceeding from severe emotional or mental harm due to
19 the presence of the defendant if the child or person with mental
20 retardation is required to testify in open court. Such orders
21 shall relate to the taking of testimony and shall include, but
22 not be limited to:

23 (a) Interviewing or the taking of depositions as part of a
24 civil or criminal proceeding.

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

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

29 (2) In ruling upon the motion, the court shall take into
30 consideration:

31 (a) The age of the child, the nature of the offense or act,
32 the relationship of the child to the parties in the case or to
33 the defendant in a criminal action, the degree of emotional
34 trauma that will result to the child as a consequence of the
35 defendant's presence, and any other fact that the court deems
36 relevant; or

37 (b) The age of the person with mental retardation, the
38 functional capacity of the person with mental retardation, the
39 nature of the offenses or act, the relationship of the person
40 with mental retardation to the parties in the case or to the
41 defendant in a criminal action, the degree of emotional trauma



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42 that will result to the person with mental retardation as a
43 consequence of the defendant's presence, and any other fact that
44 the court deems relevant.

45 (3) In addition to such other relief as is provided by law,
46 the court may enter orders limiting the number of times that a
47 child or person with mental retardation may be interviewed,
48 prohibiting depositions of a child or person with mental
49 retardation, requiring the submission of questions prior to
50 examination of a child or person with mental retardation,
51 setting the place and conditions for interviewing a child or
52 person with mental retardation or for conducting any other
53 proceeding, or permitting or prohibiting the attendance of any
54 person at any proceeding. The court shall enter any order
55 necessary to protect the rights of all parties, including the
56 defendant in any criminal action.

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

68
69 ===== T I T L E A M E N D M E N T =====

70 And the title is amended as follows:



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71 Delete line 2

72 and insert:

73 An act relating to children; amending s. 92.55, F.S.;

74 authorizing a court to use registered service or

75 therapy animals to aid children in giving testimony in

76 legal proceedings when appropriate; requiring the

77 court to consider certain factors before permitting

78 such testimony; requiring that such registered service

79 or therapy animals be evaluated and registered

80 according to national standards; amending s.