



970458

LEGISLATIVE ACTION

Senate

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House

Floor: 1/AD/2R

04/14/2021 06:13 PM

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Senator Diaz moved the following:

**Senate Amendment (with title amendment)**

Between lines 105 and 106

insert:

Section 2. Section 92.55, Florida Statutes, is amended to read:

92.55 Judicial or other proceedings involving a victim or witness under the age of 18, a person who has an intellectual disability, a human trafficking victim or witness, or a sexual offense victim or witness; special protections; use of therapy animals or facility dogs.—



970458

- 12 (1) For purposes of this section, the term:
- 13 (a) "Human trafficking offense" means any offense specified  
14 in s. 787.06.
- 15 (b) "Human trafficking victim or witness" means a person  
16 who was under the age of 18 when he or she was the victim of or  
17 a witness to a human trafficking offense.
- 18 (c) "Sexual offense victim or witness" means a person who  
19 was under the age of 18 when he or she was the victim of or a  
20 witness to a sexual offense.
- 21 (d) ~~(b)~~ "Sexual offense" means any offense specified in s.  
22 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).
- 23 (2) Upon motion of any party, upon motion of a parent,  
24 guardian, attorney, guardian ad litem, or other advocate  
25 appointed by the court ~~under s. 914.17~~ for a victim or witness  
26 under the age of 18, a person who has an intellectual  
27 disability, a human trafficking victim or witness, or a sexual  
28 offense victim or witness, or upon its own motion, the court may  
29 enter any order necessary to protect the victim or witness in  
30 any judicial proceeding or other official proceeding from  
31 ~~moderate severe~~ emotional or mental harm ~~due to the presence of~~  
32 ~~the defendant if the victim or witness is required to testify in~~  
33 ~~open court~~. Such orders must relate to the taking of testimony  
34 and include, but are not limited to:
- 35 (a) Interviewing or the taking of depositions as part of a  
36 civil or criminal proceeding.
- 37 (b) Examination and cross-examination for the purpose of  
38 qualifying as a witness or testifying in any proceeding.
- 39 (c) The use of testimony taken outside of the courtroom,  
40 including proceedings under ss. 92.53 and 92.54.



970458

41 (3) In ruling upon a the motion filed under this section,  
42 the court may shall consider:

43 (a) The age of the victim or witness; child,

44 (b) The nature of the offense or act;

45 (c) The complexity of the issues involved;

46 (d) The relationship of the victim or witness child to the  
47 parties in the case or to the defendant in a criminal action;

48 (e) The degree of emotional or mental harm trauma that will  
49 result to the child as a consequence of the examination,  
50 interview, or testimony;

51 (f) The age of the sexual offense victim or witness when  
52 the sexual offense occurred; defendant's presence, and

53 (g) Any other fact that the court deems relevant.

54 ~~(b) The age of the person who has an intellectual~~  
55 ~~disability, the functional capacity of such person, the nature~~  
56 ~~of the offenses or act, the relationship of the person to the~~  
57 ~~parties in the case or to the defendant in a criminal action,~~  
58 ~~the degree of emotional trauma that will result to the person as~~  
59 ~~a consequence of the defendant's presence, and any other fact~~  
60 ~~that the court deems relevant; or~~

61 ~~(c) The age of the sexual offense victim or witness when~~  
62 ~~the sexual offense occurred, the relationship of the sexual~~  
63 ~~offense victim or witness to the parties in the case or to the~~  
64 ~~defendant in a criminal action, the degree of emotional trauma~~  
65 ~~that will result to the sexual offense victim or witness as a~~  
66 ~~consequence of the defendant's presence, and any other fact that~~  
67 ~~the court deems relevant.~~

68 (4) (a) In addition to such other relief provided by law,  
69 the court may enter orders it deems just and appropriate for the



970458

70 protection of limiting the number of times that a child, a  
71 person who has an intellectual disability, a human trafficking  
72 victim or witness, or a sexual offense victim or witness,  
73 including, but not limited to:

74 1. Limiting the number of times that a victim or witness  
75 may be interviewed;

76 2. Prohibiting depositions of the victim or witness;

77 3. Limiting the length and scope of any deposition;

78 4. Requiring that a deposition be taken only by written  
79 questions;

80 5. Requiring that a deposition be in the presence of a  
81 trial judge or magistrate;

82 6. Sealing the tape or transcript of a deposition until  
83 further order of the court;

84 7. Requiring the submission of questions before the  
85 examination of the victim or witness;

86 8. Setting the place and conditions for interviewing the  
87 victim or witness or for conducting any other proceeding; or

88 9. Authorizing ~~permitting~~ or prohibiting the attendance of  
89 any person at any proceeding.

90 (b) The court shall enter any order necessary to protect  
91 the rights of all parties, including the defendant in any  
92 criminal action.

93 (5) The court may set any other conditions it finds just  
94 and appropriate when taking the testimony of a victim or witness  
95 under the age of 18, a person who has an intellectual  
96 disability, a human trafficking victim or witness, or a sexual  
97 offense victim or witness, including the use of a therapy animal  
98 or facility dog, in any proceeding involving a sexual offense,



970458

99 human trafficking, or child abuse, abandonment, or neglect.

100 (a) When deciding whether to allow ~~permit~~ a victim or  
101 witness under the age of 18, a person who has an intellectual  
102 disability, a human trafficking victim or witness, or a sexual  
103 offense victim or witness to testify with the assistance of a  
104 therapy animal or facility dog, the court shall consider the age  
105 of the child victim or witness; the age of the human trafficking  
106 victim or witness at the time the human trafficking offense  
107 occurred; ~~the age of the sexual offense victim or witness at~~  
108 ~~the time the sexual offense occurred;~~ ~~the interests of the~~  
109 ~~child victim or witness,~~ human trafficking offense victim or  
110 witness, or sexual offense victim or witness; ~~the rights of the~~  
111 ~~parties to the litigation;~~ ~~and any other relevant factor that~~  
112 ~~would facilitate the testimony by the victim or witness under~~  
113 ~~the age of 18, person who has an intellectual disability,~~ human  
114 trafficking victim or witness, or sexual offense victim or  
115 witness.

116 (b) For purposes of this subsection the term:

117 1. "Facility dog" means a dog that has been trained,  
118 evaluated, and certified as a facility dog pursuant to industry  
119 standards and provides unobtrusive emotional support to children  
120 and adults in facility settings.

121 2. "Therapy animal" means an animal that has been trained,  
122 evaluated, and certified as a therapy animal pursuant to  
123 industry standards by an organization that certifies animals as  
124 appropriate to provide animal therapy.

125  
126 ===== T I T L E A M E N D M E N T =====

127 And the title is amended as follows:



970458

128 Delete line 9  
129 and insert:  
130 volunteers; amending s. 92.55, F.S.; defining terms;  
131 authorizing a court, upon a motion by specified  
132 persons, to enter any order necessary to protect  
133 certain victims or witnesses from moderate, rather  
134 than from severe, emotional or mental harm; revising  
135 the factors that a court is authorized, rather than  
136 required, to consider in ruling upon a certain filed  
137 motion; revising the options for relief that a court  
138 is authorized to order to protect certain persons;  
139 authorizing a court to set any other conditions it  
140 finds just and appropriate when taking the testimony  
141 of a human trafficking victim or witness; requiring a  
142 court to consider the age of the human trafficking  
143 victim or witness at the time the human trafficking  
144 offense occurred when deciding whether to allow the  
145 human trafficking victim or witness to testify; making  
146 technical changes; amending s. 787.06, F.S.; revising  
147 the