

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Toledo offered the following:

Amendment (with title amendment)

Between lines 101 and 102, insert:

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

92.55 Judicial or other proceedings involving 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.-

(1) For purposes of this section, the term:

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14 (a) "Human trafficking offense" means any offense
15 specified in s. 787.06.

16 (b) "Human trafficking victim or witness" means a person
17 who was under the age of 18 when he or she was the victim of or
18 a witness to a human trafficking offense.

19 (c) ~~(b)~~ "Sexual offense" means any offense specified in s.
20 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

21 (d) ~~(a)~~ "Sexual offense victim or witness" means a person
22 who was under the age of 18 when he or she was the victim of or
23 a witness to a sexual offense.

24 (2) Upon motion of any party, upon motion of a parent,
25 guardian, attorney, guardian ad litem, or other advocate
26 appointed by the court ~~under s. 914.17~~ for a victim or witness
27 under the age of 18, a person who has an intellectual
28 disability, a human trafficking victim or witness, or a sexual
29 offense victim or witness, or upon its own motion, the court may
30 enter any order necessary to protect the victim or witness in
31 any judicial proceeding or other official proceeding from
32 ~~moderate severe~~ emotional or mental harm ~~due to the presence of~~
33 ~~the defendant if the victim or witness is required to testify in~~
34 ~~open court~~. Such orders must relate to the taking of testimony
35 and include, but are not limited to:

36 (a) Interviewing or the taking of depositions as part of a
37 civil or criminal proceeding.

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

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

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

44 (a) The age of the victim or witness. ~~child,~~

45 (b) The nature of the offense or act. ~~;~~

46 (c) The complexity of the issues involved.

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

49 (e) The degree of emotional or mental harm ~~trauma~~ that
50 will result ~~to the child~~ as a consequence of the examination,
51 interview, or testimony. ~~defendant's presence, and~~

52 (f) The functional capacity of the victim or witness if he
53 or she has an intellectual disability.

54 (g) The age of the sexual offense victim or witness at the
55 time the sexual offense occurred.

56 (h) Any other fact that the court deems relevant. ~~;~~

57 ~~(b) The age of the person who has an intellectual~~
58 ~~disability, the functional capacity of such person, the nature~~
59 ~~of the offenses or act, the relationship of the person to the~~
60 ~~parties in the case or to the defendant in a criminal action,~~
61 ~~the degree of emotional trauma that will result to the person as~~

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62 ~~a consequence of the defendant's presence, and any other fact~~
63 ~~that the court deems relevant; or~~

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

71 (4) In addition to such other relief provided by law, the
72 court may enter orders it deems just and appropriate for the
73 protection of limiting the number of times that a child, a
74 person who has an intellectual disability, a human trafficking
75 victim or witness, or a sexual offense victim or witness,
76 including limiting the number of times a victim or witness may
77 be interviewed, prohibiting depositions of the victim or
78 witness, requiring the submission of questions before the
79 examination of the victim or witness, limiting the length and
80 scope of any deposition, requiring a deposition be taken only by
81 written questions, requiring a deposition be in the presence of
82 a trial judge or magistrate, sealing the tape or transcript of a
83 deposition until further order of the court, setting the place
84 and conditions for interviewing the victim or witness or for
85 conducting any other proceeding, or permitting or prohibiting
86 the attendance of any person at any proceeding. The court shall

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87 enter any order necessary to protect the rights of all parties,
88 including the defendant in any criminal action.

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

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

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111 trafficking victim or witness, or sexual offense victim or
112 witness.

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

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

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

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125 **T I T L E A M E N D M E N T**

126 Remove lines 2-8 and insert:

127 An act relating to vulnerable persons; creating s. 90.5037,
128 F.S.; providing definitions; providing that a communication
129 between a human trafficking victim advocate or trained
130 volunteer and a human trafficking victim is confidential in
131 certain circumstances; specifying what the privilege
132 encompasses; specifying who may claim the privilege;
133 amending s. 92.55, F.S.; providing definitions; revising
134 the standard for orders to protect certain testifying
135 victims and witnesses; revising factors to be considered by

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136 | a court in motions to protect such victims and witnesses;
137 | authorizing orders limiting the taking of depositions of
138 | human trafficking victims and witnesses; amending s.
139 | 787.06, F.S.;

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