



413494

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
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The Committee on Rules (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 40 - 154

and insert:

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

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

(d) "Therapy animal" means an animal that has been trained, evaluated, and certified as a therapy animal pursuant to



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12 industry standards by an organization that certifies animals as
13 appropriate to provide animal therapy.

14 (2) Upon motion of any party;~~7~~ upon motion of a parent,
15 guardian, attorney, guardian ad litem, or other advocate
16 appointed by the court ~~under s. 914.17~~ for a victim or witness
17 under the age of 18, a person who has an intellectual
18 disability, or a sexual offense victim; ~~or witness,~~ or upon its
19 own motion, the court may enter any order necessary to protect
20 the person ~~victim or witness~~ in any judicial proceeding or other
21 official proceeding from moderate ~~severe~~ emotional or mental
22 harm ~~due to the presence of the defendant if the victim or~~
23 ~~witness is required to testify in open court.~~ Such orders must
24 relate to the taking of testimony and include, but are not
25 limited to:

26 (a) Interviewing or the taking of depositions as part of a
27 civil or criminal proceeding.

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

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

32 (3) (a) Depositions are not allowed, except upon a showing
33 of good cause, of victims or witnesses younger than the age of
34 18, persons who have intellectual disabilities, or sexual
35 offense victims in proceedings involving any of the following:

36 1. Abuse, abandonment, or neglect of children under chapter
37 39.

38 2. Any offense constituting domestic violence as defined in
39 s. 741.28.

40 3. Murder under s. 782.04.



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- 41 4. Manslaughter under s. 782.07.
- 42 5. Aggravated cyberstalking under s. 784.048.
- 43 6. Kidnapping under s. 787.01.
- 44 7. False imprisonment under s. 787.02.
- 45 8. Human trafficking under s. 787.06.
- 46 9. Sexual battery under s. 794.011.
- 47 10. Child abuse or neglect of a child under s. 827.03.
- 48 11. Use of a child in a sexual performance under s.
- 49 827.071.
- 50 12. Computer pornography under s. 847.0135 or the
- 51 transmission of pornography by electronic device or equipment
- 52 under s. 847.0137.
- 53 (b) Upon written motion and written findings that a
- 54 deposition is necessary to assist a trial, that the evidence
- 55 sought is not reasonably available by any other means, and that
- 56 the probative value of the testimony outweighs the potential
- 57 detriment to the person to be deposed, the court may authorize
- 58 the taking of a deposition and may order protections deemed
- 59 necessary, including those provided in this section.
- 60 (4)~~(3)~~ In ruling upon a ~~the~~ motion filed under this
- 61 section, the court may ~~shall~~ consider:
- 62 (a) The age of the victim or witness. ~~child,~~
- 63 (b) The nature of the offense or act.7
- 64 (c) The complexity of the issues involved.
- 65 (d) The relationship of the victim or witness ~~child~~ to the
- 66 parties in the case or to the defendant in a criminal action.7
- 67 (e) The degree of emotional or mental harm ~~trauma~~ that will
- 68 result ~~to the child~~ as a consequence of the examination,
- 69 interview, or testimony. ~~defendant's presence, and~~



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

72 (g) The age of the sexual offense victim when the sexual
73 offense occurred.

74 (h) Any other fact that the court deems relevant;

75 ~~(b) The age of the person who has an intellectual~~
76 ~~disability, the functional capacity of such person, the nature~~
77 ~~of the offenses or act, the relationship of the person to the~~
78 ~~parties in the case or to the defendant in a criminal action,~~
79 ~~the degree of emotional trauma that will result to the person as~~
80 ~~a consequence of the defendant's presence, and any other fact~~
81 ~~that the court deems relevant; or~~

82 ~~(c) The age of the sexual offense victim or witness when the~~
83 ~~sexual offense occurred, the relationship of the sexual offense~~
84 ~~victim or witness to the parties in the case or to the defendant~~
85 ~~in a criminal action, the degree of emotional trauma that will~~
86 ~~result to the sexual offense victim or witness as a consequence~~
87 ~~of the defendant's presence, and any other fact that the court~~
88 ~~deems relevant.~~

89 (5)-(4) In addition to such other relief provided by law,
90 the court may enter orders it deems just and appropriate for the
91 protection of limiting the number of times that a child, a
92 person who has an intellectual disability, or a sexual offense
93 victim, including limiting the number of times a victim or
94 witness may be interviewed, limiting the length and scope of a
95 deposition, requiring a deposition to be taken only by written
96 questions, requiring a deposition to be in the presence of a
97 trial judge or magistrate, sealing the tape or transcript of a
98 deposition until further order of the court, allowing use of a



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99 therapy animal or facility dog prohibiting depositions of the
100 victim or witness, requiring the submission of questions before
101 the examination of the victim or witness, setting the place and
102 conditions for interviewing the victim or witness or for
103 conducting any other proceeding, or permitting or prohibiting
104 the attendance of any person at any proceeding. The court shall
105 enter any order necessary to protect the rights of all parties,
106 including the defendant in any criminal action.

107 (6) Section 794.022 applies to depositions taken pursuant
108 to this section. If a deposition is taken pursuant to this
109 section, the court must appoint a guardian ad litem or other
110 advocate pursuant to s. 914.17 to represent the deponent for the
111 purposes of the deposition if the deponent does not already have
112 counsel.

113 (7) The court, on its own motion or that of any party, may
114 request the aid of an interpreter, as provided in s. 90.606, to
115 aid the parties in formulating methods of questioning the child,
116 the person who has an intellectual disability, or the sexual
117 offense victim and in interpreting his or her answers during

118
119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete line 3

122 and insert:

123 witnesses; amending s. 92.55, F.S.; replacing the term
124 "sexual offense victim or witness" with "sexual
125 offense victim"; defining the term "sexual offense
126 victim"; revising the