

By the Committee on Children, Families, and Elder Affairs; and
Senators Diaz and Perry

586-01951A-22

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1 A bill to be entitled

2 An act relating to the protection of victims and
3 witnesses; amending s. 92.55, F.S.; revising the
4 standard for orders to protect certain testifying
5 victims and witnesses; prohibiting depositions of
6 certain victims and witnesses in certain proceedings
7 without a showing of good cause; authorizing the court
8 to allow such depositions under certain circumstances;
9 revising factors to be considered by a court in a
10 motion seeking to protect a victim or witness;
11 revising provisions related to available relief;
12 requiring the court to appoint a guardian ad litem or
13 other advocate for the deponent under certain
14 circumstances; authorizing the court to request the
15 aid of an interpreter; requiring the court to make
16 specific findings of fact on the record for certain
17 orders and rulings; making technical changes;
18 requiring the University of South Florida, in
19 consultation with a specified organization, to develop
20 and submit a proposal to the Attorney General for the
21 creation of a unified statewide data repository for
22 anonymous human trafficking data; providing
23 requirements for the proposal; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 92.55, Florida Statutes, is amended to
29 read:

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30 92.55 Judicial or other proceedings involving certain
31 victims and witnesses ~~victim or witness under the age of 18, a~~
32 ~~person who has an intellectual disability, or a sexual offense~~
33 ~~victim or witness~~; special protections; use of therapy animals
34 or facility dogs.—

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

36 (a) "Facility dog" means a dog that has been trained,
37 evaluated, and certified as a facility dog pursuant to industry
38 standards and provides unobtrusive emotional support to children
39 and adults in facility settings.

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

43 (b) "Sexual offense" means any offense specified in s.
44 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

45 (d) "Therapy animal" means an animal that has been trained,
46 evaluated, and certified as a therapy animal pursuant to
47 industry standards by an organization that certifies animals as
48 appropriate to provide animal therapy.

49 (2) Upon motion of any party;7 upon motion of a parent,
50 guardian, attorney, guardian ad litem, or other advocate
51 appointed by the court ~~under s. 914.17~~ for a victim or witness
52 under the age of 18, a person who has an intellectual
53 disability, or a sexual offense victim or witness;7 or upon its
54 own motion, the court may enter any order necessary to protect
55 the person ~~victim or witness~~ in any judicial proceeding or other
56 official proceeding from moderate ~~severe~~ emotional or mental
57 harm ~~due to the presence of the defendant if the victim or~~
58 ~~witness is required to testify in open court.~~ Such orders must

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59 relate to the taking of testimony and include, but are not
60 limited to:

61 (a) Interviewing or the taking of depositions as part of a
62 civil or criminal proceeding.

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

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

67 (3) (a) Depositions are not allowed, except upon a showing
68 of good cause, of victims or witnesses younger than the age of
69 18, persons who have intellectual disabilities, or sexual
70 offense victims or witnesses in proceedings involving any of the
71 following:

72 1. Abuse, abandonment, or neglect of children under chapter
73 39.

74 2. Any offense constituting domestic violence as defined in
75 s. 741.28.

76 3. Murder under s. 782.04.

77 4. Manslaughter under s. 782.07.

78 5. Aggravated cyberstalking under s. 784.048.

79 6. Kidnapping under s. 787.01.

80 7. False imprisonment under s. 787.02.

81 8. Human trafficking under s. 787.06.

82 9. Sexual battery under s. 794.011.

83 10. Lewd or lascivious offenses under s. 825.1025.

84 11. Child abuse or neglect of a child under s. 827.03.

85 12. Use of a child in a sexual performance under s.
86 827.071.

87 13. Computer pornography under s. 847.0135 or the

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88 transmission of pornography by electronic device or equipment
89 under s. 847.0137.

90 (b) Upon written motion and written findings that a
91 deposition is necessary to assist a trial, that the evidence
92 sought is not reasonably available by any other means, and that
93 the probative value of the testimony outweighs the potential
94 detriment to the person to be deposed, the court may authorize
95 the taking of a deposition and may order protections deemed
96 necessary, including those provided in this section.

97 (4)(3) In ruling upon a ~~the~~ motion filed under this
98 section, the court may ~~shall~~ consider:

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

100 (b) The nature of the offense or act.~~7~~

101 (c) The complexity of the issues involved.

102 (d) The relationship of the victim or witness ~~child~~ to the
103 parties in the case or to the defendant in a criminal action.~~7~~

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

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

109 (g) The age of the sexual offense victim or witness when
110 the sexual offense occurred.

111 (h) Any other fact that the court deems relevant~~7~~

112 ~~(b) The age of the person who has an intellectual~~
113 ~~disability, the functional capacity of such person, the nature~~
114 ~~of the offenses or act, the relationship of the person to the~~
115 ~~parties in the case or to the defendant in a criminal action,~~
116 ~~the degree of emotional trauma that will result to the person as~~

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

119 ~~(c) The age of the sexual offense victim or witness when the~~
120 ~~sexual offense occurred, the relationship of the sexual offense~~
121 ~~victim or witness to the parties in the case or to the defendant~~
122 ~~in a criminal action, the degree of emotional trauma that will~~
123 ~~result to the sexual offense victim or witness as a consequence~~
124 ~~of the defendant's presence, and any other fact that the court~~
125 ~~deems relevant.~~

126 ~~(5)(4)~~ In addition to such other relief provided by law,
127 the court may enter orders it deems just and appropriate for the
128 protection of limiting the number of times that a child, a
129 person who has an intellectual disability, or a sexual offense
130 victim or witness, including limiting the number of times a
131 victim or witness may be interviewed, limiting the length and
132 scope of a deposition, requiring a deposition to be taken only
133 by written questions, requiring a deposition to be in the
134 presence of a trial judge or magistrate, sealing the tape or
135 transcript of a deposition until further order of the court,
136 allowing use of a therapy animal or facility dog ~~prohibiting~~
137 ~~depositions of the victim or witness,~~ requiring the submission
138 of questions before the examination of the victim or witness,
139 setting the place and conditions for interviewing the victim or
140 witness or for conducting any other proceeding, or permitting or
141 prohibiting the attendance of any person at any proceeding. The
142 court shall enter any order necessary to protect the rights of
143 all parties, including the defendant in any criminal action.

144 (6) Section 794.022 applies to depositions taken pursuant
145 to this section. If a deposition is taken pursuant to this

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146 section, the court must appoint a guardian ad litem or other
147 advocate pursuant to s. 914.17 to represent the deponent for the
148 purposes of the deposition if the deponent does not already have
149 counsel.

150 (7) The court, on its own motion or that of any party, may
151 request the aid of an interpreter, as provided in s. 90.606, to
152 aid the parties in formulating methods of questioning the person
153 who has an intellectual disability or the sexual offense victim
154 or witness and in interpreting his or her answers during
155 proceedings conducted under this section.

156 (8) The court shall make specific findings of fact on the
157 record as to the basis for its orders and rulings under this
158 section

159 ~~(5) The court may set any other conditions it finds just~~
160 ~~and appropriate when taking the testimony of a victim or witness~~
161 ~~under the age of 18, a person who has an intellectual~~
162 ~~disability, or a sexual offense victim or witness, including the~~
163 ~~use of a therapy animal or facility dog, in any proceeding~~
164 ~~involving a sexual offense or child abuse, abandonment, or~~
165 ~~neglect.~~

166 ~~(a) When deciding whether to permit a victim or witness~~
167 ~~under the age of 18, a person who has an intellectual~~
168 ~~disability, or a sexual offense victim or witness to testify~~
169 ~~with the assistance of a therapy animal or facility dog, the~~
170 ~~court shall consider the age of the child victim or witness, the~~
171 ~~age of the sexual offense victim or witness at the time the~~
172 ~~sexual offense occurred, the interests of the child victim or~~
173 ~~witness or sexual offense victim or witness, the rights of the~~
174 ~~parties to the litigation, and any other relevant factor that~~

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175 ~~would facilitate the testimony by the victim or witness under~~
176 ~~the age of 18, person who has an intellectual disability, or~~
177 ~~sexual offense victim or witness.~~

178 ~~(b) For purposes of this subsection the term:~~

179 ~~1. "Facility dog" means a dog that has been trained,~~
180 ~~evaluated, and certified as a facility dog pursuant to industry~~
181 ~~standards and provides unobtrusive emotional support to children~~
182 ~~and adults in facility settings.~~

183 ~~2. "Therapy animal" means an animal that has been trained,~~
184 ~~evaluated, and certified as a therapy animal pursuant to~~
185 ~~industry standards by an organization that certifies animals as~~
186 ~~appropriate to provide animal therapy.~~

187 Section 2. By October 1, 2022, the University of South
188 Florida, in consultation with the Florida Alliance to End Human
189 Trafficking, shall develop and submit a proposal to the Attorney
190 General for the creation of a unified statewide data repository
191 for anonymous human trafficking data. The proposal must house
192 the data repository within the University of South Florida's
193 Trafficking in Persons-Risk to Resilience Research Lab and must
194 outline the need for a unified data repository to serve as a
195 portal to collect and analyze anonymous statewide human
196 trafficking data, to inform statewide efforts to combat human
197 trafficking, and to better serve victims of human trafficking.
198 The proposal should consider and recommend various funding
199 mechanisms to establish and operate the data repository,
200 including the potential for use of institutional and privately-
201 donated funds.

202 Section 3. This act shall take effect upon becoming a law.