

**By** the Committees on Rules; and Children, Families, and Elder Affairs; and Senators Diaz and Perry

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

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Section 92.55, Florida Statutes, is amended to  
31 read:

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

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

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

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

45 (b) “Sexual offense” means any offense specified in s.  
46 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

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

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

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59 ~~harm due to the presence of the defendant if the victim or~~  
60 ~~witness is required to testify in open court.~~ Such orders must  
61 relate to the taking of testimony and include, but are not  
62 limited to:

63 (a) Interviewing or the taking of depositions as part of a  
64 civil or criminal proceeding.

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

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

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

73 1. Abuse, abandonment, or neglect of children under chapter  
74 39.

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

77 3. Murder under s. 782.04.

78 4. Manslaughter under s. 782.07.

79 5. Aggravated cyberstalking under s. 784.048.

80 6. Kidnapping under s. 787.01.

81 7. False imprisonment under s. 787.02.

82 8. Human trafficking under s. 787.06.

83 9. Sexual battery under s. 794.011.

84 10. Lewd or lascivious offenses under s. 800.04 or s.  
85 825.1025.

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

87 12. Use of a child in a sexual performance under s.

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88 827.071.

89 13. Computer pornography under s. 847.0135 or the  
90 transmission of pornography by electronic device or equipment  
91 under s. 847.0137.

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

99 (4) ~~(3)~~ In ruling upon a ~~the~~ motion filed under this  
100 section, the court may ~~shall~~ consider:

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

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

103 (c) The complexity of the issues involved.

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

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

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

111 (g) The age of the sexual offense victim when the sexual  
112 offense occurred.

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

114 ~~(b) The age of the person who has an intellectual~~  
115 ~~disability, the functional capacity of such person, the nature~~  
116 ~~of the offenses or act, the relationship of the person to the~~

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117 ~~parties in the case or to the defendant in a criminal action,~~  
118 ~~the degree of emotional trauma that will result to the person as~~  
119 ~~a consequence of the defendant's presence, and any other fact~~  
120 ~~that the court deems relevant; or~~

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

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

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146 (6) Section 794.022 applies to depositions taken pursuant  
147 to this section. If a deposition is taken pursuant to this  
148 section, the court must appoint a guardian ad litem or other  
149 advocate pursuant to s. 914.17 to represent the deponent for the  
150 purposes of the deposition if the deponent does not already have  
151 counsel.

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

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

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

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

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175 ~~witness or sexual offense victim or witness, the rights of the~~  
176 ~~parties to the litigation, and any other relevant factor that~~  
177 ~~would facilitate the testimony by the victim or witness under~~  
178 ~~the age of 18, person who has an intellectual disability, or~~  
179 ~~sexual offense victim or witness.~~

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

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

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

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

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