

1                                   A bill to be entitled  
 2           An act relating to depositions of witnesses in  
 3           criminal proceedings; amending s. 92.55, F.S.;  
 4           prohibiting the deposition of victims and certain  
 5           witnesses in certain proceedings without a showing of  
 6           good cause; providing for motions to depose witnesses;  
 7           providing for factors to be considered concerning such  
 8           motions; requiring written findings on such motions;  
 9           providing an effective date.

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11   Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Subsection (6) is added to section 92.55,  
 14   Florida Statutes, to read:

15           92.55 Judicial or other proceedings involving victim or  
 16   witness under the age of 18, a person who has an intellectual  
 17   disability, or a sexual offense victim or witness; special  
 18   protections; use of therapy animals or facility dogs.—

19           (6) (a) In any criminal action in which the defendant is  
 20   charged with an offense described in this paragraph, or with any  
 21   attempt, solicitation, or conspiracy to commit such offense,  
 22   depositions are not allowed, absent a showing of good cause, of  
 23   any victim or any witness younger than the age of 18, any person  
 24   who has intellectual disabilities, or any person who is a victim  
 25   or witness. The offenses are:

26 | 1. Any offense constituting domestic violence as defined  
 27 | in s. 741.28.

28 | 2. Aggravated cyberstalking under s. 784.048.

29 | 3. Custody offenses under chapter 787.

30 | 4. Human trafficking under s. 787.06.

31 | 5. Human smuggling under s. 787.07

32 | 6. Sexual battery under s. 794.011.

33 | 7. Lewd or lascivious offenses under s. 800.04.

34 | 8. Child abuse or neglect of a child under s. 827.03.

35 | 9. Promotion of or use of a child in a sexual performance  
 36 | under s. 827.071.

37 | 10. Computer pornography, prohibited computer usage,  
 38 | traveling to meet a minor under s. 847.0135, transmission of  
 39 | pornography by electronic device or equipment under s. 847.0137,  
 40 | or transmission of material harmful to a minor under s.  
 41 | 847.0138.

42 | (b) Upon written motion that a deposition is necessary to  
 43 | assist at trial, that the evidence sought is not reasonably  
 44 | available by any other means, and that the probative value of  
 45 | the testimony outweighs the potential harm to the person to be  
 46 | deposed, the court may authorize the taking of a deposition and  
 47 | may order protections deemed necessary, including those provided  
 48 | in this subsection.

49 | (c) In ruling upon a motion filed under this subsection,  
 50 | the court may consider:

51        1. The mental and physical age and maturity of the victim  
52 or witness.

53        2. The nature and duration of the offense.

54        3. The relationship of the victim or witness to the  
55 defendant.

56        4. The complexity of the issues involved.

57        5. Whether the victim or witness would suffer moderate  
58 psychological harm as a consequence of being compelled to  
59 testify at a deposition.

60        6. The functional capacity of the victim or witness if he  
61 or she has an intellectual disability.

62        7. The willingness of the victim or witness to testify at  
63 an examination, an interview, or a hearing.

64        8. Any other fact that the court deems relevant.

65        (d) A motion under this subsection may be filed by the  
66 victim, witness, or the victim's or witness's attorney, parent,  
67 legal guardian, or guardian ad litem; the defendant or the  
68 defendant's counsel in a criminal proceeding; or the prosecuting  
69 authority.

70        (e) The court shall make specific written findings of  
71 fact, on the record, as to the basis for its ruling under this  
72 subsection.

73        Section 2. This act shall take effect October 1, 2023.