

By Senator Burgess

23-00233B-23

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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 in granting  
8           such motions; requiring written findings of fact in  
9           rulings on such motions; 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 in  
27 s. 741.28.

28           2. Aggravated cyberstalking under s. 784.048.

29           3. Custody offenses under chapter 787.

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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, or  
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

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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, the witness, or the victim's or witness's attorney,  
67 parent, legal guardian, or guardian ad litem; the defendant or  
68 the defendant's counsel in a criminal proceeding; or the  
69 prosecuting authority.

70 (e) The court shall make specific written findings of fact,  
71 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.