

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Yarkosky offered the following:

**Amendment to Amendment (463652) (with title amendment)**

Remove lines 11-40 of the amendment and insert:

(6)(a) In any criminal proceeding, before the defendant may take a discovery deposition of a victim of a sexual offense who is under the age of 16, the court must conduct a hearing to determine whether it is appropriate to take a deposition of the victim and, if so, whether to order any limitations or other specific conditions under which the victim's deposition may be conducted.

(b) Except as provided in paragraph (c), in determining whether it is appropriate to take a deposition of a victim of a

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14 sexual offense who is under the age of 16, the court must  
15 consider:

16 1. The mental and physical age and maturity of the victim.

17 2. The nature and duration of the offense.

18 3. The relationship of the victim to the defendant.

19 4. The complexity of the issues involved.

20 5. Whether the evidence sought is reasonably available by  
21 other means, including whether the victim was the subject of a  
22 forensic interview related to the sexual offense.

23 6. Any other factors the court deems relevant to ensure  
24 the protection of the victim and the integrity of the judicial  
25 process.

26 (c) If the victim of a sexual offense is under the age of  
27 12, there is a presumption that the taking of the victim's  
28 deposition is not appropriate if:

29 1. The state has not filed a notice of intent to seek the  
30 death penalty; and

31 2. A forensic interview of the sexual offense victim is  
32 available to the defendant.

33 (d) If the court determines the taking of the victim's  
34 deposition is appropriate, in addition to any other condition  
35 required by law, the court may order limitations or other  
36 specific conditions including, but not limited to:

37 1. Requiring the defendant to submit questions to the  
38 court before the victim's deposition.

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39 2. Setting the appropriate place and conditions under  
40 which the victim's deposition may be conducted.

41 3. Permitting or prohibiting the attendance of any person  
42 at the victim's deposition.

43 4. Limiting the duration of the victim's deposition.

44 5. Any other condition the court finds just and  
45 appropriate.

46 (e) The court must enter a written order finding whether  
47 the taking of the deposition of the victim is appropriate. If  
48 the court finds that the taking of the deposition of the victim  
49 is appropriate, the order must include any limitations or other  
50 specific conditions under which the victim's deposition must be  
51 conducted.

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**T I T L E A M E N D M E N T**

56 Remove lines 47-51 of the amendment and insert:  
57 92.55, F.S.; requiring a court to conduct a hearing to  
58 determine whether the taking of a deposition of a victim of  
59 a sexual offense who is under the age of 16 is appropriate;  
60 creating a presumption that a deposition of a victim of a  
61 sexual offense who is under the age of 12 is not  
62 appropriate in specified circumstances; providing factors a  
63 court may consider in determining whether any limitations

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64 | or other specific conditions on the taking of a deposition  
65 | are appropriate; requiring the court to enter a written  
66 | order including specified information; amending s. 960.001,  
67 | F.S.;

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