

ENROLLED

CS/HB 667, Engrossed 1

2023 Legislature

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 2 An act relating to victims of crime; amending s.  
 3 92.55, F.S.; requiring a court to conduct a hearing to  
 4 determine whether the taking of a deposition of a  
 5 victim of a sexual offense who is under the age of 16  
 6 is appropriate; creating a presumption that a  
 7 deposition of a victim of a sexual offense who is  
 8 under the age of 12 is not appropriate in specified  
 9 circumstances; providing factors a court may consider  
 10 in determining whether any limitations or other  
 11 specific conditions on the taking of a deposition are  
 12 appropriate; requiring the court to enter a written  
 13 order including specified information; amending s.  
 14 960.001, F.S.; requiring a victim to be notified that  
 15 he or she has the right to be informed of specified  
 16 information when contacted by certain persons acting  
 17 on behalf of a defendant in a criminal proceeding;  
 18 providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22 Section 1. Subsection (6) is added to section 92.55,  
 23 Florida Statutes, to read:  
 24 92.55 Judicial or other proceedings involving victim or  
 25 witness under the age of 18, a person who has an intellectual

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2023 Legislature

26 | disability, or a sexual offense victim or witness; special  
 27 | protections; use of therapy animals or facility dogs.—

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

35 |     (b) Except as provided in paragraph (c), in determining  
 36 | whether it is appropriate to take a deposition of a victim of a  
 37 | sexual offense who is under the age of 16, the court must  
 38 | consider:

- 39 |         1. The mental and physical age and maturity of the victim.
- 40 |         2. The nature and duration of the offense.
- 41 |         3. The relationship of the victim to the defendant.
- 42 |         4. The complexity of the issues involved.
- 43 |         5. Whether the evidence sought is reasonably available by  
 44 | other means, including whether the victim was the subject of a  
 45 | forensic interview related to the sexual offense.
- 46 |         6. Any other factors the court deems relevant to ensure  
 47 | the protection of the victim and the integrity of the judicial  
 48 | process.

49 |     (c) If the victim of a sexual offense is under the age of  
 50 | 12, there is a presumption that the taking of the victim's

ENROLLED

CS/HB 667, Engrossed 1

2023 Legislature

51 deposition is not appropriate if:  
 52 1. The state has not filed a notice of intent to seek the  
 53 death penalty; and  
 54 2. A forensic interview of the sexual offense victim is  
 55 available to the defendant.  
 56 (d) If the court determines the taking of the victim's  
 57 deposition is appropriate, in addition to any other condition  
 58 required by law, the court may order limitations or other  
 59 specific conditions including, but not limited to:  
 60 1. Requiring the defendant to submit questions to the  
 61 court before the victim's deposition.  
 62 2. Setting the appropriate place and conditions under  
 63 which the victim's deposition may be conducted.  
 64 3. Permitting or prohibiting the attendance of any person  
 65 at the victim's deposition.  
 66 4. Limiting the duration of the victim's deposition.  
 67 5. Any other condition the court finds just and  
 68 appropriate.  
 69 (e) The court must enter a written order finding whether  
 70 the taking of the deposition of the victim is appropriate. If  
 71 the court finds that the taking of the deposition of the victim  
 72 is appropriate, the order must include any limitations or other  
 73 specific conditions under which the victim's deposition must be  
 74 conducted.  
 75 Section 2. Paragraph (v) is added to subsection (1) of

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76 | section 960.001, Florida Statutes, to read:

77 |       960.001 Guidelines for fair treatment of victims and  
78 | witnesses in the criminal justice and juvenile justice systems.—

79 |       (1) The Department of Legal Affairs, the state attorneys,  
80 | the Department of Corrections, the Department of Juvenile  
81 | Justice, the Florida Commission on Offender Review, the State  
82 | Courts Administrator and circuit court administrators, the  
83 | Department of Law Enforcement, and every sheriff's department,  
84 | police department, or other law enforcement agency as defined in  
85 | s. 943.10(4) shall develop and implement guidelines for the use  
86 | of their respective agencies, which guidelines are consistent  
87 | with the purposes of this act and s. 16(b), Art. I of the State  
88 | Constitution and are designed to implement s. 16(b), Art. I of  
89 | the State Constitution and to achieve the following objectives:

90 |       (v) Victim's right to candor.—Each victim must be notified  
91 | that he or she has the right, if contacted to obtain information  
92 | relating to a criminal proceeding by an attorney, investigator,  
93 | or any other agent acting on behalf of the criminal defendant,  
94 | to be informed of:

95 |       1. The person's name and employer.

96 |       2. The fact that such person is acting on behalf of the  
97 | defendant.

98 |       Section 3. This act shall take effect July 1, 2023.