

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 507](#)

**TITLE:** Special Protections in Judicial Proceedings

**SPONSOR(S):** Baker

**COMPANION BILL:** None

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Criminal Justice](#)

16 Y, 1 N, As CS



[Judiciary](#)

## SUMMARY

### Effect of the Bill:

The bill authorizes a court to require a pro se defendant to question certain victims and witnesses at a trial, hearing, or deposition through standby counsel upon the motion of any party or other specified individual, or upon the court's own motion. Specifically, such victims or witnesses include a:

- Victim or witness under the age of 18.
- Person who has an intellectual disability.
- Sexual offense victim or witness.

The bill requires the court to make specific findings on the record that such a requirement is necessary to protect the person, victim, or witness from emotional or mental harm that would result from direct communication with the defendant.

### Fiscal or Economic Impact:

The bill may have an indeterminate negative fiscal impact, to the extent that the authorization in the bill results in courts more frequently appointing standby counsel in specified cases involving pro se defendants.

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## ANALYSIS

### **EFFECT OF THE BILL:**

The bill authorizes a court to order a [pro se defendant](#) to present, ask, or in any way communicate questions to a victim or witness under the age of 18, a person who has an intellectual disability, or a [sexual offense victim or witness](#) through [standby counsel](#) at a trial, hearing, or deposition when any party, a parent, guardian, attorney, guardian ad litem, or other [court-appointed advocate](#) under [s. 914.17, F.S.](#) motions the court, or upon the court's own motion. (Section 1)

The bill requires the court to make specific findings on the record that such a requirement is necessary to protect the person, victim, or witness from emotional or mental harm that would result from direct communication with the defendant. While under the bill, pro se defendants will not be able to personally cross-examine or otherwise communicate with specified victims or witnesses in specified court proceedings, the bill requires standby counsel to use questions provided or approved by the defendant. (Section 1)

The bill provides an effective date of July 1, 2026. (Section 2)

### **FISCAL OR ECONOMIC IMPACT:**

**STORAGE NAME:** h0507a.CRM

**DATE:** 1/14/2026

## STATE GOVERNMENT:

The bill may have an indeterminate negative fiscal impact, to the extent that the authorization in the bill results in courts more frequently appointing standby counsel in specified cases involving pro se defendants.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Pro Se Defendant

A “pro se” defendant is a defendant who represents himself or herself in court proceedings rather than being represented by an attorney. Under Florida’s Rules of Criminal Procedure, a defendant’s failure to request appointment of counsel, or announced intention to plead guilty, does not constitute a waiver of counsel.<sup>1</sup> Instead, the court must conduct a thorough inquiry into both the accused’s comprehension of the offer of counsel (including the disadvantages and dangers of self-representation) and capacity to make a knowing and intelligent waiver.<sup>2</sup>

As long as the court determines that the defendant has made a knowing and intelligent waiver of the right to counsel, and does not suffer from severe mental illness to the point where he or she is not competent to conduct trial proceedings, then the court cannot deny a defendant’s unequivocal request to represent himself or herself, regardless of the defendant’s legal skills or the complexity of the case.<sup>3</sup> However, the court must renew the offer of assistance of counsel at each subsequent stage of the proceedings at which the pro se defendant appears.<sup>4</sup> To this end, the court may “[appoint] standby counsel—even over the defendant’s objection—to relieve the judge of the need to explain and enforce basic rules of courtroom protocol or to assist the defendant in overcoming routine obstacles that stand in the way of the defendant’s achievement of his [or her] own clearly indicated goals.”<sup>5</sup>

#### Court-Appointed Advocates

Section [914.17, F.S.](#), requires the court to appoint a guardian ad litem or other advocate to represent a minor or person who has an intellectual disability in any criminal proceeding if the minor or person who has an intellectual disability has been the victim of or a witness to child abuse or neglect, has been a victim of a sexual offense, or has been a witness to a sexual offense committed against another minor or person who has an intellectual disability. Such an advocate fulfills roles including:

- Explaining, in language understandable to the person, all legal proceedings in which the person is involved;
- Acting, as a friend of the court, to advise the judge, whenever appropriate, of the person’s ability to understand and cooperate with any court proceeding; and
- Assisting the person and the person’s family in coping with the emotional effects of the crime and subsequent criminal proceedings in which the person is involved.<sup>6</sup>

#### Sexual Assault Victim or Witness

Under [s. 92.55\(1\)\(a\), F.S.](#), “sexual offense victim or witness” means a person who was under the age of 18 *when he or she was the victim of or a witness* to a sexual offense.<sup>7</sup> “Sexual offense” means any offense requiring:

- Sexual predator registration as specified in [s. 775.21\(4\)\(a\)1, F.S.](#), such as human trafficking for commercial sexual activity, sexual battery, and the selling or buying of minors; or
- Sexual offender registration as specified in [s. 943.0435\(1\)\(h\)1.a.\(1\), F.S.](#), such as luring or enticing a child and sexual performance by a child.<sup>8</sup>

<sup>1</sup> Fla. R. Crim. P. 3.111(d).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *McKaskle v. Wiggins*, 465 U.S. 168, 184 (1984).

<sup>6</sup> [S. 914.17\(1\) and \(2\), F.S.](#)

<sup>7</sup> Such victim or witness may be 18 years of age or older when he or she provides testimony about the sexual offense.

<sup>8</sup> [S. 92.55\(1\)\(b\), F.S.](#)

## **Special Protections in Proceedings Involving Victim or Witness Under 18, Person with Intellectual Disability, or Sexual Offense Victim**

Section [92.55, F.S.](#) provides certain protections for a victim or witness under the age of 18, a person with an intellectual disability, or a sexual offense victim or witness related to the taking of a deposition or testimony of such a person.

Upon the court's own motion, upon motion of any party, or upon motion of a parent, guardian, attorney, guardian ad litem, or other advocate appointed by the court for either a victim or witness under the age of 18, a person who has an intellectual disability, or a sexual offense victim or witness, the court may enter any order necessary to protect the victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the victim or witness is required to testify in open court.<sup>9</sup>

In ruling on such a motion, the court must consider the following:

- The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant's presence, and any other fact that the court deems relevant;
- The age of the person who has an intellectual disability, the functional capacity of such person, the nature of the offenses or act, the relationship of the person to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person as a consequence of the defendant's presence, and any other fact that the court deems relevant; or
- The age of the sexual offense victim or witness when the sexual offense occurred, the relationship of the sexual offense victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the sexual offense victim or witness as a consequence of the defendant's presence, and any other fact that the court deems relevant.<sup>10</sup>

Additionally, a court may:

- Limit the number of times that such a victim or witness may be interviewed.
- Prohibit or limit depositions of such a victim or witness.<sup>11</sup>
- Require questions to be submitted prior to examination of such a victim or witness.
- Set the place and conditions for interviewing the victim or witness or for conducting any other proceeding, and permit or prohibit the attendance of any person at any proceeding.<sup>12</sup>
- Set any other conditions it finds just and appropriate when taking the testimony of such a victim or witness, including permitting such a victim or witness to testify with the assistance of a therapy animal or facility dog.<sup>13</sup>

## **Right to Confront Adverse Witnesses**

The Sixth Amendment to the United States Constitution gives a criminal defendant the right to be "confronted with the witnesses against him" (otherwise known as the Confrontation Clause).<sup>14</sup> In *Maryland v. Craig*,<sup>15</sup> the United States Supreme Court held that:

The Confrontation Clause does not guarantee criminal defendants an absolute right to a face-to-face meeting with the witnesses against them at trial. The Clause's central purpose, to ensure the reliability of the evidence against a defendant by subjecting it to rigorous testing in an adversary

<sup>9</sup> [S. 92.55\(2\), F.S.](#)

<sup>10</sup> [S. 92.55\(3\), F.S.](#)

<sup>11</sup> [S. 92.55\(6\), F.S.](#)

<sup>12</sup> [S. 92.55\(4\), F.S.](#)

<sup>13</sup> [S. 92.55\(5\), F.S.](#)

<sup>14</sup> U.S. Const. amend. VI and Art. I, s. 16(a), Fla. Const.

<sup>15</sup> 497 U.S. 836 (1990).

proceeding before the trier of fact, is served by the combined effects of the elements of confrontation: *physical presence, oath, cross-examination, and observation of demeanor by the trier of fact.*<sup>16</sup>

The Court further held that “a defendant’s right to confront accusatory witnesses may be satisfied absent a physical, face-to-face confrontation at trial only where denial of such confrontation is necessary to further an important public policy and only where the reliability of the testimony is otherwise assured.”<sup>17</sup>

More specifically, the Court held that where a judge allowed an alleged child abuse victim to provide courtroom testimony by way of a one-way closed-circuit television,<sup>18</sup> based on specific findings by the trial court that requiring the child to testify in the courtroom in the presence of the defendant would cause the child serious emotional distress to the point that the child would not be able to reasonably communicate, there was no violation of the Confrontation Clause.<sup>19, 20</sup> The Court held that although allowing testimony to be provided in this manner removed the element of physical presence from the defendant’s right to confrontation, all of the other elements were preserved.<sup>21</sup> Additionally, the Court found that “Maryland’s interest in protecting child witnesses from the trauma of testifying in a child abuse case is sufficiently important to justify the use of [this] special procedure.”<sup>22</sup>

### **Right to Self-Representation**

The Sixth Amendment of the United States Constitution also provides a criminal defendant the right to present his or her own defense.<sup>23</sup> “The elements of a defendant’s self-representation right include controlling the organization and content of his [or her] own defense, making motions, arguing points of law, participating in voir dire, questioning witnesses, and addressing the court and the jury at appropriate points in the trial.”<sup>24</sup>

In *Fields v. Murray*, the trial court prohibited a pro se defendant from personally cross-examining the young girls who were witnesses against him in his trial on sexual abuse charges. The United States Fourth Circuit Court of Appeals held that denial of an element of the right to self-representation lacks the fundamental importance of a similar denial of an element of the right provided in the Confrontation Clause.<sup>25</sup> In making this determination, the court pointed out that while the right to confrontation is guaranteed explicitly in the Sixth Amendment, the right to self-representation is not, and is only an implicit right in the Amendment.<sup>26</sup> Additionally, the court noted that “it is universally recognized that the self-representation right is not absolute.”<sup>27</sup> The court found that if the defendant’s Confrontation Clause right could be limited as it was in *Craig*, then it was likely that a defendant’s self-representation right could be similarly limited.<sup>28</sup>

The court also explained that in determining whether the trial court’s refusal to allow the pro se defendant the ability to personally cross-examine the young girls who were witnesses against him in his trial on sexual abuse

<sup>16</sup> *Id.* at 836-837 (emphasis added).

<sup>17</sup> *Id.* at 850.

<sup>18</sup> When a witness provides testimony via a one-way closed-circuit television, the witness, prosecutor, and defense counsel withdraw to a room separate from the courtroom for direct and cross-examination, while the judge, jury, and defendant remain in the courtroom where the testimony is displayed. The witness cannot see the defendant; however, the defendant remains in electronic communication with his or her counsel and objections may be made and ruled on as if the witness were in the courtroom. *Craig*, 497 U.S. 836 at 836.

<sup>19</sup> *Id.*

<sup>20</sup> The Court held when determining whether to allow such a special procedure, the trial court must make case specific findings. It must hear evidence and determine whether the procedure’s use is necessary to protect the particular child witness’ welfare; find that the child would be traumatized not by the courtroom generally, but by the defendant’s presence; and find that the emotional distress suffered by the child in the defendant’s presence is more than *de minimis*. *Id.* at 838.

<sup>21</sup> See *Id.* at 851.

<sup>22</sup> *Id.* at 837.

<sup>23</sup> U.S. Const. amend. VI. See *Faretta v. California*, 422 U.S. 806 (1975).

<sup>24</sup> *Fields v. Murray*, 49 F.3d 1024, 1035 (4th Cir. 1995)(quoting *McKaskle v. Wiggins*, 465 U.S. 168 (1984)).

<sup>25</sup> See *Fields*, 49 F.3d at 1036-1037.

<sup>26</sup> See *Id.* at 1035.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

charges violated the defendant's right to self-representation, it would apply the analysis utilized in *Craig* to determine whether restricting one element of the right to self-representation would hinder the other purposes of the self-representation right, and whether the denial of personal cross-examination was necessary to further an important public policy.<sup>29</sup>

Ultimately, the court held that the trial court was not required to allow the defendant to personally cross-examine the girls who were witnesses against him.<sup>30</sup> Although the defendant's "ability to present his chosen defense may have been reduced slightly by not being allowed personally to cross-examine the girls, it would have been otherwise assured because he could have personally presented his defense in every other portion of the trial and could even have controlled the cross-examination by specifying the questions to be asked." Accordingly, the court found that "the purposes of the self-representation right were better 'otherwise assured' here, despite the denial of personal cross-examination, than was the purpose of the Confrontation Clause right in *Craig* when the defendant was denied face-to-face confrontation with the witnesses."<sup>31</sup>

The court further found that "[t]he State's interest here in protecting child sexual abuse victims from the emotional trauma of being cross-examined by their alleged abuser is at least as great as, and likely greater than, the State's interest in *Craig* of protecting children from the emotional harm of merely having to testify in their alleged abuser's presence."<sup>32</sup> As such, the State's interest was sufficiently important to outweigh the defendant's right to personally cross-examine witnesses against him, and denial of personal cross-examination was necessary to protect the young girls from emotional trauma.<sup>33, 34</sup>

## BILL HISTORY

| COMMITTEE REFERENCE                           | ACTION           | DATE      | STAFF DIRECTOR/<br>POLICY CHIEF | ANALYSIS<br>PREPARED BY |
|---|------------------|-----------|---------------------------------|-------------------------|
| <a href="#">Criminal Justice Subcommittee</a> | 16 Y, 1 N, As CS | 1/14/2026 | Hall                            | Butcher                 |

THE CHANGES ADOPTED BY THE COMMITTEE: The amendment:

- Authorized, rather than mandated, a court to require a pro se defendant to question certain victims and witnesses through standby counsel.
- Required a court to make specific findings on the record that communication through standby counsel is necessary to protect the person, victim, or witness from emotional or mental harm that would result from direct communication with the defendant.
- Specified that standby counsel must use questions provided or approved by the defendant.

[Judiciary Committee](#)

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 1037.

<sup>31</sup> *Id.* at 1035-1036.

<sup>32</sup> *Id.* at 1036.

<sup>33</sup> *Id.*

<sup>34</sup> Additionally, the court held that it did "not believe it was essential in this case that psychological evidence of the probable emotional harm to each of the girls be presented in order for the trial court to find that denying Fields personal cross-examination was necessary to protect them." *Id.* at 1038.

