

By the Committees on Rules; and Criminal Justice; and Senator Burgess

595-04031-23

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1 A bill to be entitled
2 An act relating to victims of crime; amending s.
3 92.55, F.S.; prohibiting the deposition of specified
4 victims in a criminal action, absent a showing of good
5 cause; providing for factors to be considered
6 concerning such motions; requiring written findings on
7 such motions; amending s. 960.001, F.S.; requiring
8 that a victim be notified that he or she has the right
9 to be informed of specified information if contacted
10 by certain persons acting on behalf of a defendant in
11 a criminal proceeding; providing an effective date.
12

13 Be It Enacted by the Legislature of the State of Florida:
14

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

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

21 (6) (a) Absent a showing of good cause, the defendant in a
22 criminal action, or his or her representative, may not take the
23 deposition of:

24 1. A victim in a sexual offense case who is under the age
25 of 18.

26 2. Any victim who has an intellectual disability.

27 (b) Upon written motion by a defendant in a criminal
28 action, or by his or her representative, that a deposition is
29 necessary to assist at a criminal trial, that the evidence

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30 sought is not reasonably available by any other means, and that
31 the probative value of the testimony outweighs any potential
32 harm to the person to be deposed, the court may authorize the
33 taking of a deposition and may order any protections deemed
34 necessary, including those provided in this section.

35 (c) In ruling upon a motion filed under paragraph (b), the
36 court may consider:

- 37 1. The mental and physical age and maturity of the victim.
- 38 2. The nature and duration of the offense.
- 39 3. The relationship of the victim to the defendant.
- 40 4. The complexity of the issues involved.
- 41 5. Whether the victim would suffer moderate psychological
42 harm as a consequence of being compelled to testify at a
43 deposition.
- 44 6. The functional capacity of the victim if he or she has
45 an intellectual disability.
- 46 7. The willingness of the victim to be deposed.
- 47 8. Any other fact that the court deems relevant.

48 (d) The court shall make specific written findings of fact,
49 on the record, as to the basis for its ruling under this
50 subsection.

51 Section 2. Paragraph (v) is added to subsection (1) of
52 section 960.001, Florida Statutes, to read:

53 960.001 Guidelines for fair treatment of victims and
54 witnesses in the criminal justice and juvenile justice systems.—

55 (1) The Department of Legal Affairs, the state attorneys,
56 the Department of Corrections, the Department of Juvenile
57 Justice, the Florida Commission on Offender Review, the State
58 Courts Administrator and circuit court administrators, the

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59 Department of Law Enforcement, and every sheriff's department,
60 police department, or other law enforcement agency as defined in
61 s. 943.10(4) shall develop and implement guidelines for the use
62 of their respective agencies, which guidelines are consistent
63 with the purposes of this act and s. 16(b), Art. I of the State
64 Constitution and are designed to implement s. 16(b), Art. I of
65 the State Constitution and to achieve the following objectives:

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

- 71 1. The person's name and employer; and
72 2. The fact that such person is acting on behalf of the
73 defendant.

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