

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 specified victims and  
 5           witnesses in a criminal proceeding without a showing  
 6           of good cause; providing for motions to depose  
 7           witnesses; providing for factors to be considered  
 8           concerning such motions; requiring written findings on  
 9           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) Absent a showing of good cause, the defendant in a  
 20 criminal action, or his or her representative, may not take the  
 21 deposition of:

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

24           2. Any person who has an intellectual disability.

25           (b) Upon written motion by a defendant in a criminal

26 action, or his or her representative, that a deposition is  
 27 necessary to assist at a criminal trial, that the evidence  
 28 sought is not reasonably available by any other means, and that  
 29 the probative value of the testimony outweighs any potential  
 30 harm to the person to be deposed, the court may authorize the  
 31 taking of a deposition and may order any protections deemed  
 32 necessary, including those provided in this section.

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

35 1. The mental and physical age and maturity of the victim  
 36 or witness.

37 2. The nature and duration of the offense.

38 3. The relationship of the victim or witness to the  
 39 defendant.

40 4. The complexity of the issues involved.

41 5. Whether the victim or witness would suffer moderate  
 42 psychological harm as a consequence of being compelled to  
 43 testify at a deposition.

44 6. The functional capacity of the victim or witness if he  
 45 or she has an intellectual disability.

46 7. The willingness of the victim or witness to be deposed.

47 8. Any other fact that the court deems relevant.

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

PCS for HB 1037

ORIGINAL

2023

51 | Section 2. This act shall take effect July 1, 2023. |