

CHAPTER 2023-148

Committee Substitute for House Bill No. 667

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

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

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

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

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

1. The mental and physical age and maturity of the victim.
2. The nature and duration of the offense.
3. The relationship of the victim to the defendant.
4. The complexity of the issues involved.
5. Whether the evidence sought is reasonably available by other means, including whether the victim was the subject of a forensic interview related to the sexual offense.

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

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

1. The state has not filed a notice of intent to seek the death penalty; and
2. A forensic interview of the sexual offense victim is available to the defendant.

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

1. Requiring the defendant to submit questions to the court before the victim's deposition.
2. Setting the appropriate place and conditions under which the victim's deposition may be conducted.
3. Permitting or prohibiting the attendance of any person at the victim's deposition.
4. Limiting the duration of the victim's deposition.
5. Any other condition the court finds just and appropriate.

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

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

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

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

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

1. The person’s name and employer.
2. The fact that such person is acting on behalf of the defendant.

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

Approved by the Governor May 25, 2023.

Filed in Office Secretary of State May 25, 2023.