

Select Year: 2012 

## The 2012 Florida Statutes

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Title VII  
EVIDENCE

Chapter 92  
WITNESSES, RECORDS, AND DOCUMENTS

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**92.55 Judicial or other proceedings involving victim or witness under the age of 16 or person with mental retardation; special protections; use of registered service or therapy animals.—**

(1) Upon motion of any party, upon motion of a parent, guardian, attorney, or guardian ad litem for a child under the age of 16 or person with mental retardation, or upon its own motion, the court may enter any order necessary to protect a child under the age of 16 or person with mental retardation who is a 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 child or person with mental retardation is required to testify in open court. Such orders shall relate to the taking of testimony and shall include, but not be limited to:

- (a) Interviewing or the taking of depositions as part of a civil or criminal proceeding.
- (b) Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.
- (c) The use of testimony taken outside of the courtroom, including proceedings under ss. 92.53 and 92.54.

(2) In ruling upon the motion, the court shall take into consideration:

- (a) 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; or
- (b) The age of the person with mental retardation, the functional capacity of the person with mental retardation, the nature of the offenses or act, the relationship of the person with mental retardation 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 with mental retardation as a consequence of the defendant's presence, and any other fact that the court deems relevant.

(3) In addition to such other relief as is provided by law, the court may enter orders limiting the number of times that a child or person with mental retardation may be interviewed, prohibiting depositions of a child or person with mental retardation, requiring the submission of questions prior to examination of a child or person with mental retardation, setting the place and conditions for interviewing a child or person with mental retardation or for conducting any other proceeding, or permitting or prohibiting the attendance of any person at any proceeding. The court shall enter any order necessary to protect the rights of all parties, including the defendant in any criminal action.

(4) The court may set any other conditions it finds just and appropriate on the taking of testimony by a child, including the use of a service or therapy animal that has been evaluated and registered according to national standards, in any proceeding involving a sexual offense. When deciding whether to permit a child to testify with the assistance of a registered service or therapy animal, the court shall

take into consideration the age of the child, the interests of the child, the rights of the parties to the litigation, and any other relevant factor that would facilitate the testimony by the child.

History.—s. 7, ch. 85-53; s. 3, ch. 93-131; s. 23, ch. 94-154; s. 8, ch. 2000-336; s. 3, ch. 2011-220.

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