

1 A bill to be entitled
2 An act relating to victim and witness protection;
3 amending ss. 92.53 and 92.54, F.S.; increasing the age
4 limit for the use of videotaped testimony and closed
5 circuit television in court proceedings by victims or
6 witnesses; amending s. 92.55, F.S.; revising the
7 definition of the term "sexual offense victim or
8 witness"; increasing the age limit for victims and
9 witnesses for whom the court may enter protective
10 orders; authorizing certain advocates to file motions
11 for such orders; amending s. 794.022, F.S.; revising
12 the corroboration requirements for certain victim
13 testimony and the admissibility of certain evidence in
14 prosecutions for specified human trafficking and lewd
15 or lascivious offenses; reenacting s. 90.404(1)(b),
16 F.S., relating to character evidence, to incorporate
17 the amendment made by the act to s. 794.022, F.S., in
18 a reference thereto; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Subsection (1) of section 92.53, Florida
23 Statutes, is amended to read:

24 92.53 Videotaping the testimony of a victim or witness
25 under age 18 ~~16~~ or who has an intellectual disability.—

26 (1) On motion and hearing in camera and a finding that

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27 | there is a substantial likelihood that a victim or witness who
28 | is under the age of 18 ~~16~~ or who has an intellectual disability
29 | as defined in s. 393.063 would suffer at least moderate
30 | emotional or mental harm due to the presence of the defendant if
31 | such victim or witness is required to testify in open court, or
32 | is unavailable as defined in s. 90.804(1), the trial court may
33 | order the videotaping of the testimony of the victim or witness
34 | in a case, whether civil or criminal in nature, in which
35 | videotaped testimony is to be used at trial in lieu of trial
36 | testimony in open court.

37 | Section 2. Subsection (1) of section 92.54, Florida
38 | Statutes, is amended to read:

39 | 92.54 Use of closed circuit television in proceedings
40 | involving a victim or witness under the age of 18 ~~16~~ or who has
41 | an intellectual disability.-

42 | (1) Upon motion and hearing in camera and upon a finding
43 | that there is a substantial likelihood that a victim or witness
44 | under the age of 18 ~~16~~ or who has an intellectual disability
45 | will suffer at least moderate emotional or mental harm due to
46 | the presence of the defendant if such victim or witness is
47 | required to testify in open court, or is unavailable as defined
48 | in s. 90.804(1), the trial court may order that the testimony of
49 | the victim or witness be taken outside of the courtroom and
50 | shown by means of closed circuit television.

51 | Section 3. Paragraph (a) of subsection (1) and subsection
52 | (2) of section 92.55, Florida Statutes, are amended to read:

53 92.55 Judicial or other proceedings involving victim or
 54 witness under the age of 18 ~~16~~, a person who has an intellectual
 55 disability, or a sexual offense victim or witness; special
 56 protections; use of registered service or therapy animals.-

57 (1) For purposes of this section, the term:

58 (a) "Sexual offense victim or witness" means a person who
 59 was under the age of 18 ~~16~~ when he or she was the victim of or a
 60 witness to a sexual offense.

61 (2) Upon motion of any party, upon motion of a parent,
 62 guardian, attorney, or guardian ad litem or other advocate
 63 appointed by the court under s. 914.17 for a victim or witness
 64 under the age of 18 ~~16~~, a person who has an intellectual
 65 disability, or a sexual offense victim or witness, or upon its
 66 own motion, the court may enter any order necessary to protect
 67 the victim or witness in any judicial proceeding or other
 68 official proceeding from severe emotional or mental harm due to
 69 the presence of the defendant if the victim or witness is
 70 required to testify in open court. Such orders must relate to
 71 the taking of testimony and include, but are not limited to:

72 (a) Interviewing or the taking of depositions as part of a
 73 civil or criminal proceeding.

74 (b) Examination and cross-examination for the purpose of
 75 qualifying as a witness or testifying in any proceeding.

76 (c) The use of testimony taken outside of the courtroom,
 77 including proceedings under ss. 92.53 and 92.54.

78 Section 4. Subsections (1) through (4) of section 794.022,

79 Florida Statutes, are amended to read:

80 794.022 Rules of evidence.—

81 (1) The testimony of the victim need not be corroborated
82 in a prosecution under s. 787.06, s. 794.011, or s. 800.04.

83 (2) Specific instances of prior consensual sexual activity
84 between the victim and any person other than the offender shall
85 not be admitted into evidence in a prosecution under s. 787.06,
86 s. 794.011, or s. 800.04. However, such evidence may be admitted
87 if it is first established to the court in a proceeding in
88 camera that such evidence may prove that the defendant was not
89 the source of the semen, pregnancy, injury, or disease; or, when
90 consent by the victim is at issue, such evidence may be admitted
91 if it is first established to the court in a proceeding in
92 camera that such evidence tends to establish a pattern of
93 conduct or behavior on the part of the victim which is so
94 similar to the conduct or behavior in the case that it is
95 relevant to the issue of consent.

96 (3) Notwithstanding any other provision of law, reputation
97 evidence relating to a victim's prior sexual conduct or evidence
98 presented for the purpose of showing that manner of dress of the
99 victim at the time of the offense incited the offense ~~sexual~~
100 ~~battery~~ shall not be admitted into evidence in a prosecution
101 under s. 787.06, s. 794.011, or s. 800.04.

102 (4) When consent of the victim is a defense to prosecution
103 under s. 787.06, s. 794.011, or s. 800.04, evidence of the
104 victim's mental incapacity or defect is admissible to prove that

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105 the consent was not intelligent, knowing, or voluntary; and the
106 court shall instruct the jury accordingly.

107 Section 5. For the purpose of incorporating the amendment
108 made by this act to section 794.022, Florida Statutes, in a
109 reference thereto, paragraph (b) of subsection (1) of section
110 90.404, Florida Statutes, is reenacted to read:

111 90.404 Character evidence; when admissible.—

112 (1) CHARACTER EVIDENCE GENERALLY.—Evidence of a person's
113 character or a trait of character is inadmissible to prove
114 action in conformity with it on a particular occasion, except:

115 (b) Character of victim.—

116 1. Except as provided in s. 794.022, evidence of a
117 pertinent trait of character of the victim of the crime offered
118 by an accused, or by the prosecution to rebut the trait; or

119 2. Evidence of a character trait of peacefulness of the
120 victim offered by the prosecution in a homicide case to rebut
121 evidence that the victim was the aggressor.

122 Section 6. This act shall take effect October 1, 2016.