

Assembly Bill No. 77

Passed the Assembly June 29, 2001

Chief Clerk of the Assembly

Passed the Senate June 21, 2001

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 868.8 of the Penal Code, relating to criminal proceedings.

LEGISLATIVE COUNSEL'S DIGEST

AB 77, Havice. Criminal proceedings: persons with disabilities.

Existing law requires courts to take special precautions to provide for the comfort and protection of a child witness testifying in criminal proceedings alleging certain sex offenses committed with or upon a minor under the age of 11. The court may, among other things, allow the witness reasonable periods of relief and relocate parties within the courtroom.

This bill would extend these provisions to a person with a mental disability, as defined. This bill would also expand these protections to cases of domestic violence, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 868.8 of the Penal Code is amended to read:

868.8. Notwithstanding any other provision of law, in any criminal proceeding in which the defendant is charged with a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, subdivision (1) of Section 314, Section 647.6, or former Section 647a, or any crime that constitutes domestic violence defined in Section 13700, committed with or upon a person with a disability or a minor under the age of 11, the court shall take special precautions to provide for the comfort and support of the person with a disability or minor and to protect him or her from coercion, intimidation, or undue influence as a witness, including, but not limited to, any of the following:

(a) In the court's discretion, the witness may be allowed reasonable periods of relief from examination and cross-examination during which he or she may retire from the courtroom. The judge may also allow other witnesses in the proceeding to be examined when the person with a disability or child witness retires from the courtroom.



(b) Notwithstanding Section 68110 of the Government Code, in his or her discretion, the judge may remove his or her robe if the judge believes that this formal attire intimidates the person with a disability or the minor.

(c) In the court's discretion the judge, parties, witnesses, support persons, and court personnel may be relocated within the courtroom to facilitate a more comfortable and personal environment for the person with a disability or child witness.

(d) In the court's discretion, the taking of the testimony of the person with a disability or the minor may be limited to normal school hours if there is no good cause to take the testimony of the person with a disability or the minor during other hours.

(e) For the purposes of this section, the term "disability" is defined in subdivision (i) of Section 12926 of the Government Code.



Approved _____, 2001

Governor

