

SENATE BILL REPORT

SHB 1077

As Passed Senate, March 31, 2023

Title: An act relating to courthouse facility dogs.

Brief Description: Concerning courthouse facility dogs.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Thai, Walen, Simmons, Leavitt, Senn, Goodman and Santos).

Brief History: Passed House: 2/28/23, 97-0.

Committee Activity: Law & Justice: 3/08/23, 3/22/23 [DP].

Floor Activity: Passed Senate: 3/31/23, 48-0.

Brief Summary of Bill

- Authorizes expanded access for courthouse facility dogs and their handlers to locations outside courthouses and to public transportation for meetings with potential witnesses or other activities.
- Supplements requirements for courthouse facility dogs and their handlers.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Tim Ford (786-7423)

Background: Courts are authorized to permit a trained, certified, and insured courthouse facility dog to accompany a witness during testimony. Courts must allow a witness who is under age 18 or who has a developmental disability to have assistance from a courthouse

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facility dog when one is available. Courts have discretion to permit a witness who is 18 years old or older, and does not have a developmental disability, to use a courthouse facility dog when available. The court must determine by motion whether to allow a witness to have an assistance dog in the courtroom. The motion must demonstrate:

- the courthouse facility dog's credentials and insurance;
- the witness and dog have developed a relationship in anticipation of testimony; and
- the assistance of the courthouse facility dog is necessary to assist the witness during testimony.

In the courtroom, the handler must be present with the dog, the dog must accompany the witness to the stand without a leash, and the dog must lie quietly on the floor out of the jury's view. If the courthouse facility dog accompanies a witness in a jury trial, the court must employ specific protections to prevent prejudice to any party caused by use of the dog's assistance during testimony. The protections include:

- allowing jury voir dire questions regarding potential prejudice because of the dog's presence;
- ensuring the dog is not in view of the jury before, during, or after testimony; and
- upon a party's request, a jury instruction to address potential prejudice or bias because of the presence of the dog in the courtroom.

Courts may adopt rules governing the use of courthouse facility dogs to assist witnesses during testimony.

Summary of Bill: Courts are authorized to exercise discretion permitting a courthouse facility dog to be used in any judicial proceeding. A courthouse facility dog accompanied by a certified handler is authorized to access:

- any courthouse;
- any location where the courthouse facility dog and certified handler provide services, participate in administrative activities of the courthouse facility dog program, engage in community outreach, or participate in training activities;
- any location related to a law enforcement investigation where law enforcement requests their presence; and
- matters pending in the civil or criminal justice system.

Authorized locations include, but are not limited to, places of public accommodation, all modes of public transportation, children's advocacy centers, schools, day care facilities, law enforcement agencies, prosecutors' offices, attorneys' offices, medical facilities, specialty courts, and court appointed special advocates and guardian ad litem program offices.

Courthouse Facility Dog Handler Identification. Accredited assistance dog organizations must issue identification cards to handlers they train and certify. Identification cards must state the handler's full name, the name and contact information of the organization that trained and certified the handler, and the locations courthouse dogs are authorized to access when accompanied by a handler. Certified handlers may be asked to show their

identification card to establish that they are a certified handler and that a courthouse facility dog they are accompanying is authorized to access a location.

The party desiring to use the assistance of a courthouse facility dog must file a motion setting out in part reasons why the courthouse facility dog would help reduce the witness's anxiety and elicit the witness's testimony. The motion may be filed in writing or made orally before the court. When the court finds the circumstances warrant the presence of a courthouse facility dog, the court must state the basis for its decision on the record. The witness should be afforded the opportunity to have a courthouse facility dog accompany them while testifying, if a courthouse facility dog and certified handler are available within the jurisdiction of the court in which the proceeding is held.

A certified handler is a person trained to handle a courthouse facility dog by an accredited assistance dog organization, and is a professional working in the legal system who is knowledgeable about its practices including, but not limited to, victim advocates, forensic interviewers, detectives, prosecuting attorneys, and guardians ad litem.

A courthouse facility dog must demonstrate continued proficiency in providing safe and reliable services through ongoing training according to the assistance dog organization's training standards, and travels as needed with a certified handler as a team to and from authorized locations for training, community outreach, and other purposes associated with the operations of a courthouse facility dog program.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Courtroom facility dogs provide a calming environment for children and helps them feel safe in describing the details regarding their victimization. Facility dogs bring a level of comfort and security to an experience that can feel overwhelming and intimidating. This program was originally focused on children, but courthouse dogs are valuable for people of all ages. This codifies a practice that has been in place for a long time. This bill allows dogs to go into the community and meet victims where they are as opposed to having them come to the courthouse. This bill changes the term "the handler" to "a handler." As facility dogs are allowed into the community to meet victims where they are as opposed to having them come to the courthouse, handlers should have more flexibility. When the regular handler is not available to handle the dog, someone who is equally trained and equipped can be available.

Persons Testifying: PRO: Representative My-Linh Thai, Prime Sponsor; Paula Reed,

Children's Advocacy Centers of Washington; Jon Tunheim, Thurston County Prosecutor.

Persons Signed In To Testify But Not Testifying: No one.