
Civil Rights & Judiciary Committee

SSB 5127

Brief Description: Concerning courthouse facility dogs.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Dhingra, Padden, Kuderer, Nguyen, Short, Wagoner, Warnick and Wilson, C.).

Brief Summary of Substitute Bill

- Modifies the legal authority and standard for permitting use of a courthouse facility dog.
- Establishes areas a courthouse facility dog is authorized to access.
- Supplements requirements for courthouse facility dogs and their handlers.

Hearing Date: 3/16/21

Staff: John Burzynski (786-7133).

Background:

Washington law authorizes courts to permit courthouse facility dogs in any judicial proceedings and adopt rules for the use of such dogs.

A "courthouse facility dog" is a dog that: (1) has graduated from a program of an assistance dog organization that is accredited by a recognized organization whose main purpose is to grant accreditation to assistance dog organizations based on standards of excellence in all areas of assistance dog acquisition, training of the dogs and their handlers, and placement; and (2) was specially selected to provide services in the legal system to provide quiet companionship to witnesses during stressful legal proceedings thereby enabling them to better engage with the process.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Courts with an available courthouse facility dog must allow a witness under age 18, or who has a developmental disability, to be accompanied by a courthouse facility dog. Courts may allow any other witness to be accompanied by a courthouse facility dog.

A party desiring the assistance of a courthouse facility dog must file a motion setting out: (1) the credentials of the dog; (2) that the dog is adequately insured; (3) that a relationship has been established between the witness and the dog in anticipation of testimony; and (4) reasons why the dog is necessary to facilitate the witness's testimony.

Upon a finding that the presence of a courthouse facility dog is necessary to facilitate a witness's testimony, the witness must be afforded the opportunity to have a courthouse facility dog accompany the witness 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 must be present in the courtroom with the courthouse facility dog. A "certified handler" is a person who (1) was trained to handle the courthouse facility dog by the assistance dog organization that placed the dog, and (2) is a professional working in the legal system who is knowledgeable about its practices.

Washington law provides the courthouse facility dog should be trained to accompany the witness to the stand without being attached to the certified handler by a leash and lie on the floor out of view of the jury while the witness testifies.

In a jury trial, during the course of jury selection and with the court's approval, either party may question prospective jurors on whether the presence of a courthouse facility dog would create undue sympathy or prejudice. To the extent possible, the court must ensure the jury cannot observe the courthouse facility dog prior to, during, or after witness testimony. On request, the court must provide a jury instruction designed to prevent any prejudice from the presence of the courthouse facility dog.

Summary of Substitute Bill:

Legal Authority and Standard.

Courts are authorized to exercise discretion in permitting a courthouse facility dog to be used in any judicial proceeding, but must continue to allow a witness who is under age 18, or who has a developmental disability, to use a courthouse facility dog if the courthouse has one available.

A motion for a court to permit the use of a courthouse facility dog must set out the reasons why the courthouse facility dog would help reduce the witness's anxiety and elicit the witness's testimony.

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.

Courthouse Facility Dog Access.

A courthouse facility dog accompanied by a certified handler is expressly authorized to access: (1) any courthouse; (2) 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; (3) any location related to a law enforcement investigation where law enforcement requests their presence; and (4) 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 and Handler Requirements.

In addition to existing requirements, a courthouse facility dog must: (1) demonstrate continued proficiency in providing safe and reliable services through ongoing training according to the assistance dog organization's training standards; (2) be specially selected to provide services in the legal system to provide quiet companionship to witnesses and potential witnesses during stressful interviews, examinations, meetings, and other encounters associated with a law enforcement investigation, and legal proceedings; and (3) travel 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.

In addition to existing requirements, a certified handler must be 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. The certified handler may be asked to show identification provided by the qualified assistance dog organization that trained the courthouse facility dog and certified handler.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.