

HOUSE BILL REPORT

SHB 1077

As Passed House:

February 28, 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:

Committee Activity:

Civil Rights & Judiciary: 1/11/23, 1/13/23 [DPS].

Floor Activity:

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

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.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hansen, Chair; Farivar, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Cheney, Entenman, Peterson, Rude, Thai and Walen.

Staff: John Burzynski (786-7133).

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.

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 an accredited program; and (2) provides services in the legal system to provide quiet companionship to witnesses during stressful legal proceedings.

Courts with an available courthouse facility dog must allow a witness under 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 a 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 to 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 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. A motion for use of a courthouse facility dog may be filed in writing or made orally before the court.

When a 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 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.

Courthouse Facility Dog and Handler Requirements.

In addition to existing requirements, a courthouse facility dog:

- must demonstrate continued proficiency in providing safe and reliable services through ongoing training;
- must 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
- must 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 trained to handle a courthouse facility dog by an accredited assistance dog organization; and
- 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.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill has been previously considered and passed out of committee and should be again.

This legislation will provide help and comfort to the most vulnerable. Courthouse dogs assist victims of traumatic crimes, particularly sexual assault, and support them throughout the criminal process. Testifying in court is an adverse childhood experience, and research indicates the presence of a courthouse dog lowers cortisol levels and raises oxytocin levels. In one instance, a child agreed to read a victim impact statement in court if a courthouse dog would be present. Courthouse dogs are a calming influence for both witnesses and interviewers.

This bill will increase access for courthouse dogs. Currently, handlers can't bring courthouse dogs with them into many public places if anyone objects. Courthouse dogs and their handlers need access to the entire community to effectively serve as program ambassadors and ensure dogs and their handlers can do their jobs. Police dogs have authorized access and courthouse dogs should receive similar treatment. Expanded access will make it easier for courthouse dogs to do their jobs and meet with witnesses outside court settings, and for handlers to travel with courthouse dogs to and from work.

Some prosecutors are hesitant to agree to have courthouse dogs in courtrooms with juries. Current law requires permission from a judge and defense attorney before one can use a courthouse dog in court.

Current law requires judges to find a courthouse dog is "necessary" to facilitate a witness's testimony before permitting their use. This requirement should be removed.

(Opposed) None.

(Other) The goals of the bill, particularly increased access, are important and supported. However, the bill fails to specify the required information on a certified handler identification card. Some current cards are very generic and do not say anything about authorized access. The bill could specify this information. Additionally, sometimes a certified handler is unable to be with a dog in the courtroom, creating a need for backup

handlers.

Persons Testifying: (In support) Representative My-Linh Thai, prime sponsor; Ellen O'Neill-Stephens, Courthouse Dogs Foundation; Sue Bucy, Connections A Center for Healthy Families; Mark Kloehn, Lutheran Community Services Northwest; Jody Hawthorne, Monarch Children's Justice and Advocacy Center; and Suzi and Valor Fode, New Hope.

(Other) Paula Reed, Children's Advocacy Centers of Washington.

Persons Signed In To Testify But Not Testifying: None.