

State of Arkansas
93rd General Assembly
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As Engrossed: H3/15/21

A Bill

HOUSE BILL 1497

By: Representative Gazaway

By: Senator Hester

For An Act To Be Entitled

AN ACT EXPANDING THE PERMITTED USE OF A *CERTIFIED FACILITY DOG* FOR VULNERABLE WITNESSES; AND FOR OTHER PURPOSES.

Subtitle

EXPANDING THE PERMITTED USE OF A CERTIFIED FACILITY DOG FOR VULNERABLE WITNESSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-43-1002 is amended to read as follows:

16-43-1002. Certified facility dogs for child and vulnerable witnesses – Definitions.

(a) As used in this section:

(1) “Certified facility dog” means a dog that has:

(A) Graduated from a program of an assistance dog organization that is a member of Assistance Dogs International or a similar nonprofit organization that ~~attempts to set~~ sets the highest standard of training and placement for assistance dogs ~~for the purpose of reducing stress in a child witness by enhancing the ability of the child witness to speak in a judicial proceeding by providing emotional comfort in a high stress environment~~ and their certified handlers and demonstrates continued proficiency in providing safe and reliable services according to the assistance dog organization’s training standards;

(B) ~~Received two (2) years of training~~ Been specifically



selected to provide services in the legal system to provide quiet companionship to a child witness or a vulnerable witnesses during judicial proceedings for the purpose of reducing stress in a child witness or vulnerable witness by enhancing the ability of the child witness or vulnerable witness to testify in the high stress environment of a judicial proceeding; and

(C) Passed the same public access test as a service dog, if required by the assistance dog organization;

(2) "Certified handler" means a person who has received training from an organization accredited by Assistance Dogs International, ~~the American Kennel Club, Therapy Dogs Incorporated,~~ or an equivalent organization ~~on offering the person's animal for assistance purposes and has received additional training on~~ and who is knowledgeable about the protocols and policies of courts, the expected roles of the person's animal assistance a certified facility dog team, and the expected interaction so as not to interfere with the collection of evidence or the effective administration of justice; and

(3) "Child witness" means a witness testifying in a criminal hearing or trial whose age at the time of his or her testimony is eighteen (18) years of age or younger;

(4) "Intellectual and developmental disability" means a disability of a person that:

(A) Is attributable to:

(i) An impairment of general intellectual functioning or adaptive behavior, including without limitation cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism;

(ii) A condition that results in an impairment of general intellectual functioning or adaptive behavior or that requires treatment and services for a person; or

(iii) Dyslexia resulting from a disability described in subdivision (a)(4)(A)(i) or subdivision (a)(4)(A)(ii) of this section;

(B) Originates before the person attains twenty-two (22) years of age;

(C) Has continued or can be expected to continue indefinitely; and

(D) Constitutes a substantial impairment to the person's

ability to function without appropriate support services, including without limitation planned recreational activities, medical services such as physical therapy and speech therapy, and sheltered employment or job training; and

(5) "Vulnerable witness" means a person testifying in a criminal hearing or trial who has an intellectual and developmental disability or has a significant impairment in cognitive functioning acquired as a direct consequence of a brain injury or resulting from a progressively deteriorating neurological condition, including without limitation Alzheimer's disease or dementia.

(b) Subject to the Arkansas Rules of Civil Procedure, Arkansas Rules of Evidence, or other rule of the Supreme Court, if requested by either party in a criminal trial or hearing and if a certified facility dog is available within the jurisdiction of the judicial district in which the criminal case is being adjudicated, a child witness or vulnerable witness of the party shall be afforded the opportunity to have a certified facility dog accompany him or her while testifying in court.

(c) Before the introduction of a certified facility dog into the courtroom and outside the presence of the jury, the party desiring to utilize ~~the presence of~~ a certified facility dog shall file a motion certifying to the court the following information:

(1) The credentials of the certified facility dog;

(2) That the certified facility dog is adequately insured;

(3) That a relationship has been established between the child witness or vulnerable witness and the certified facility dog in anticipation of testimony; and

(4) That the presence of the certified facility dog may reduce anxiety experienced by the child witness or vulnerable witness while testifying in the criminal trial or hearing.

(d) A court may allow any witness to use a certified facility dog, if available, to accompany him or her while testifying in court, even if the criteria under subsection (c) is not met.

~~(d)(1)~~(e)(1) If the court grants the motion under subsection (c) of this section, the court shall state the basis for its decision on the record or by court order.

(2) The certified facility dog shall be accompanied by the certified handler ~~of the certified facility dog to the witness stand with the~~

~~child witness in the absence of the jury during judicial proceedings.~~

(3) The certified facility dog shall be trained to accompany the child witness or vulnerable witness in the witness stand without being attached to the certified handler by leash and lie on the floor out of view of the jury while the child witness or vulnerable witness testifies.

~~(2)(4) The jury shall be seated subsequent to the child witness' witness's or vulnerable witness's and certified facility dog's taking their places in the witness stand in the absence of the jury.~~

~~(e)(f) In the course of jury selection, with the court's approval under Rule 32.2 of the Arkansas Rules of Criminal Procedure, either party may voir dire prospective jury members on whether the presence of a certified facility dog to assist a child witness or vulnerable witness would create undue sympathy for the child witness or vulnerable witness or in any way serve as a prejudice to the defendant.~~

~~(f)(g) In a criminal trial involving a jury in which the certified facility dog is utilized, the court shall present appropriate jury instructions that are designed to prevent prejudice for or against any party.~~

(h)(1) A certified facility dog and the person or persons accompanying a certified facility dog are authorized to access the following locations:

(A) Any courthouse;

(B) Any location where the certified facility dog team provides services, participates in administrative activities of the certified facility dog team, engages in community outreach, or participates in training activities;

(C) Any location related to a law enforcement investigation where law enforcement requests their presence;

(D) A location where matters pending in the criminal justice system occur; and

(E) Certain specific facilities such as a:

(i) Children's advocacy center;

(ii) School;

(iii) Day care facility;

(iv) Law enforcement agency;

(v) Prosecuting attorney's office;

(vi) Medical facility;

(vii) Specialty court; and

(viii) Court-appointed special advocates and guardian ad litem program office.

(2) A person accompanying a certified facility dog may be asked to show identification, provided by the qualified assistance dog organization that trained the certified facility dog team, to establish that public access is authorized.

/s/Gazaway

APPROVED: 4/21/21