

CHAPTER 138

COURTS

HOUSE BILL 19-1220

BY REPRESENTATIVE(S) Sullivan, Bird, Buckner, Cutter, Duran, Exum, Froelich, Hooton, Jackson, Michaelson Jenet, Roberts, Saine, Sirote, Snyder, Soper, Valdez A., Van Winkle, Becker, Caraveo, Esgar, Gonzales-Gutierrez, Kraft-Tharp, Mullica, Titone, Valdez D.;
also SENATOR(S) Fields, Court, Ginal, Gonzales, Lee, Moreno, Todd, Williams A., Winter.

AN ACT**CONCERNING ALLOWING A COURT FACILITY DOG TO ACCOMPANY A WITNESS DURING TESTIMONY.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add 16-10-404** as follows:

16-10-404. Use of a court facility dog - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "COURT FACILITY DOG" MEANS A DOG THAT IS A GRADUATE OF AN ASSISTANCE DOG ORGANIZATION THAT IS ACCREDITED BY AN INTERNATIONALLY 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, AND PLACEMENT. A "COURT FACILITY DOG" MUST BE SPECIALLY TRAINED TO PROVIDE SUPPORT TO WITNESSES TESTIFYING IN PROCEEDINGS WITHOUT CAUSING A DISTRACTION.

(b) "CRIMINAL PROCEEDING" OR "CRIMINAL PROCEEDINGS" HAS THE SAME MEANING AS SET FORTH IN SECTION 16-8.5-101 (7).

(c) "QUALIFIED INDIVIDUAL WITH A DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS.

(d) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE FEDERAL

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

"AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

(2) (a) THE COURT MAY, UPON MOTION OF A PARTY OR UPON ITS OWN MOTION, ORDER THAT A WITNESS'S TESTIMONY BE OFFERED WHILE A COURT FACILITY DOG IS IN THE COURTROOM DURING THE TESTIMONY OF THE WITNESS IF:

(I) THE TESTIMONY IS TAKEN DURING A CRIMINAL PROCEEDING; AND

(II) THE JUDGE DETERMINES BY A PREPONDERANCE OF THE EVIDENCE THAT:

(A) THE PRESENCE OF A COURT FACILITY DOG WITH THE WITNESS DURING THE WITNESS'S TESTIMONY WOULD REDUCE THE WITNESS'S ANXIETY AND ENHANCE THE ABILITY OF THE COURT TO RECEIVE FULL AND ACCURATE TESTIMONY;

(B) THE ARRANGEMENTS FOR AN AVAILABLE COURT FACILITY DOG DURING THE WITNESS'S TESTIMONY WOULD NOT INTERFERE WITH EFFICIENT CRIMINAL PROCEEDINGS; AND

(C) NO PREJUDICE WOULD RESULT TO ANY PARTY DUE TO THE PRESENCE OF A COURT FACILITY DOG WITH THE WITNESS.

(b) TO OBTAIN AN ORDER AUTHORIZING THE USE OF A COURT FACILITY DOG DURING THE WITNESS'S TESTIMONY, THE PARTY MUST FILE A WRITTEN MOTION WITH THE COURT NO LESS THAN FOURTEEN DAYS PRIOR TO THE CRIMINAL PROCEEDING.

(3) NOTWITHSTANDING A JUDGE'S ORDER GRANTING THAT THE WITNESS'S TESTIMONY MAY BE OFFERED WHILE A COURT FACILITY DOG IS PRESENT PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, THE JUDGE HAS THE AUTHORITY TO TERMINATE THE PRESENCE OF A COURT FACILITY DOG AT ANY TIME PRIOR TO, OR DURING, THE WITNESS'S TESTIMONY.

(4) TO ENSURE THAT THE PRESENCE OF A COURT FACILITY DOG DOES NOT INFLUENCE THE JURY OR IS NOT A REFLECTION ON THE TRUTHFULNESS OF ANY TESTIMONY THAT IS OFFERED BY A WITNESS, THE COURT MAY INSTRUCT THE JURY, IF A JURY INSTRUCTION IS REQUESTED BY A PARTY WHO OBJECTED TO THE PRESENCE OF THE COURT FACILITY DOG OR UPON AGREEMENT OF THE PARTIES, ON THE ROLE OF THE COURT FACILITY DOG AND THAT THE COURT FACILITY DOG IS A TRAINED ANIMAL.

(5) NOTHING IN THIS SECTION PRECLUDES OR INTERFERES WITH THE RIGHTS OF A QUALIFIED INDIVIDUAL WITH A DISABILITY WHO IS ACCOMPANIED BY A SERVICE ANIMAL PURSUANT TO STATE OR FEDERAL LAW.

SECTION 2. Effective date - applicability. This act takes effect July 1, 2019, and applies to trial proceedings occurring on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 1, 2019