



2020 South Dakota Legislature

Senate Bill 136

Introduced by: **Senator Soholt**

1 **An Act to authorize certain witnesses to be accompanied by a certified therapeutic**
 2 **dog in a criminal proceeding.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **23A-24-10. Certified therapeutic dogs--Definitions.**

6 In any criminal proceeding, upon motion of any party as provided in § 23A-24-11,
 7 the court may enter any order necessary to allow a child witness or a witness having a
 8 developmental disability to be accompanied by a certified therapeutic dog during the
 9 witness' testimony in the manner provided in § 23A-24-12.

10 Terms used in §§ 23A-24-10 to 23A-24-12, inclusive, mean:

11 (1) "Certified therapeutic dog," a dog that has received the requisite training or
 12 certification from the American Kennel Club, Therapy Dogs Incorporated, Therapy
 13 Dogs International, Assistance Dogs International, or an equivalent organization to
 14 perform the duties associated with therapy dogs in places such as hospitals,
 15 nursing homes, and other facilities where the emotional benefits of therapy dogs
 16 are recognized;

17 (2) "Certified handler," a person who has received training from an organization
 18 accredited by American Kennel Club, Therapy Dogs Incorporated, Therapy Dogs
 19 International, Assistance Dogs International, or an equivalent organization on
 20 offering the person's animal for assistance purposes and has received additional
 21 training on the protocols and policies of courts, the expected roles of the person's
 22 animal assistance team, and the expected interaction so as not to interfere with
 23 the collection of evidence or the effective administration of justice;

24 (3) "Child witness," a person who has been or will be called to testify in a criminal
 25 proceeding and is under the age of eighteen; and

26 (4) "Developmental disability," the meaning provided in § 27B-1-18.

1 **Section 2.** That a NEW SECTION be added:

2 **23A-24-11. Introduction of certified therapeutic dog--Motion--Contents of**
3 **motion.**

4 Before the introduction of a certified therapeutic dog into the courtroom, the party
5 desiring to utilize the presence of a certified therapeutic dog shall, outside the presence
6 of the jury, file a motion containing the following certifications:

7 (1) The credentials of the certified therapeutic dog;

8 (2) The credentials of the certified handler;

9 (3) That the certified therapeutic dog is adequately insured;

10 (4) That a basic relationship has been established between the child witness, or the
11 witness having a developmental disability, and the certified therapeutic dog in
12 anticipation of testimony;

13 (5) That the certified therapeutic dog is capable of sitting quietly for extended periods
14 of time; and

15 (6) That the presence of the certified therapeutic dog may reduce anxiety experienced
16 by the child witness or the witness having a developmental disability while
17 testifying in the criminal trial or hearing.

18 **Section 3.** That a NEW SECTION be added:

19 **23A-24-12. Certified handlers--Limitations.**

20 If the court grants a motion pursuant to § 23A-24-11, the certified handler may
21 accompany the certified therapeutic dog to the witness stand with the child witness or the
22 witness having a developmental disability and remain with the certified therapeutic dog
23 for the duration of the witness' testimony without interfering with any juror's view of the
24 witness. The certified handler may either sit to the side of the witness stand or behind the
25 witness stand.

26 **Section 4.** That § 23A-20-6 be AMENDED:

27 **23A-20-6. Prospective jurors--Examination.**

28 The defense attorney or the defendant, if appearing pro se, and the prosecuting
29 attorney shall conduct examination of prospective jurors. Prior to the examination the
30 court may conduct a general examination of the prospective jurors. The court may in its
31 discretion allow examination of one or more jurors apart from the other jurors. If approved
32 by the court, prospective jurors may be examined on whether the presence of a certified

1 therapeutic dog to assist a child witness or a witness having a developmental disability
2 would create undue sympathy for the witness or in any way serve as a prejudice to the
3 defendant.

4 For purposes of this section, the terms, certified therapeutic dog, child witness,
5 and developmental disability, have the meanings provided in § 23A-24-10.

6 **Section 5.** That a NEW SECTION be added:

7 **23A-25-3.2. Jury instructions--Certified therapeutic dogs.**

8 If a certified therapeutic dog has been utilized during a criminal trial, the judge
9 shall present a jury instruction designed to prevent prejudice for or against any party.

10 For purposes of this section, the term, certified therapeutic dog, has the meaning
11 provided in § 23A-24-10.