



2020 South Dakota Legislature
Senate Bill 136
ENROLLED

AN ACT

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

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

Section 1. That a NEW SECTION be added:

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

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

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

- (1) "Certified therapeutic dog," a dog that has received the requisite training or certification and is registered with Therapy Dogs Incorporated, Therapy Dogs International, Assistance Dogs International, or an equivalent organization to perform the duties associated with therapy dogs in places such as hospitals, nursing homes, and other facilities where the emotional benefits of therapy dogs are recognized;
- (2) "Certified handler," a person who has received training and is registered with Therapy Dogs Incorporated, Therapy Dogs International, Assistance Dogs International, or an equivalent organization for offering the person's animal for assistance purposes and has received additional training on the protocols and policies of courts, the expected roles of the person's animal assistance team, and the expected interaction so as not to interfere with the collection of evidence or the effective administration of justice;
- (3) "Child witness," a person who has been or will be called to testify in a criminal proceeding and is under the age of eighteen; and
- (4) "Developmental disability," the meaning provided in § 27B-1-18.

Section 2. That a NEW SECTION be added:

23A-24-11. Introduction of certified therapeutic dog--Motion--Contents.

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

- (1) The credentials of the certified therapeutic dog;
- (2) The credentials of the certified handler;
- (3) That the certified therapeutic dog is adequately insured;
- (4) That a basic relationship has been established between the child witness, or the witness having a developmental disability, and the certified therapeutic dog in anticipation of testimony;
- (5) That the certified therapeutic dog is capable of sitting quietly for extended periods of time; and
- (6) That the presence of the certified therapeutic dog may reduce anxiety experienced by the child witness or the witness having a developmental disability while testifying in the criminal trial or hearing.

Section 3. That a NEW SECTION be added:

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

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

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

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

The defense attorney or the defendant, if appearing pro se, and the prosecuting attorney shall conduct examination of prospective jurors. Prior to the examination the court may conduct a general examination of the prospective jurors. The court may in its discretion allow examination of one or more jurors apart from the other jurors. If approved by the court, prospective jurors may be examined on whether the presence of a certified therapeutic dog to assist a child witness or a witness having a developmental disability

would create undue sympathy for the witness or in any way serve as a prejudice to the defendant.

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

Section 5. That a NEW SECTION be added:

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

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

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

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

I certify that the attached Act originated in
the:
Senate as Bill No. 136

Received at this Executive Office
this ____ day of _____,
2020 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this _____ day of
_____, A.D., 2020

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2020
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 136
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State