

## CONCURRENCE IN SENATE AMENDMENTS

AB 411 (Bloom)

As Amended July 6, 2017

Majority vote

ASSEMBLY: 74-0 (April 27, 2017) SENATE: 39-0 (September 11, 2017)

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Original Committee Reference: **PUB. S.**

**SUMMARY:** Authorizes the use of a support dog during the testimony of specified victims and child witnesses.

**The Senate amendments:**

- 1) Give the court discretion to authorize use of a support dog, rather than require it, when the moving party makes the requisite showing.
- 2) State legislative intent to codify the holding in *People v. Chenault* (2014) 227 Cal.App.4th 1503.
- 3) Delete the provision regarding use of a dog by a person with disabilities.

**EXISTING LAW:**

- 1) Declares legislative intent to ensure that all crime victims and witnesses be treated with dignity, respect, courtesy and sensitivity.
- 2) Allows a victim in specified cases to have up to two persons of his or her own choosing for support at the preliminary hearing and at trial, or at a juvenile court proceeding, during his or her testimony.
- 3) Allows a minor 13 years of age or younger who is a victim of a sex offense or child abuse to testify by contemporaneous examination and cross examination by closed-circuit television, as specified.
- 4) Authorizes a minor 13 years of age or younger who is a witness to a "violent" felony, but not a victim, to testify by contemporaneous examination and cross examination by closed-circuit television, as specified.
- 5) Gives the court broad discretion to exercise control over the interrogation of witnesses so as to make interrogation rapid, distinct, and effective for the ascertainment of the truth, and to protect witnesses from undue harassment or embarrassment.

**AS PASSED BY THE ASSEMBLY, this bill:**

- 1) Allowed the following persons to request court approval to have a therapy dog accompany him or her while testifying:
  - a) Child witnesses in court proceedings involving a serious or violent felony, as specified; and,

- b) Victims entitled to testify with support persons.
- 2) Required the party seeking to utilize the therapy or facility dog to file a motion with the court which describes:
    - a) The training or credentials of the therapy or facility dog;
    - b) The training of the therapy or facility dog handler; and,
    - c) Facts justifying that the presence of the therapy or facility dog may reduce anxiety or otherwise be helpful to the witness while testifying.
  - 3) Required the court to grant the motion if the moving party makes a showing that the dog and handler are suitably qualified and will reasonably assist the testifying witness, unless the court finds that the use of the dog would cause undue prejudice to the defendant or would be unduly disruptive to the court proceedings.
  - 4) Required the court to take appropriate measures to make the presence of the dog as unobtrusive and least disruptive as possible, including having a handler accompany the dog in the courtroom at all times.
  - 5) Required the court to give appropriate jury instructions, upon request, designed to prevent prejudice for or against any party.
  - 6) Allowed the court to remove the dog from the courtroom to maintain order, or to ensure the fair presentation of evidence.
  - 7) Defined a "child witness" as any witness who is under the age of 18 at the time of testifying.
  - 8) Defined a "facility dog" as one "that has successfully completed a training program in providing emotional comfort in a high stress environment for the purpose of enhancing the ability of a witness to speak in a judicial proceeding and reducing his or her stress level, provided by an assistance dog organization accredited by Assistance Dogs International or a similar nonprofit organization that sets standards of training for dogs, and that has passed a public access test for service animals."
  - 9) Defined a "therapy dog" as one "that has successfully completed training, certification, or evaluation in providing emotional support therapy in settings including, but not limited to, hospitals, nursing homes, and schools, provided by the American Kennel Club, Therapy Dogs Incorporated, or a similar nonprofit organization, and has been performing the duties of a therapy dog for not less than one year."
  - 10) Defined a "handler" as "a person who has successfully completed training on offering an animal for assistance purposes from an organization accredited by Assistance Dogs International, Therapy Dogs Incorporated, or a similar nonprofit organization, and has received additional training on policies and protocols of the court and the responsibilities of a courtroom dog handler."
  - 11) Provided that this section does not limit the use of a service dog by a person with a disability.

**FISCAL EFFECT:** Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

**COMMENTS:** According to the author, "It is the state's intention to ensure that all victims and witnesses of crime be treated with dignity, respect, courtesy and sensitivity. To fulfill this commitment it is important to look at new ways to assist victims and witnesses when they are called to testify in high stress environments. Without this bill, vulnerable victims or witnesses may have to testify without a therapy or facility dog, which may harm their mental stability even if the trial judge believes the use of a therapy or facility dog would be appropriate. It is important to leave the decision with the trial judge so each case can be individually evaluated on the need of a facility or therapy dog, rather than a blanket policy."

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