

**ASSEMBLY BILL**

**No. 411**

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**Introduced by Assembly Member Bloom  
(Coauthor: Assembly Member Muratsuchi)**

February 9, 2017

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An act to add Section 868.4 to the Penal Code, relating to witness testimony.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as introduced, Bloom. Witness testimony: therapy and facility dogs.

Existing law authorizes a prosecuting witness in specified cases to have up to 2 persons of his or her own choosing for support at the preliminary hearing and at trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness, as specified.

This bill would authorize these witnesses, as well as certain child witnesses, to be accompanied by a dog, trained in providing emotional support, while testifying. This bill would set minimum training requirements for these dogs and their handlers and would require a party requesting the use of such a dog to file a motion with the court, specifying the qualifications of and need for the dog. This bill would require the court to allow the witness to be accompanied by the dog if certain conditions are met, but would reserve the discretion of the court to remove or exclude the dog in certain specified situations. The bill would require that the dog be accompanied by a handler at all times. The bill would require the court to give appropriate jury instructions if a dog is utilized in a criminal jury trial, to prevent prejudice against any party.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 868.4 is added to the Penal Code, to read:  
2 868.4. (a) If requested by either party in a criminal or juvenile  
3 hearing, and if a therapy or facility dog is available to the party  
4 within the jurisdiction of the judicial district in which the case is  
5 being adjudicated, the following individuals shall be afforded the  
6 opportunity to have a therapy or facility dog accompany him or  
7 her while testifying in court, subject to the approval of the court:  
8 (1) A child witness in a court proceeding involving any serious  
9 felony as defined in subdivision (c) of Section 1192.7 or any violent  
10 felony as defined in subdivision (c) of Section 667.5.  
11 (2) A victim who is entitled to support persons pursuant to  
12 Section 868.5, in addition to any support persons selected pursuant  
13 to that section.  
14 (b) Before a therapy or facility dog may be used pursuant to  
15 subdivision (a), the party seeking to utilize the therapy or facility  
16 dog shall file a motion with the court which shall include the  
17 following:  
18 (1) The training or credentials of the therapy or facility dog.  
19 (2) The training of the therapy or facility dog handler.  
20 (3) Facts justifying that the presence of the therapy or facility  
21 dog may reduce anxiety or otherwise be helpful to the witness  
22 while testifying.  
23 (c) If a party, pursuant to subdivision (b), makes a showing that  
24 the therapy or facility dog and handler are suitably qualified and  
25 will reasonably assist the testifying witness, the court shall grant  
26 the motion.  
27 (d) A therapy or facility dog will be accompanied by a handler  
28 in the courtroom at all times, including when the accompanied  
29 witness is testifying.  
30 (e) If a therapy or facility dog is used during a criminal jury  
31 trial, the court shall present appropriate jury instructions designed  
32 to prevent prejudice for or against any party.  
33 (f) This section does not prevent the court from removing or  
34 excluding a therapy or facility dog from the courtroom to maintain

1 order or to ensure the fair presentation of evidence, as stated on  
2 the record.

3 (g) As used in this section, the following definitions shall apply:

4 (1) “Child witness” means any witness who is under the age of  
5 18 at the time he or she testifies.

6 (2) “Facility dog” means a dog that has successfully completed  
7 a training program in providing emotional comfort in a high stress  
8 environment for the purpose of enhancing the ability of a witness  
9 to speak in a judicial proceeding and reducing his or her stress  
10 level, provided by an assistance dog organization accredited by  
11 Assistance Dogs International or a similar nonprofit organization  
12 that sets standards of training for dogs, and that has passed a public  
13 access test for service animals.

14 (3) “Handler” means a person who has successfully completed  
15 training on offering an animal for assistance purposes from an  
16 organization accredited by Assistance Dogs International, Therapy  
17 Dogs Incorporated, or a similar nonprofit organization, and has  
18 received additional training on policies and protocols of the court  
19 and the responsibilities of a courtroom dog handler.

20 (4) “Therapy dog” means a dog that has successfully completed  
21 training, certification, or evaluation in providing emotional support  
22 therapy in settings including, but not limited to, hospitals, nursing  
23 homes, and schools, provided by the American Kennel Club,  
24 Therapy Dogs Incorporated, or a similar nonprofit organization,  
25 and has been performing the duties of a therapy dog for not less  
26 than one year.

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