

4865

2013-2014 Regular Sessions

I N S E N A T E

April 29, 2013

Introduced by Sen. GIPSON -- read twice and ordered printed, and when
printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to providing
witnesses with facility dogs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and shall be cited as "Rosie's
2 Law".

3 S 2. Legislative intent. Testifying in court is an unfamiliar and
4 stressful event for most people and certain individuals are at a greater
5 predisposition to be impacted by the stress. The stress can hamper the
6 ability of a witness to provide testimony in a proceeding and interfere
7 with the truth finding process. It has been shown that when certain
8 individuals are permitted to have a facility dog assist them in a court-
9 house setting it helps reduce victim or witness anxiety. The purpose of
10 this legislation is to facilitate the truth finding process through fair
11 and accurate testimony. If in order to facilitate testimony that is fair
12 and accurate, the court determines by a preponderance of the evidence
13 that a victim or witness who is either under the age of 18, physically
14 or mentally impaired or a victim or witness of a crime of violence or
15 sexual assault could suffer emotional distress while testifying in court
16 that could impair the ability of the victim or witness to effectively
17 communicate, the court may order that a facility dog or the equivalent
18 thereof, if available, may accompany the victim or witness to the
19 witness stand or be visible to the victim or witness in the courtroom.

20 S 3. The criminal procedure law is amended by adding a new article 67
21 to read as follows:

22 ARTICLE 67

23 USE OF FACILITY DOGS FOR CERTAIN WITNESSES

24 SECTION 67.00 DEFINITIONS.

25 67.10 USE OF FACILITY DOGS; GENERAL RULE.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 S 67.00 DEFINITIONS.

2 AS USED IN THIS ARTICLE "FACILITY DOG" MEANS A DOG THAT IS A GRADUATE
3 FROM AN ASSISTANCE DOG ORGANIZATION ACCREDITED BY ASSISTANCE DOG INTER-
4 NATIONAL. A FACILITY DOG MUST BE PARTNERED WITH A WORKING PROFESSIONAL
5 FACILITATOR, BE SKILLED AT MAINTAINING A CALM MANNER, AND HAVE GOOD
6 SOCIAL BEHAVIOR IN A VARIETY OF ENVIRONMENTS. A FACILITY DOG MUST ALSO
7 BE ACCUSTOMED TO INTERACTING WITH INDIVIDUALS WITH PHYSICAL, EMOTIONAL
8 AND/OR DEVELOPMENTAL DISABILITIES.

9 S 67.10 USE OF FACILITY DOGS; GENERAL RULE.

10 1. A COURT SHALL PERMIT THE USE OF A FACILITY DOG WHEN, IN A CRIMINAL
11 PROCEEDING INVOLVING THE PROSECUTION OF AN OFFENSE COMMITTED AGAINST OR
12 WITNESSED BY A PHYSICALLY, MENTALLY, OR PSYCHOLOGICALLY IMPAIRED PERSON
13 OR A CHILD UNDER THE AGE OF EIGHTEEN OR A VICTIM OR WITNESS OF A CRIME
14 OF VIOLENCE OR SEXUAL ASSAULT, THE COURT DETERMINES BY A PREPONDERANCE
15 OF THE EVIDENCE THAT IT IS LIKELY THAT SUCH WITNESS WILL BE UNABLE TO
16 EFFECTIVELY COMMUNICATE IF REQUIRED TO TESTIFY WITHOUT THE PRESENCE OF
17 SUCH FACILITY DOG AND THAT THE PRESENCE OF SUCH FACILITY DOG WILL FACIL-
18 ITATE SUCH TESTIMONY.

19 2. WHEN THE COURT DECLARES THAT THE USE OF A FACILITY DOG IS APPROPRI-
20 ATE, IT SHALL INSTRUCT THE JURY THAT THE FACILITY DOGS ARE USED IN A
21 COURTHOUSE SETTING TO HELP REDUCE VICTIM OR WITNESS ANXIETY AND THAT NO
22 SIGNIFICANCE SHOULD BE ATTRIBUTED TO THE DOG'S PRESENCE, NOR DOES IT
23 SUGGEST THE COURT'S OR COUNSEL'S ENDORSEMENT OF THE TESTIFYING VICTIM OR
24 WITNESS.

25 S 4. This act shall take effect immediately.