S T A T E O F N E W Y O R K

7159

2013-2014 Regular Sessions

I N A S S E M B L Y

May 3, 2013

Introduced by M. of A. SKARTADOS -- read once and referred 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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

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

ARTICLE 67

USE OF FACILITY DOGS FOR CERTAIN WITNESSES

SECTION 67.00 DEFINITIONS.

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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S 67.00 DEFINITIONS.

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

S 67.10 USE OF FACILITY DOGS; GENERAL RULE.

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

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

S 4. This act shall take effect immediately.