

# STATE OF NEW YORK

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8566

2021-2022 Regular Sessions

## IN ASSEMBLY

December 13, 2021

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Introduced by M. of A. GALLAHAN -- read once and referred to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to courthouse facility dogs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature finds that  
2 questioning child or adult witnesses about a traumatic event in their  
3 lives can trigger an acute emotional response. The trigger makes them  
4 feel or behave the same way they did during or immediately after the  
5 traumatic event because the brain may not differentiate what happened  
6 then from what is going on around them now. These triggers can cause an  
7 immediate emotional response that bypasses the reasoning part of our  
8 brains, resulting in sudden or unexplained bouts of crying; fear, para-  
9 noia, or anxiety; panic attacks; and sudden physical symptoms such as  
10 nausea or fatigue. For children and adults, traumatic events and the  
11 responses that result often interfere with their ability to respond to  
12 questions or testify in court about traumatic events they have experi-  
13 enced or witnessed.

14 The legislature finds that children are particularly susceptible to  
15 adverse effects of exposure to trauma. Children may undergo secondary  
16 trauma when they participate in investigation and prosecution of crimes  
17 and other stressful legal proceedings. The American academy of pedia-  
18 trics advises ongoing psychosocial support for children to address the  
19 adverse effects of the traumatic event and their experience recounting  
20 it during the legal process. The American academy of pediatrics identi-  
21 fies assistance from courthouse facility dogs as an effective psychoso-  
22 cial support intervention for children participating in legal  
23 proceedings. The legislature finds that courthouse facility dog  
24 programs in our state are innovative community-based interventions. The  
25 courthouse facility dog's calm companionship reduces a traumatized

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

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1 child's anxiety, prevents recurrent trauma, and supports the child's  
2 ability to respond to questions and information requests during investi-  
3 gations and subsequent court processes, and may hasten their recovery  
4 from this experience. Likewise, the courthouse facility dog program is  
5 an effective intervention for persons who have developmental disabili-  
6 ties, adults who experienced childhood trauma, and other vulnerable  
7 people who could have difficulty engaging with the legal process.

8 The legislature finds that multiple visits between a potential witness  
9 and the courthouse facility dog and handler may be needed to establish  
10 the relationship supporting an order for the courthouse facility dog's  
11 presence in court during testimony. Courthouse facility dogs and their  
12 handlers require access to locations outside the courthouse for meetings  
13 with potential witnesses or other activities associated with the court-  
14 house facility dog program's operations. The law does not expressly  
15 authorize access for the dog and handler to noncourthouse locations or  
16 public transportation. Therefore, the legislature intends to authorize  
17 expanded access for courthouse facility dogs and their handlers to  
18 locations outside courthouses and to modes of public transportation to  
19 provide this service.

20 § 2. The judiciary law is amended by adding a new section 39-c to read  
21 as follows:

22 § 39-c. Courthouse facility dogs. 1. Courts are authorized to exer-  
23 cise discretion permitting a courthouse facility dog for use by  
24 witnesses to be used in any judicial proceeding.

25 2. Courts with an available courthouse facility dog must allow a  
26 witness under eighteen years of age, or who has a developmental disabil-  
27 ity, to use a courthouse facility dog to accompany such person while  
28 testifying in court.

29 3. Courts may allow any witness who does not meet the criteria in  
30 subdivision two of this section to use a courthouse facility dog, if  
31 available, to accompany them while testifying in court.

32 4. (a) A courthouse facility dog accompanied by a certified handler is  
33 authorized to access:

34 (i) any courthouse;

35 (ii) any location where the courthouse facility dog and certified  
36 handler provide services, participate in administrative activities of  
37 the courthouse facility dog program, engage in community outreach, or  
38 participate in training activities;

39 (iii) any location related to a law enforcement investigation where  
40 law enforcement requests their presence; and

41 (iv) matters pending in the civil or criminal justice system.

42 (b) Authorized locations include, but are not limited to, places of  
43 public accommodation, all modes of public transportation, children's  
44 advocacy centers, schools, day care facilities, law enforcement agen-  
45 cies, prosecutors' offices, attorneys' offices, medical facilities,  
46 specialty courts, and court-appointed special advocates and guardian ad  
47 litem program offices. The certified handler may be asked to show iden-  
48 tification, provided by the qualified assistance dog organization that  
49 trained the courthouse facility dog and courthouse handler, to establish  
50 that their public access is authorized.

51 5. Before the introduction of a courthouse facility dog into the  
52 courtroom and outside the presence of the jury, the party desiring to  
53 use the assistance of a courthouse facility dog must file a motion  
54 setting out:

55 (a) the credentials of the courthouse facility dog;

56 (b) that the courthouse facility dog is adequately insured;

1 (c) that a relationship has been established between the witness and  
2 the courthouse facility dog in anticipation of testimony; and

3 (d) reasons why the courthouse facility dog would help reduce the  
4 witness's anxiety and elicit the witness's testimony.

5 6. When the court finds the circumstances warrant the presence of a  
6 courthouse facility dog is necessary to facilitate a witness's testimo-  
7 ny, the court must state the basis for its decision on the record. The  
8 witness must be afforded the opportunity to have a courthouse facility  
9 dog accompany the witness while testifying, if a courthouse facility dog  
10 and certified handler are available within the jurisdiction of the court  
11 in which the proceeding is held.

12 7. If the court grants the motion filed under subdivision five of this  
13 section, the certified handler must be present in the courtroom to advo-  
14 cate for the courthouse facility dog as necessary. The courthouse  
15 facility dog performing this service should be trained to accompany the  
16 witness to the stand without being attached to the certified handler by  
17 a leash and lie on the floor out of view of the jury while the witness  
18 testifies.

19 8. In a jury trial, the following provisions apply:

20 (a) In the course of jury selection, either party may, with the  
21 court's approval, voir dire prospective jury members on whether the  
22 presence of a courthouse facility dog to assist a witness would create  
23 undue sympathy for the witness or cause prejudice to a party in any  
24 other way.

25 (b) To the extent possible, the court shall ensure that the jury will  
26 be unable to observe the courthouse facility dog prior to, during, and  
27 subsequent to the witness's testimony.

28 (c) On request of either party, the court shall present appropriate  
29 jury instructions that are designed to prevent any prejudice that might  
30 result from the presence of the courthouse facility dog before the  
31 witness testifies and at the conclusion of the trial.

32 9. Courts may adopt rules for the use of a courthouse facility dog  
33 authorized under this section.

34 10. For purposes of this section, the following terms shall have the  
35 following meanings:

36 (a) "Certified handler" means a person who: (i) was trained to handle  
37 the courthouse facility dog by the assistance dog organization that  
38 placed the dog; and (ii) is a professional working in the legal system  
39 who is knowledgeable about its practices including, but not limited to,  
40 victim advocates, forensic interviewers, detectives, prosecuting attor-  
41 neys, and guardians ad litem.

42 (b) "Courthouse facility dog" means a dog that:

43 (i) has graduated from a program of an assistance dog organization  
44 that is accredited by a recognized organization whose main purpose is to  
45 grant accreditation to assistance dog organizations based on standards  
46 of excellence in all areas of assistance dog acquisition, training of  
47 the dogs and their certified handlers, and placement;

48 (ii) demonstrates continued proficiency in providing safe and reliable  
49 services through ongoing training according to the assistance dog organ-  
50 ization's training standards;

51 (iii) was specially selected to provide services in the legal system  
52 to provide quiet companionship to witnesses and potential witnesses  
53 during stressful interviews, examinations, meetings, and other encount-  
54 ers associated with a law enforcement investigation, and legal  
55 proceedings, thereby enabling them to better engage with the process;  
56 and

1     (iv) travels as needed with a certified handler as a team to and from  
2     authorized locations for training, community outreach, and other  
3     purposes associated with the operations of a courthouse facility dog  
4     program established in this section.

5     § 3. This act shall take effect on the one hundred eightieth day after  
6     it shall have become a law. Effective immediately, the addition, amend-  
7     ment and/or repeal of any rule or regulation necessary for the implemen-  
8     tation of this act on its effective date are authorized to be made and  
9     completed on or before such effective date.