

FINAL BILL REPORT

SB 5551

C 398 L 19
Synopsis as Enacted

Brief Description: Concerning courthouse facility dog assistance for testifying witnesses.

Sponsors: Senators Dhingra, Palumbo, Das, Kuderer, Wellman and Van De Wege.

Senate Committee on Law & Justice
House Committee on Civil Rights & Judiciary

Background: Assistance dog organizations train and credential courthouse facility dogs to assist crime victims, witnesses, and others during the investigation of crimes and court proceedings. Facility dogs are not service dogs because they do not assist a person with a disability. Instead, a professional handler works with the dogs in specific settings. Trained assistance dogs with handlers may assist drug court and mental health court participants who are recovering from substance use disorder and other mental health conditions. Generally, courthouse facility dogs receive training and credentialing from an accredited assistance dog organization that is a member of Assistance Dogs International.

An assistance dog's temperament is critical to performing its responsibilities. It must be calm and quiet, able to adapt to working with many individuals, and with more than one handler in a typical day. The courtroom environment may be stressful and emotional for the parties. The courtroom facility dog must remain unaffected and able to avoid any behavior drawing attention to it while in the courtroom. Courthouse facility dogs generally carry a minimum of \$1 million of liability insurance. In a 2013 Washington State Supreme Court case, the court found it was not unduly prejudicial to use a courthouse facility dog trained by, and living with, a prosecutor.

Summary: Courts are authorized to permit a trained, certified, and insured courthouse facility dog to accompany a witness during testimony. Courts must allow a witness who is under age eighteen or who has a developmental disability to have assistance from a courthouse facility dog when one is available. Courts have discretion to permit a witness who is eighteen years old or older, and does not have a developmental disability, to use a courthouse facility dog when available. The court must determine by motion whether to allow a witness to have an assistance dog in the courtroom. The motion must demonstrate:

- the courthouse facility dog's credentials and insurance;
- the witness and dog have developed a relationship in anticipation of testimony; and
- the assistance of the courthouse facility dog is necessary to assist the witness during testimony.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In the courtroom, the handler must be present with the dog, the dog must accompany the witness to the stand without a leash, and the dog must lie quietly on the floor out of the jury's view. If the courthouse facility dog accompanies a witness in a jury trial, the court must employ specific protections to prevent prejudice to any party caused by use of the dog's assistance during testimony. The protections include:

- allowing jury voir dire questions regarding potential prejudice because of the dog's presence;
- ensuring the dog is not in view of the jury before, during, or after testimony; and
- upon a party's request, a jury instruction to address potential prejudice or bias because of the presence of the dog in the courtroom.

Courts may adopt rules governing the use of courthouse facility dogs to assist witnesses during testimony.

Votes on Final Passage:

Senate	47	0	
House	96	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 28, 2019