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SENATE BILL NO. 420

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 23, 2018)

(Patron Prior to Substitute—Senator McDougle)

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-67.9:1, relating to witness testimony accompanied by certified facility dogs.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-67.9:1 as follows:

§ 18.2-67.9:1. Use of a certified facility dog for testimony in a criminal proceeding.

A. *As used in this section, "certified facility dog" means a dog that (i) has completed training and been certified by a program accredited by Assistance Dogs International or by another assistance dog organization that is a member of an organization whose main purpose is to improve training, placement, and utilization of assistance dogs and (ii) is accompanied by a duly trained handler.*

B. *In any criminal proceeding, including preliminary hearings, the attorney for the Commonwealth or the defendant may apply for an order from the court allowing a certified facility dog to be present with a witness testifying before the court through in-person testimony or testimony televised by two-way closed-circuit television pursuant to § 18.2-67.9.*

C. *The court may enter an order authorizing a dog to accompany a witness while testifying at a hearing in accordance with subsection B if the court finds by a preponderance of the evidence that:*

1. The dog to be used qualifies as a certified facility dog;

2. The use of a certified facility dog will aid the witness in providing his testimony; and

3. The presence and use of the certified facility dog will not interfere with or distract from the testimony or proceedings.

D. *The party seeking such order shall apply for the order at least 14 days before the preliminary hearing, trial date, or other hearing to which the order is to apply.*

E. *The court may make such orders as necessary to preserve the fairness of the proceeding, including imposing restrictions on and instructing the jury regarding the presence of the certified facility dog during the proceedings.*

F. *Nothing contained in this section shall prevent the court from providing any other accommodations to a witness as provided by law.*