

AMENDED IN ASSEMBLY APRIL 20, 2017

AMENDED IN ASSEMBLY MARCH 8, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 411**

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**Introduced by Assembly Member Bloom  
(Coauthor: Assembly Member Muratsuchi)**

February 9, 2017

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An act to add Section 868.4 to the Penal Code, relating to witness testimony.

LEGISLATIVE COUNSEL'S DIGEST

AB 411, as amended, Bloom. Witness testimony: therapy and facility dogs.

Existing law authorizes a prosecuting witness in specified cases to have up to 2 persons of his or her own choosing for support at the preliminary hearing and at trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness, as specified.

This bill would authorize these witnesses, as well as certain child witnesses, to be accompanied by a dog, trained in providing emotional support, while testifying. This bill would set minimum training requirements for these dogs and their handlers and would require a party requesting the use of such a dog to file a motion with the court, specifying the qualifications of and need for the dog. This bill would require the court to allow the witness to be accompanied by the dog if certain conditions are met, but would reserve the discretion of the court to remove or exclude the dog in certain specified situations. The bill would require the court to take appropriate measures to minimize the distraction created by the presence of the dog in the courtroom, including

requiring the dog to be accompanied by a handler at all times. The bill would require the court, if requested, to give appropriate jury instructions if a dog is utilized in a criminal jury trial, to prevent prejudice against any party.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 868.4 is added to the Penal Code, to read:
- 2 868.4. (a) If requested by either party in a criminal or juvenile
- 3 hearing, and if a therapy or facility dog is available to the party
- 4 within the jurisdiction of the judicial district in which the case is
- 5 being adjudicated, the following individuals shall be afforded the
- 6 opportunity to have a therapy or facility dog accompany him or
- 7 her while testifying in court, subject to the approval of the court:
- 8 (1) A child witness in a court proceeding involving any serious
- 9 felony as defined in subdivision (c) of Section 1192.7 or any violent
- 10 felony as defined in subdivision (c) of Section 667.5.
- 11 (2) A victim who is entitled to support persons pursuant to
- 12 Section 868.5, in addition to any support persons selected pursuant
- 13 to that section.
- 14 (b) Before a therapy or facility dog may be used pursuant to
- 15 subdivision (a), the party seeking to utilize the therapy or facility
- 16 dog shall file a motion with the court, which shall include the
- 17 following:
- 18 (1) The training or credentials of the therapy or facility dog.
- 19 (2) The training of the therapy or facility dog handler.
- 20 (3) Facts justifying that the presence of the therapy or facility
- 21 dog may reduce anxiety or otherwise be helpful to the witness
- 22 while testifying.
- 23 (c) If a party, pursuant to subdivision (b), makes a showing that
- 24 the therapy or facility dog and handler are suitably qualified and
- 25 will reasonably assist the testifying witness, the court shall grant
- 26 ~~the motion.~~ *motion, unless the court finds the use of a therapy or*
- 27 *facility dog would cause undue prejudice to the defendant or would*
- 28 *be unduly disruptive to the court proceeding.*
- 29 (d) The court shall take appropriate measures to make the
- 30 presence of the therapy or facility dog as unobtrusive and

1 nondisruptive as possible, including requiring a dog to be  
2 accompanied by a handler in the courtroom at all times.

3 (e) If a therapy or facility dog is used during a criminal jury  
4 trial, the court shall, upon request, present appropriate jury  
5 instructions designed to prevent prejudice for or against any party.

6 (f) This section does not prevent the court from removing or  
7 excluding a therapy or facility dog from the courtroom to maintain  
8 order or to ensure the fair presentation of evidence, as stated on  
9 the record.

10 (g) As used in this section, the following definitions shall apply:

11 (1) “Child witness” means any witness who is under the age of  
12 18 at the time he or she testifies.

13 (2) “Facility dog” means a dog that has successfully completed  
14 a training program in providing emotional comfort in a high-stress  
15 environment for the purpose of enhancing the ability of a witness  
16 to speak in a judicial proceeding and reducing his or her stress  
17 level, provided by an assistance dog organization accredited by  
18 Assistance Dogs International or a similar nonprofit organization  
19 that sets standards of training for dogs, and that has passed a public  
20 access test for service animals.

21 (3) “Handler” means a person who has successfully completed  
22 training on offering an animal for assistance purposes from an  
23 organization accredited by Assistance Dogs International, Therapy  
24 Dogs Incorporated, or a similar nonprofit organization, and has  
25 received additional training on policies and protocols of the court  
26 and the responsibilities of a courtroom dog handler.

27 (4) “Therapy dog” means a dog that has successfully completed  
28 training, certification, or evaluation in providing emotional support  
29 therapy in settings including, but not limited to, hospitals, nursing  
30 homes, and schools, provided by the American Kennel Club,  
31 Therapy Dogs Incorporated, or a similar nonprofit organization,  
32 and has been performing the duties of a therapy dog for not less  
33 than one year.

34 (h) *Nothing in this section limits the use of a service dog, as*  
35 *defined in Section 54.1 of the Civil Code, by a person with a*  
36 *disability.*

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