

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2622

BY DELEGATES ZUKOFF, BIBBY, SUMMERS, LAVENDER-
BOWE, CANESTRARO, PUSHKIN KESSINGER, STORCH,
WILLIAMS, WESTFALL AND CAPITO

[Introduced January 24, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §56-6-42, relating to allowing certified facility dogs to accompany witnesses at
 3 criminal trials when the court finds that doing so will assist the witness giving testimony.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. TRIAL.

§56-6-42. Use of a certified facility dog for testimony in criminal trials.

1 (a) As used in this section, “certified facility dog” means a dog that has completed training
 2 and been certified by a program accredited by Assistance Dogs International or by another
 3 assistance dog organization that is a member of an organization whose main purpose is to
 4 improve training, placement, and utilization of assistance dogs, and, is accompanied by a duly
 5 trained handler.

6 (b) In any criminal proceeding, including preliminary hearings, the attorney for the state or
 7 the defendant may apply for an order from the court allowing a certified facility dog to be present
 8 with a witness testifying before the court through in-person testimony or testimony televised by
 9 two-way closed-circuit television.

10 (c) The court shall enter an order authorizing a dog to accompany a witness while testifying
 11 at a hearing in accordance with subsection (b) of this section if the court finds by a preponderance
 12 of the evidence that:

13 (1) The dog to be used qualifies as a certified facility dog;

14 (2) The use of a certified facility dog will aid the witness in providing his or her testimony;

15 and

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

18 (d) The court may make such orders as necessary to preserve the fairness of the
 19 proceeding, including imposing restrictions on and instructing the jury regarding the presence of
 20 the certified facility dog during the proceedings.

NOTE: The purpose of this bill is to authorize the use of specially trained dogs to provide comfort to children and other witnesses that may be comforted by presence of the dog while giving testimony at a criminal trial.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.