

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/CS/SB 416

INTRODUCER: Criminal Justice Committee; Judiciary Committee; and Senator Montford and others

SUBJECT: Use of Animals in Proceedings Involving Minors

DATE: March 14, 2017 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Farach</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Cellon</u>	<u>Hrdlicka</u>	<u>CJ</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 416 allows a court to permit a victim or witness to testify with the assistance of a facility dog in a proceeding involving a sexual offense or in a dependency proceeding. A victim or witness may be eligible to use a facility dog if he or she has an intellectual disability or if he or she was a minor when a victim of or witness to a sexual offense.

II. Present Situation:

Service animals are defined by the Americans with Disabilities Act as miniature horses or dogs that are “individually trained to do work or perform tasks for people with disabilities.”¹ Service animals are different from therapy dogs and other emotional support animals in the sense that emotional support animals are not trained for specific tasks and help people through companionship.²

Studies of human-dog interactions demonstrate physiological effects in subjects like lower blood pressure when touching or petting a dog.³ For children, having a dog present helps lower heart

¹ U.S. Department of Justice, *ADA 2010 Revised Requirements: Service Animals* (July 11, 2012), https://www.ada.gov/service_animals_2010.pdf (last visited March 9, 2017).

² U.S. Department of Justice, *Frequently Asked Questions about Service Animals and the ADA* (July 20, 2015) https://www.ada.gov/regs2010/service_animal_qa.html (last visited March 9, 2017).

³ Julia K. Vormbrock and John M. Grossberg, *JOURNAL OF BEHAVIORAL MEDICINE*, *Cardiovascular effects of human-pet dog interactions* (October 11, 1988).

rate in stressful situations, like testifying in a courtroom full of adults.⁴ Several court systems around the country acknowledge the benefit of therapy dogs in courts and offer services to help connect susceptible victims with dogs.⁵

In this state, courts are authorized by s. 92.55, F.S., to allow certain victims or witnesses to testify with the assistance of a service or therapy animal during dependency proceedings or proceedings involving a sexual offense. A victim or witness who may be eligible to use a service or therapy animal must have been a minor at the time he or she was a victim or witness or have an intellectual disability.

Section 92.55, F.S., allows a person to seek the assistance of a therapy or service animal by filing a motion with the court. When deciding whether to allow the use of the animal the court, among other things, must consider the age of the child victim or witness and the rights of the parties to the case.

In practice in the Second, Fifth, and Ninth Judicial Circuits, the use of an animal therapy team must be approved by the presiding judge, magistrate, or hearing officer. These circuits also require an introduction between the child and animal therapy team prior to entering the court chambers and the presence of a third party to oversee the child.⁶ Dogs must be properly groomed, vaccinated, and wear a vest or some other article signifying that they are therapy animals. Therapy animals must be accompanied by handlers at all times.

Florida, Arizona, Arkansas, Hawaii, Illinois, and Oklahoma may be the only states to have statutes allowing therapy animals to accompany minors or vulnerable witnesses when testifying.⁷

In addition to allowing the use of service or therapy animals, the Florida Statutes provide other protections to victims and witnesses who either are or were underage at the time of the offense or have an intellectual disability. For example, a court may order the videotaping of testimony of a victim or witness in lieu of testimony in open court.⁸ Similarly, a court may order the testimony

⁴ Erika Friedmann et al., JOURNAL OF NERVOUS AND MENTAL DISEASE, *Social Interaction and Blood Pressure: Influence of Animal Companions* (August 1983).

⁵ Second Judicial Circuit, *Courthouse Therapy Dogs*, available at <http://2ndcircuit.leoncountyfl.gov/petTherapy.php>; (last visited March 9, 2017).

⁶ Second Judicial Circuit Court of Florida, *Procedures for Animal Therapy in the Case Specific Dependency Court Events*, Revised September 30, 2014, available at http://2ndcircuit.leoncountyfl.gov/pet/documentation/Animal_Therapy_Procedures.pdf; Fifth Judicial Circuit Court of Florida, *Fifth Judicial Circuit Therapy Dog Program*, available at <http://www.circuit5.org/c5/programs-services/therapy-dog-program/>; Ninth Judicial Circuit Court of Florida, Administrative Order Establishing a Certified Therapy Dog Program (K-9th Circuit Program), Orange County, AO No. 2014-26 (October 27, 2014), available at <http://www.ninthcircuit.org/sites/default/files/2014-26%20-%20Order%20Governing%20Certified%20Therapy%20Dog%20Program%20K-9th%20Orange.pdf> (all websites last visited March 9, 2017).

⁷ John Emsinger, Michigan State University, Animal Center, *Cases and Statutes on the use of Dogs by Witnesses while Testifying in Criminal Proceedings*, last updated June 2016, available at <https://www.animallaw.info/article/recent-cases-use-facility-dogs-witnesses-while-testifying>; (last visited March 9, 2017).

⁸ Section 92.53, F.S.

of a victim or witness to be taken by means of closed-circuit television and shown inside the courtroom.^{9,10}

III. Effect of Proposed Changes:

Under the bill, a court may authorize the use of a facility dog to assist a victim or witness who must testify in a proceeding involving a sexual offense or in a dependency proceeding. The bill also expands the class of victims and witnesses who may use the assistance of an animal in giving testimony to include those having an intellectual disability.

Under current law, only a service or therapy animal may assist witnesses or victims who are required to testify. The bill removes references to “service animals” from current statute, and includes “facility dogs” as animals that may assist in relevant proceedings. As used in a courtroom, therapy animals and facility dogs fulfill the same purpose. This purpose is protecting the victim or witness from severe emotional or mental harm, which might occur while testifying in the presence of the defendant.

The difference between a service or therapy animal and a facility dog appears to be in their qualifications. Under current law, a service or therapy animal must be evaluated and registered according to national standards. Under the bill, a therapy animal or facility dog must be trained and evaluated according to industry standards.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁹ Section 92.54, F.S.

¹⁰ Section 92.55(1), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will not result in additional costs to the government, as the bill does not require the use of facility dogs in judicial proceedings. Additionally, the bill does not require courts to train or pay for the use of therapy animals or facility dogs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 92.55, Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Criminal Justice on March 13, 2017:**

The committee substitute corrects a scrivener's error.

CS by Judiciary on February 21, 2017:

The committee substitute deletes references in current law to service animals. Also, the committee substitute provides definitions for the terms "facility dog" and "therapy animal."

B. Amendments:

None.