

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1497

5 By: Representative Gazaway  
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## For An Act To Be Entitled

8 AN ACT EXPANDING THE PERMITTED USE OF COURTHOUSE DOGS  
9 FOR VULNERABLE WITNESSES; AND FOR OTHER PURPOSES.  
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### Subtitle

11 EXPANDING THE PERMITTED USE OF COURTHOUSE  
12 DOGS FOR VULNERABLE WITNESSES.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code § 16-43-1002 is amended to read as follows:

20 16-43-1002. Certified facility dogs for child and vulnerable witnesses  
21 – Definitions.

22 (a) As used in this section:

23 (1) “Certified facility dog” means a dog that has:

24 (A) Graduated from a program of an assistance dog  
25 organization that is a member of Assistance Dogs International or a similar  
26 nonprofit organization that attempts to set the highest standard of training  
27 for dogs for the purpose of reducing stress in a child witness by enhancing  
28 the ability of the child witness to speak in a judicial proceeding by  
29 providing emotional comfort in a high stress environment;

30 (B) Received two (2) years of training; and

31 (C) Passed the same public access test as a service dog;

32 (2) “Certified handler” means a person who has received training  
33 from an organization accredited by Assistance Dogs International, the  
34 American Kennel Club, Inc., ~~Therapy Dogs Incorporated~~ Alliance of Therapy  
35 Dogs, or an equivalent organization on offering the person’s animal for  
36 assistance purposes and has received additional training on the protocols and



1 policies of courts, the expected roles of the person's animal assistance  
2 team, and the expected interaction so as not to interfere with the collection  
3 of evidence or the effective administration of justice; ~~and~~

4 (3) "Child witness" means a witness testifying in a criminal  
5 hearing or trial whose age at the time of his or her testimony is eighteen  
6 (18) years of age or younger;

7 (4) "Intellectual and developmental disability" means a  
8 disability of a person that:

9 (A) Is attributable to:

10 (i) An impairment of general intellectual  
11 functioning or adaptive behavior, including without limitation cerebral  
12 palsy, spina bifida, Down syndrome, epilepsy, or autism;

13 (ii) A condition that results in an impairment of  
14 general intellectual functioning or adaptive behavior or that requires  
15 treatment and services for a person; or

16 (iii) Dyslexia resulting from a disability described  
17 in subdivision (4)(A)(i) or subdivision (4)(A)(ii) of this section;

18 (B) Originates before the person attains twenty-two (22)  
19 years of age;

20 (C) Has continued or can be expected to continue  
21 indefinitely; and

22 (D) Constitutes a substantial impairment to the person's  
23 ability to function without appropriate support services, including without  
24 limitation planned recreational activities, medical services such as physical  
25 therapy and speech therapy, and sheltered employment or job training; and

26 (5) "Vulnerable witness" means a person testifying in a criminal  
27 hearing or trial who has an intellectual and developmental disability or has  
28 a significant impairment in cognitive functioning acquired as a direct  
29 consequence of a brain injury or resulting from a progressively deteriorating  
30 neurological condition, including without limitation Alzheimer's disease or  
31 dementia.

32 (b) Subject to the Arkansas Rules of Civil Procedure, Arkansas Rules  
33 of Evidence, or other rule of the Supreme Court, if requested by either party  
34 in a criminal trial or hearing and if a certified facility dog is available  
35 within the jurisdiction of the judicial district in which the criminal case  
36 is being adjudicated, a child witness or vulnerable witness of the party

1 shall be afforded the opportunity to have a certified facility dog accompany  
 2 him or her while testifying in court.

3 (c) Before the introduction of a certified facility dog into the  
 4 courtroom and outside the presence of the jury, the party desiring to utilize  
 5 the presence of a certified facility dog shall file a motion certifying to  
 6 the court the following information:

7 (1) The credentials of the certified facility dog;

8 (2) That the certified facility dog is adequately insured;

9 (3) That a relationship has been established between the child  
 10 witness or vulnerable witness and the certified facility dog in anticipation  
 11 of testimony; and

12 (4) That the presence of the certified facility dog may reduce  
 13 anxiety experienced by the child witness or vulnerable witness while  
 14 testifying in the criminal trial or hearing.

15 (d)(1) If the court grants the motion under subsection (c) of this  
 16 section, the certified facility dog shall be accompanied by the certified  
 17 handler of the certified facility dog to the witness stand with the child  
 18 witness or vulnerable witness in the absence of the jury.

19 (2) The jury shall be seated subsequent to the child ~~witness~~<sup>2</sup>  
 20 witness's or vulnerable witness's and certified facility dog's taking their  
 21 places in the witness stand.

22 (e) In the course of jury selection, with the court's approval under  
 23 Rule 32.2 of the Arkansas Rules of Criminal Procedure, either party may voir  
 24 dire prospective jury members on whether the presence of a certified facility  
 25 dog to assist a child witness or vulnerable witness would create undue  
 26 sympathy for the child witness or vulnerable witness or in any way serve as a  
 27 prejudice to the defendant.

28 (f) In a criminal trial involving a jury in which the certified  
 29 facility dog is utilized, the court shall present appropriate jury  
 30 instructions that are designed to prevent prejudice for or against any party.

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