



## 2020 South Dakota Legislature

# Senate Bill 136

SENATE HEALTH AND HUMAN SERVICES ENGROSSED

Introduced by: **Senator Soholt**

1 **An Act to authorize certain witnesses to be accompanied by a certified therapeutic**  
 2 **dog in a criminal proceeding.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **23A-24-10. Certified therapeutic dogs--Definitions.**

6 In any criminal proceeding, upon motion of any party as provided in § 23A-24-11,  
 7 the court may enter any order necessary to allow a child witness or a witness having a  
 8 developmental disability to be accompanied by a certified therapeutic dog during the  
 9 witness' testimony in the manner provided in § 23A-24-12.

10 Terms used in §§ 23A-24-10 to 23A-24-12, inclusive, mean:

11 (1) "Certified therapeutic dog," a dog that has received the requisite training or  
 12 certification and is registered with Therapy Dogs Incorporated, Therapy Dogs  
 13 International, Assistance Dogs International, or an equivalent organization to  
 14 perform the duties associated with therapy dogs in places such as hospitals,  
 15 nursing homes, and other facilities where the emotional benefits of therapy dogs  
 16 are recognized;

17 (2) "Certified handler," a person who has received training and is registered with  
 18 Therapy Dogs Incorporated, Therapy Dogs International, Assistance Dogs  
 19 International, or an equivalent organization for offering the person's animal for  
 20 assistance purposes and has received additional training on the protocols and  
 21 policies of courts, the expected roles of the person's animal assistance team, and  
 22 the expected interaction so as not to interfere with the collection of evidence or  
 23 the effective administration of justice;

24 (3) "Child witness," a person who has been or will be called to testify in a criminal  
 25 proceeding and is under the age of eighteen; and

26 (4) "Developmental disability," the meaning provided in § 27B-1-18.

1 **Section 2.** That a NEW SECTION be added:

2 **23A-24-11. Introduction of certified therapeutic dog--Motion--Contents.**

3 Before the introduction of a certified therapeutic dog into the courtroom, the party  
4 desiring to utilize the presence of a certified therapeutic dog shall, outside the presence  
5 of the jury, file a motion containing the following information:

6 (1) The credentials of the certified therapeutic dog;

7 (2) The credentials of the certified handler;

8 (3) That the certified therapeutic dog is adequately insured;

9 (4) That a basic relationship has been established between the child witness, or the  
10 witness having a developmental disability, and the certified therapeutic dog in  
11 anticipation of testimony;

12 (5) That the certified therapeutic dog is capable of sitting quietly for extended periods  
13 of time; and

14 (6) That the presence of the certified therapeutic dog may reduce anxiety experienced  
15 by the child witness or the witness having a developmental disability while  
16 testifying in the criminal trial or hearing.

17 **Section 3.** That a NEW SECTION be added:

18 **23A-24-12. Certified handlers--Limitations.**

19 If the court grants a motion pursuant to § 23A-24-11, the certified handler may  
20 accompany the certified therapeutic dog to the witness stand with the child witness or the  
21 witness having a developmental disability and remain with the certified therapeutic dog  
22 for the duration of the witness' testimony without interfering with any juror's view of the  
23 witness. The certified handler may either sit to the side of the witness stand or behind the  
24 witness stand.

25 **Section 4.** That § 23A-20-6 be AMENDED:

26 **23A-20-6. Prospective jurors--Examination.**

27 The defense attorney or the defendant, if appearing pro se, and the prosecuting  
28 attorney shall conduct examination of prospective jurors. Prior to the examination the  
29 court may conduct a general examination of the prospective jurors. The court may in its  
30 discretion allow examination of one or more jurors apart from the other jurors. If approved  
31 by the court, prospective jurors may be examined on whether the presence of a certified  
32 therapeutic dog to assist a child witness or a witness having a developmental disability

1 would create undue sympathy for the witness or in any way serve as a prejudice to the  
2 defendant.

3 For purposes of this section, the terms, certified therapeutic dog, child witness,  
4 and developmental disability, have the meanings provided in § 23A-24-10.

5 **Section 5.** That a NEW SECTION be added:

6 **23A-25-3.2. Jury instructions--Certified therapeutic dogs.**

7 If a certified therapeutic dog has been utilized during a criminal trial, the judge  
8 shall present a jury instruction designed to prevent prejudice for or against any party.

9 For purposes of this section, the term, certified therapeutic dog, has the meaning  
10 provided in § 23A-24-10.