

1 **SENATE FLOOR VERSION**

2 April 1, 2014

3 ENGROSSED HOUSE
4 BILL NO. 2591

By: Peterson, Bennett, Nollan,
McDaniel (Jeannie), Biggs
and Sherrer of the House

5 and

6 David of the Senate
7

8
9 An Act relating to court proceedings; stating
10 legislative intent; permitting child witness to
11 testify accompanied by support person; allowing child
12 witness to testify accompanied by therapeutic dog;
13 defining terms; amending 12 O.S. 2011, Section
2611.2, which relates to witness testimony;
14 permitting incapacitated witness to testify
15 accompanied by therapeutic dog; providing for
16 codification; and providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2611.12 of Title 12, unless
20 there is created a duplication in numbering, reads as follows:

21 A. It is the intent of the Oklahoma Legislature in enacting
22 this section to recognize the special circumstances and needs of a
23 child witness during criminal court proceedings, and to protect the
24 child witness from any unnecessary emotional discomfort or anguish.

1 B. In any criminal proceeding, a child witness shall have the
2 right to be accompanied by a support person while giving testimony
3 in the proceeding, but the support person shall not discuss the
4 testimony of the child witness with any other witnesses or attempt
5 to prompt or influence the testimony of the child witness.

6 C. The child witness shall be afforded the opportunity, if
7 available, to have a certified therapeutic dog accompanied by the
8 handler of the certified therapeutic dog in lieu of a support
9 person.

10 D. As used in this section:

11 1. "Certified therapeutic dog" means a dog which has received
12 the requisite training or certification from the American Kennel
13 Club, Therapy Dogs Incorporated, or an equivalent organization to
14 perform the duties associated with therapy dogs in places such as
15 hospitals, nursing homes, and other facilities where the emotional
16 benefits of therapy dogs are recognized. Prior to the use of a
17 certified therapeutic dog the court shall conduct a hearing to
18 verify:

19 a. the credentials of the certified therapeutic dog,

20 b. the certified therapeutic dog is appropriately
21 insured, and

22 c. a relationship has been established between the child
23 witness and the certified therapeutic dog in
24 anticipation of testimony;

1 C. The court, upon motion of counsel, shall conduct a hearing
2 to determine whether the testimony of a witness shall be closed to
3 the public. In making the decision, the court shall consider:

4 1. The nature and seriousness of the issues in the proceeding;

5 2. The age of the witness;

6 3. The relationship, if any, of the witness to the defendant;

7 4. The extent to which the size of the community would preclude
8 the anonymity of the witness;

9 5. The likelihood of public disgrace of the witness;

10 6. Whether there is an overriding public interest in having the
11 testimony of the witness presented in open court;

12 7. The substantial risk that the identity of the witness would
13 be disclosed to the public during the proceeding;

14 8. The substantial probability that the disclosure of the
15 identity of the witness would cause serious harm to the witness;

16 9. Whether the witness has disclosed information concerning the
17 case to the public in a manner which would preclude anonymity of the
18 witness; and

19 10. Other factors the court may deem necessary to protect the
20 interests of justice.

21 D. If the court determines that the testimony of the witness is
22 to be closed to the public, the court shall in its order accordingly
23 and set forth the persons who can be present during the taking of
24 testimony of the witness, which shall include:

- 1 1. The parties to the proceeding and their counsel;
- 2 2. Any officer having custody of the witness;
- 3 3. Court personnel as may be necessary to conduct the hearing
- 4 and maintain order, including but not limited to the judge, the
- 5 court clerk, the bailiff, and the court reporter;
- 6 4. Jury members, if appropriate; and
- 7 5. The witness and a support person for the witness.

8 E. The testimony of the witness may be taken in the courtroom,
9 in chambers, or in some other comfortable place. If the testimony
10 of a witness is to be taken in a courtroom, the witness and support
11 person shall be assembled in the court chambers prior to the taking
12 of the testimony to meet for a reasonable period of time with the
13 judge, and counsel for the parties. At this meeting court
14 procedures shall be explained to the witness and counsel shall be
15 given an opportunity to establish a rapport with the witness to
16 facilitate taking the testimony of the witness at a later time. The
17 facts involved in the proceeding shall not be discussed with the
18 witness during this meeting.

19 F. A witness shall have the right to be accompanied by a
20 support person while giving testimony in the proceeding, but the
21 support person shall not discuss the testimony of the witness with
22 any other witnesses or attempt to prompt or influence the testimony
23 of the witness in any way. In lieu of a support person, a witness
24 shall be afforded the opportunity to have a certified therapeutic

1 dog accompanied by the handler of the certified therapeutic dog
2 pursuant to the provisions set forth in Section 1 of this act.

3 SECTION 3. This act shall become effective November 1, 2014.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
5 April 1, 2014 - DO PASS
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