

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 1106

(Senator Simonaire, *et al.*)

Judicial Proceedings

Judiciary

**Anne Arundel County and Harford County - Courthouse Dog and Child Witness  
Pilot Program**

This bill establishes a Courthouse Dog and Child Witness Pilot Program in the circuit courts for Anne Arundel and Harford counties. The pilot program's purpose is to determine whether to establish a structured, defined, and systematic approach for providing a courthouse dog to a "child witness" in any circuit court proceeding in the State. "Child witness" is a witness who is a minor when the witness testifies in a criminal proceeding.

The bill terminates September 30, 2019.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by a maximum of \$9,500 in FY 2017, which assumes a January 1, 2017 start date for the pilot program. Future year expenditures reflect annualization and termination of the pilot program in FY 2020. Revenues are not affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	9,500	15,000	15,000	3,800	0
Net Effect	(\$9,500)	(\$15,000)	(\$15,000)	(\$3,800)	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal increase in Anne Arundel County and Harford County expenditures to the extent that the pilot program requires locally funded support.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** To accomplish the purpose of the pilot program, the Administrative Office of the Courts (AOC) must (1) develop a plan to implement the pilot program; (2) establish the procedures that a party in a court proceeding must follow to request that a “therapy dog” and “therapy dog handler” or “facility dog” and “facility dog handler” assist a child witness; and (3) ensure that the details of the pilot program are publicly available.

A “facility dog” is a dog that has (1) graduated from a program of an assistance dog organization that trains dogs for the purpose of reducing stress in a child witness; (2) received two years of training; (3) passed the same public access test as a service dog; and (4) been teamed with a facility dog handler. A “therapy dog” is a dog that has (1) received training to provide affection and comfort to children who need emotional support and (2) been teamed with a therapy dog handler.

Facility dog handlers and therapy dog handlers must meet specified training requirements, including training from qualified organizations on offering the handler’s animal for assistance and training on court protocol and policies.

By September 30, 2019, AOC must report to the Governor and the General Assembly on the operation and results of the pilot program. AOC may adopt rules to implement the bill’s provisions.

**Current Law:** State law authorizes certain special accommodations for the testimony of child victims under specified circumstances. Unless a defendant or child respondent is without counsel, in a case of child abuse under Title 5, Subtitle 7 of the Family Law Article or § 3-601 or § 3-602 of the Criminal Law Article, a court may order that the testimony of a child victim be taken outside the courtroom and shown in the courtroom by closed circuit television.

To allow such an accommodation, the testimony must be taken during the proceeding, and the court must determine that testimony by the child victim in the presence of a defendant or a child respondent will result in the child victim suffering serious emotional distress such that the child victim cannot reasonably communicate. In making this determination, the court may (1) observe and question the child victim inside or outside the courtroom and (2) hear testimony of a parent or custodian of the child victim or other person, including a person who has dealt with the child victim in a therapeutic setting.

Only specified individuals, including each defendant or child respondent, may be present when the court hears testimony to determine whether to allow a child victim to testify by closed circuit television. However, if the court decides to observe or question the child

victim in connection with this determination, the court may not allow the defendant or child respondent to be present.

While a defendant or child respondent may not be in the room with the child victim during the child victim's closed circuit television testimony, specified attorneys, the equipment operator, and subject to the Maryland Rules, any person whose presence, in the opinion of the court, contributes to the well-being of the child victim, including a person who has dealt with the child victim in a therapeutic setting concerning the abuse, are authorized to be in the room with the child victim.

During the child victim's testimony by closed circuit television, the court and the defendant or child respondent must be in the courtroom. However, the court and the defendant or child respondent must be allowed to communicate with the persons in the room where the child victim is testifying by any appropriate electronic method. Only specified persons may question the child victim.

A child victim and a defendant or child respondent may be in the courtroom at the same time when the child victim is asked to identify the defendant or child respondent.

The use of two-way closed circuit television or other procedure that would let a child victim see or hear a defendant or child respondent is not authorized under the statute.

**Background:** Recognizing the vulnerable emotional state of child witnesses in criminal proceedings, especially in cases related to child abuse or child sexual abuse, the use of therapy dogs during the testimony of child witnesses is becoming increasingly popular. Facility and therapy dogs have been found to ease the emotional stress of witnesses, and with respect to child witnesses, have allowed children to recount traumatic events when they otherwise would not be able to do so.

Legal challenges to the use of canines in this capacity have centered on limiting possible prejudice against a defendant when a jury sees that a witness is being accompanied by a facility or therapy dog or what the prosecution must show for a court to grant a motion authorizing a witness to be accompanied by a therapy or facility dog on the witness stand.

Multiple states, including Arkansas and Illinois, have enacted statutes or have case law supporting or upholding the use of facility or therapy dogs in courtrooms. Many court systems and prosecutors' offices across the nation have implemented their own facility/therapy dog programs. According to news reports, the Circuit Court for Cecil County and the Office of the State's Attorney for Carroll County currently have or have had therapy/facility dog programs.

**State/Local Expenditures:** General fund expenditures increase by a maximum of \$9,500 in fiscal 2017, which assumes a start-up date of January 1, 2017, and by a maximum of \$15,000 annually in fiscal 2018 and 2019. General fund expenditures increase by a maximum of \$3,750 in fiscal 2020, which reflects the bill's September 30, 2019 termination date. The information and assumptions used in calculating these estimates are stated below:

- because AOC is required to oversee and develop the pilot program, for purposes of this estimate it is assumed that it is also responsible for the pilot program's funding;
- a program in Harford County costs approximately \$2,500 to \$5,000 annually, depending on usage;
- a program in Anne Arundel County costs approximately \$5,000 to \$10,000 annually, depending on usage;
- each program has initial start-up costs of \$1,000; and
- despite the bill's October 1, 2016 effective date, the pilot program does not incur expenses until January 1, 2017, in order to allow AOC time for implementation.

Depending on the procedures and protocols established by AOC, general fund expenditures may be less if the circuit courts or State's Attorney's Offices in the impacted jurisdictions are required to bear any of the costs.

The Judiciary advises that depending on each court's physical layout, separate facilities may be required for the dogs and their handlers while waiting for witnesses to be called. However, this analysis assumes that AOC adopts procedures and protocols requiring a dog to remain with its handler and the child witness until the child witness is called to testify and that separate facilities do not need to be constructed to meet the bill's requirements. Service animals are allowed entry into the circuit courts.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), American Bar Association, Michigan State University College of Law – Animal Legal and Historical Center, *The Baltimore Sun*, *Cecil Daily*, Courthouse Dogs, Department of Legislative Services

**Fiscal Note History:** First Reader - March 18, 2016  
mel/kdm Revised - Senate Third Reader - April 6, 2016

---

Analysis by: Jennifer K. Botts

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510