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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB10
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8 SYNOPSIS: This bill would provide for the rights and
9 responsibilities of an individual with a disability
10 who uses a service animal and would prohibit
11 discrimination against the person for using a
12 service animal in a public accommodation or a
13 housing accommodation.

14 This bill would provide criminal penalties
15 for a person who misrepresents himself or herself
16 as using a service animal or as a trainer of a
17 service animal or for denying or interfering with
18 the right of an individual with a disability to use
19 a service animal or the trainer of a service animal
20 to have a service animal in a public accommodation
21 under certain conditions.

22 Amendment 621 of the Constitution of Alabama
23 of 1901, now appearing as Section 111.05 of the
24 Official Recompilation of the Constitution of
25 Alabama of 1901, as amended, prohibits a general
26 law whose purpose or effect would be to require a
27 new or increased expenditure of local funds from

1 becoming effective with regard to a local
2 governmental entity without enactment by a 2/3 vote
3 unless: it comes within one of a number of
4 specified exceptions; it is approved by the
5 affected entity; or the Legislature appropriates
6 funds, or provides a local source of revenue, to
7 the entity for the purpose.

8 The purpose or effect of this bill would be
9 to require a new or increased expenditure of local
10 funds within the meaning of the amendment. However,
11 the bill does not require approval of a local
12 governmental entity or enactment by a 2/3 vote to
13 become effective because it comes within one of the
14 specified exceptions contained in the amendment.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 To amend Sections 21-7-1 to 21-7-9, inclusive, Code
21 of Alabama 1975, relating to the use of service animals; to
22 provide for the rights and responsibilities of an individual
23 with a disability who uses a service animal in a public
24 accommodation or a housing accommodation; to provide criminal
25 penalties for a person who misrepresents the use of a service
26 animal or as a trainer and for denying or interfering with the
27 right of an individual with a disability to use a service

1 animal or the trainer of a service animal to have a service
2 animal in a public accommodation under certain conditions; and
3 in connection therewith to have as its purpose or effect the
4 requirement of a new or increased expenditure of local funds
5 within the meaning of Amendment 621 of the Constitution of
6 Alabama of 1901, now appearing as Section 111.05 of the
7 Official Recompilation of the Constitution of Alabama of 1901,
8 as amended.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 21-7-1 to 21-7-9, inclusive,
11 Code of Alabama 1975, are amended to read as follows:

12 "§21-7-1.

13 "(a) It is the policy of this state to encourage and
14 enable the blind, the visually ~~handicapped~~ impaired, and the
15 ~~otherwise~~ physically disabled to participate fully in the
16 social and economic life of the state and to engage in
17 ~~remunerative~~ meaningful employment.

18 "(b) For the purposes of this act, the following
19 terms shall have the following meanings:

20 "(1) HANDLER. Includes an individual with a
21 disability and a trainer.

22 "(2) HOUSING ACCOMMODATION. Any real property or
23 portion thereof which is used or occupied, or intended,
24 arranged, or designed to be used or occupied, as the home,
25 residence, or sleeping place of one or more persons, but may
26 not include any single-family residence, the occupants of

1 which rent, lease, or furnish for compensation not more than
2 one room therein.

3 "(3) INDIVIDUAL WITH A DISABILITY. As defined by 42
4 U.S.C. §12102, and further defined as a person who has a
5 physical or mental impairment, including a physical, sensory,
6 psychiatric, intellectual, or other mental disability, that
7 substantially limits one or more major life activities of the
8 individual.

9 "(4) MAJOR LIFE ACTIVITY. A function such as caring
10 for one's self, performing manual tasks, walking, seeing,
11 hearing, speaking, breathing, learning, and working.

12 "(5) PHYSICAL OR MENTAL IMPAIRMENT. A physiological
13 disorder or condition, disfigurement, or anatomical loss that
14 affects one or more bodily functions, or a mental or
15 psychological disorder that meets one of the diagnostic
16 categories specified in the most recent edition of the
17 Diagnostic and Statistical Manual of Mental Disorders
18 published by the American Psychiatric Association, such as an
19 intellectual or developmental disability, organic brain
20 syndrome, traumatic brain injury, post traumatic stress
21 disorder, or mental illness.

22 "(6) PUBLIC ACCOMMODATION. A common carrier,
23 airplane, motor vehicle, railroad train, motor bus, streetcar,
24 boat, or other public conveyance or mode of transportation, a
25 hotel, a timeshare that is a transient public lodging
26 establishment, a lodging place, a place of public
27 accommodation, amusement, or resort, and other places to which

1 the general public is invited, subject only to the conditions
2 and limitations established by law and applicable alike to all
3 persons. The term does not include air carriers covered by the
4 Air Carrier Access Act of 1986, 49 U.S.C. Section 41705, and
5 by regulations adopted by the United States Department of
6 Transportation to implement that act.

7 "(7) SERVICE ANIMAL. As defined by 28 C.F.R.
8 §35.104, and further defined as an animal that is trained to
9 do work or perform tasks for an individual with a disability.
10 The work done or tasks performed shall be directly related to
11 the disability of the individual and may include, but are not
12 limited to, guiding an individual who is visually impaired or
13 blind, alerting an individual who is deaf or hard of hearing,
14 pulling a wheelchair, assisting with mobility or balance,
15 alerting and protecting an individual who is having a seizure,
16 retrieving objects, alerting an individual to the presence of
17 allergens, providing physical support and assistance with
18 balance and stability to an individual with a mobility
19 disability, helping an individual with a psychiatric or
20 neurological disability by preventing or interrupting
21 impulsive or destructive behaviors, reminding an individual
22 with mental illness to take prescribed medications, calming an
23 individual with post traumatic stress disorder during an
24 anxiety attack, doing other specific work, or performing other
25 special tasks. This shall include a dog owned, used, or in
26 training by any police or fire department, rescue or first
27 response squad, ambulance corps, or search and rescue

1 organization for the purpose of locating criminal and lost
2 persons, or detecting illegal substances, explosives,
3 cadavers, accelerants, or school or correctional facility
4 contraband. A service animal may not be a pet. For the
5 purposes of Sections 21-7-3, 21-7-4, and 21-7-5, the term
6 "service animal" shall be limited to a dog or a miniature
7 horse. The crime-deterrent effect of the presence of an animal
8 and the provision of emotional support, well-being, comfort,
9 or companionship may not constitute work or tasks for the
10 purposes of this definition.

11 "(8) TRAINER. Any of the following:

12 "a. An owner with a disability who is actually
13 involved in the training process.

14 "b. A person who is competent and qualified to train
15 a service animal, has at least one year's experience training
16 animals, and who is actually involved in the training process.

17 "c. A person having photo identification stating
18 that he or she is an employee, volunteer, agent, or graduate
19 of a school for seeing eye, hearing, service, or guide dogs or
20 an organization generally recognized by agencies involved in
21 the rehabilitation of persons with disabilities as reputable
22 and competent to provide dogs with training, and who is
23 actually involved in the training process.

24 "(9) TRANSIENT PUBLIC LODGING ESTABLISHMENT. Any
25 unit, group of units, dwelling, building, or group of
26 buildings within a single complex of buildings which is rented
27 to guests more than three times in a calendar year for periods

1 of less than 30 days or one calendar month, whichever is less,
2 or which is advertised or held out to the public as a place
3 regularly rented to guests.

4 "§21-7-2.

5 ~~"The blind, the visually handicapped, and the~~
6 ~~otherwise physically disabled have~~ An individual with a
7 disability has the same right as ~~the able-bodied~~ a person who
8 is not disabled to the full and free use of the streets,
9 highways, sidewalks, walkways, public buildings, public
10 facilities, and other public places.

11 "§21-7-3.

12 ~~"The blind, the visually handicapped, and the~~
13 ~~otherwise physically disabled are~~ (a) An individual with a
14 disability is entitled to full and equal accommodations,
15 advantages, facilities, and privileges ~~of all common carriers,~~
16 ~~airplanes, motor vehicles, railroad trains, motor buses,~~
17 ~~streetcars, boats or any other public conveyances or modes of~~
18 ~~transportation, hotels, lodging places, places of public~~
19 ~~accommodation, amusement or resort, and other places to which~~
20 ~~the general public is invited, subject only to the conditions~~
21 ~~and limitations established by law and applicable alike to all~~
22 ~~persons~~ in every public accommodation.

23 "(b) A public accommodation shall modify its
24 policies, practices, and procedures to permit the use of a
25 service animal by an individual with a disability.

26 "(c) This act may not require a person, firm,
27 business, or corporation, or an agent thereof, to modify or

1 provide a vehicle, premises, facility, or service to a higher
2 degree of accommodation than is required for a person who is
3 not disabled.

4 "§21-7-4.

5 ~~"(a) For the purposes of this section, the term~~
6 ~~service animal means any dog that is individually trained to~~
7 ~~do work or perform tasks for the benefit of an individual with~~
8 ~~a disability.~~

9 ~~"(b) Every person with a disability, including a~~
10 ~~person who is totally or partially blind, hearing-impaired, or~~
11 ~~diagnosed on the autism spectrum shall have~~ (a) An individual
12 with a disability has the right to be accompanied by a service
13 animal in any public place all areas of a public
14 accommodation, including a public or private school, and any
15 of the places listed in Section 21-7-3 that the public or
16 customers are normally permitted to occupy. The person may not
17 be required to pay an extra charge for the service animal.

18 ~~"(c) The work or tasks performed by a service animal~~
19 ~~must be directly related to the handler's disability.~~ (b) A
20 service animal shall be under the control of its handler and
21 shall have a harness, collar, leash, or other tether, unless
22 either the handler is unable because his or her disability
23 prevents him or her from the use of a harness, collar, leash,
24 or other tether, or the use of a harness, collar, leash, or
25 other tether would interfere with the safe, effective
26 performance of work or tasks by the service animal, in which
27 case the service animal shall be otherwise under the control

1 of the handler by means of voice control, signals, or other
2 effective means.

3 ~~"(d) A person training a service animal shall be~~
4 ~~entitled to the same privileges granted to a person with a~~
5 ~~disability pursuant to subsection (b).~~ (c) (1) The trainer of a
6 service animal, while engaged in the training of the animal,
7 has the same rights and privileges with respect to access to
8 areas of public accommodation and the same liability for
9 damage as is provided for an individual with a disability who
10 is accompanied by a service animal.

11 "(2)a. A service animal in training that is a dog
12 shall wear a harness, collar, leash, cape, or backpack that
13 identifies in writing that the dog is a service animal in
14 training.

15 "b. Other service animals in training shall be
16 identifiable by written identification as a service animal in
17 training.

18 "c. The written identification for a service animal
19 in training shall be visible and legible from a distance of at
20 least 20 feet.

21 "(3) To determine the difference between a service
22 animal in training and a pet, a public accommodation may ask
23 any of the following:

24 "a. If a trainer is an owner trainer with a
25 disability or a qualified trainer with at least one year's
26 experience training animals.

1 "b. For photo identification stating that the
2 trainer is an employee, volunteer, agent, or graduate of a
3 school for seeing eye, hearing, service, or guide dogs or an
4 organization generally recognized by agencies involved in the
5 rehabilitation of persons with disabilities as reputable and
6 competent to provide dogs with training, and who is actually
7 involved in the training process.

8 "c. What task the animal is being trained to
9 perform, and if the trainer is currently engaged in the
10 training of the animal.

11 "(d) Documentation that the service animal is
12 trained is not a precondition for providing service to an
13 individual accompanied by a service animal.

14 "(1) A public accommodation may not ask about the
15 nature or extent of the disability of an individual.

16 "(2) To determine the difference between a service
17 animal and a pet, a public accommodation may ask if an animal
18 is a service animal required because of a disability and what
19 work or tasks the animal has been trained to perform.

20 "(3) A public accommodation may not impose a deposit
21 or surcharge on a trainer or an individual with a disability
22 as a precondition to permitting a service animal to accompany
23 the individual with a disability, even if a deposit is
24 routinely required for pets.

25 "(e) In the case of a ~~disabled child~~ minor with a
26 disability, including a ~~child~~ minor diagnosed on the autism
27 spectrum, any aide assigned to assist the ~~child~~ minor shall be

1 trained with the service animal in basic commands in order to
2 assist the child minor as a team.

3 ~~"(f) This section does not relieve a person
4 accompanied by a service animal from liability for any damages
5 done to the premises or facilities by the service animal. An
6 individual with a disability is liable for damage caused by a
7 service animal if it is the regular policy and practice of the
8 public accommodation to charge a person who is not disabled
9 for damages caused by a pet.~~

10 "(g) The care or supervision of a service animal is
11 the responsibility of the individual owner of the service
12 animal.

13 "(1) A public accommodation may not be required to
14 provide care or food or a special location for a service
15 animal or assistance with removing animal excrement.

16 "(2) A public accommodation may exclude or remove an
17 animal from the premises, including a service animal, if the
18 animal is out of control and the handler of the animal does
19 not take effective action to control the animal, the animal is
20 not housebroken, or the behavior of the animal poses a direct
21 threat to the health and safety of others.

22 "(3) Allergies and fear of animals are not valid
23 reasons for denying access or refusing service to an
24 individual with a service animal.

25 "(4) If a service animal is excluded or removed for
26 being a direct threat to others, the public accommodation
27 shall provide the individual with a disability the option of

1 continuing access to the public accommodation without having
2 the service animal on the premises.

3 "(h) A person who knowingly and willfully
4 misrepresents himself or herself, through conduct or verbal or
5 written notice, as using a service animal and being qualified
6 to use a service animal or as a trainer of a service animal is
7 guilty of a Class C misdemeanor, and in addition to any fines
8 and penalties provided by law, shall perform 100 hours of
9 community service for an organization that serves individuals
10 with disabilities, or for another entity or organization, at
11 the discretion of the court, to be completed in not more than
12 six months.

13 "(i) A person convicted of a second or subsequent
14 violation of subsection (h) shall be guilty of a Class B
15 misdemeanor and shall be fined one hundred dollars (\$100).

16 "§21-7-5.

17 ~~Any~~ (a) A person, firm, or corporation, or the
18 agent of ~~any~~ a person, firm, or corporation, who denies or
19 interferes with admittance to or enjoyment of ~~the public~~
20 ~~facilities enumerated in Sections 21-7-2 and 21-7-3 or a~~
21 ~~public accommodation, or with regard to a public~~
22 ~~accommodation, otherwise interferes with the rights of a~~
23 ~~totally or partially blind or otherwise disabled person under~~
24 ~~Sections 21-7-2 through 21-7-4~~ an individual with a disability
25 ~~or the trainer of a service animal while engaged in the~~
26 ~~training of the animal pursuant to Section 21-7-4,~~ shall be
27 guilty of a Class C misdemeanor, and in addition to any fines

1 and penalties provided by law, shall perform 30 hours of
2 community service for an organization that serves individuals
3 with disabilities, or for another entity or organization, at
4 the discretion of the court, to be completed in not more than
5 six months.

6 "(b) A conspicuous sign may be posted in a location
7 accessible to public view in a place of public accommodation
8 that contains the following, or substantially similar,
9 language:

10 "NOTICE: Service animals welcome. It is illegal for
11 a person to misrepresent an animal in that person's possession
12 as a service animal."

13 "§21-7-6.

14 "(a) The driver of a vehicle approaching a totally
15 or partially blind pedestrian who is carrying a cane
16 predominantly white or metallic in color, with or without a
17 red tip, or using a ~~guide dog~~ service animal, or a person
18 employed by an accredited school for training ~~guide dogs~~ a
19 service animal who provides notice through a sign or other
20 method that he or she is training ~~a dog~~ an animal as a ~~guide~~
21 ~~dog~~ service animal shall take all necessary precautions
22 prescribed by law to avoid injury to the blind pedestrian, ~~and~~
23 ~~or~~ the dog trainer.

24 "(b) (1) A service animal in training that is a dog
25 shall wear a harness, collar, leash, cape, or backpack that
26 identifies in writing that the dog is a service animal in
27 training.

1 "(2) Other service animals in training shall be
2 identifiable by written identification as a service animal in
3 training.

4 "(3) The written identification for a service animal
5 in training shall be visible and legible from a distance of at
6 least 20 feet.

7 "(c) Any driver who fails to take all necessary
8 precautions shall be liable in damages for any injury caused
9 to the pedestrian, or the ~~guide dog~~ trainer.

10 "§21-7-7.

11 "A totally or partially blind pedestrian not
12 carrying a cane as described in Section 21-7-6 or any totally
13 or partially blind person not using a ~~guide dog~~ service animal
14 ~~in any of the places, accommodations, or conveyances listed in~~
15 ~~Sections 21-7-2 and 21-7-3~~ a public accommodation shall have
16 all of the rights and privileges conferred by law upon other
17 persons, and the failure of a totally or partially blind
18 pedestrian to carry ~~such~~ a cane or of a totally or partially
19 blind person to use a ~~guide dog~~ service animal ~~in any such~~
20 ~~places, accommodations, or conveyances shall~~ a public
21 accommodation may not be held to constitute nor be evidence of
22 contributory negligence.

23 "§21-7-8.

24 "It is the policy of this state that ~~the blind, the~~
25 ~~visually handicapped, and the otherwise physically disabled~~ an
26 individual with a disability shall be employed in the state
27 service, the service of the political subdivisions of the

1 state, in the public schools, and in all other employment
2 supported in whole or in part by public funds on the same
3 terms and conditions as ~~the able-bodied~~ a person who is not
4 disabled, and an employer may not refuse employment to an
5 individual with a disability on the basis of his or her
6 disability alone, unless it is shown that the particular
7 disability prevents the satisfactory performance of the work
8 involved.

9 "§21-7-9.

10 "~~(a) Blind persons, visually handicapped persons,~~
11 ~~and other physically disabled persons~~ An individual with a
12 disability shall be entitled to full and equal access, as are
13 other members of the general public, to ~~all~~ any housing
14 accommodations offered for rent, lease, or compensation in
15 this state, subject to the conditions and limitations
16 established by law and applicable alike to all persons.

17 "(b) ~~"Housing accommodations" means any real~~
18 ~~property or portion thereof which is used or occupied or is~~
19 ~~intended, arranged, or designed to be used or occupied as the~~
20 ~~home, residence, or sleeping place of one or more human~~
21 ~~beings, but shall not include any accommodations included~~
22 ~~within subsection (a) of this section or any single-family~~
23 ~~residence, the occupants of which rent, lease, or furnish for~~
24 ~~compensation not more than one room therein.~~

25 "~~(c)~~ (b) Nothing in this section shall require any
26 person renting, leasing, or providing for compensation real
27 property to modify his or her property in any way or provide a

1 higher degree of care for ~~a blind person, visually handicapped~~
2 ~~person, or other physically disabled person~~ an individual with
3 a disability than for a person who is not ~~physically~~ disabled.

4 ~~"(d) Every totally or partially blind person (c) (1)~~
5 An individual with a disability who has a ~~guide dog~~ service
6 animal or who obtains a ~~guide dog~~ service animal shall be
7 entitled to full and equal access to ~~all~~ any housing
8 accommodations provided for in this section, ~~and he shall.~~

9 (2) An individual with a disability may not be
10 required by the housing accommodation to pay extra
11 compensation for ~~such guide dog~~ a service animal, but shall be
12 liable for any damage done to the premises or to another
13 person on the premises by ~~such guide dog~~ the service animal.

14 "(3) A housing accommodation may request proof of
15 compliance with vaccination requirements for a service animal.

16 "(d) This act does not limit the rights or remedies
17 of a housing accommodation or an individual with a disability
18 that are granted by state or federal law with regard to other
19 assistance animals."

20 Section 2. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.