

1 SB10
2 198065-3
3 By Senator Coleman-Madison
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/15/2019

1 SB10

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 21-7-1 to 21-7-9, inclusive, Code
12 of Alabama 1975, relating to the use of service animals; to
13 provide for the rights and responsibilities of an individual
14 with a disability who uses a service animal in a public
15 accommodation or a housing accommodation; to provide criminal
16 penalties for a person who misrepresents the use of a service
17 animal or as a trainer and for denying or interfering with the
18 right of an individual with a disability to use a service
19 animal or the trainer of a service animal to have a service
20 animal in a public accommodation under certain conditions; and
21 in connection therewith to have as its purpose or effect the
22 requirement of a new or increased expenditure of local funds
23 within the meaning of Amendment 621 of the Constitution of
24 Alabama of 1901, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of Alabama of 1901,
26 as amended.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§21-7-1.

4 "(a) It is the policy of this state to encourage and
5 enable the blind, the visually ~~handicapped~~ impaired, and the
6 ~~otherwise~~ physically disabled to participate fully in the
7 social and economic life of the state and to engage in
8 ~~remunerative~~ meaningful employment.

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

11 "(1) HANDLER. Includes an individual with a
12 disability and a trainer.

13 "(2) HOUSING ACCOMMODATION. Any real property or
14 portion thereof which is used or occupied, or intended,
15 arranged, or designed to be used or occupied, as the home,
16 residence, or sleeping place of one or more persons, but may
17 not include any single-family residence, the occupants of
18 which rent, lease, or furnish for compensation not more than
19 one room therein.

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

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

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

14 "(6) PUBLIC ACCOMMODATION. A common carrier,
15 airplane, motor vehicle, railroad train, motor bus, streetcar,
16 boat, or other public conveyance or mode of transportation, a
17 hotel, a timeshare that is a transient public lodging
18 establishment, a lodging place, a place 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. The term does not include air carriers covered by the
23 Air Carrier Access Act of 1986, 49 U.S.C. Section 41705, and
24 by regulations adopted by the United States Department of
25 Transportation to implement that act.

26 "(7) SERVICE ANIMAL. As defined by 28 C.F.R.
27 §35.104, and further defined as an animal that is trained to

1 do work or perform tasks for an individual with a disability.
2 The work done or tasks performed shall be directly related to
3 the disability of the individual and may include, but are not
4 limited to, guiding an individual who is visually impaired or
5 blind, alerting an individual who is deaf or hard of hearing,
6 pulling a wheelchair, assisting with mobility or balance,
7 alerting and protecting an individual who is having a seizure,
8 retrieving objects, alerting an individual to the presence of
9 allergens, providing physical support and assistance with
10 balance and stability to an individual with a mobility
11 disability, helping an individual with a psychiatric or
12 neurological disability by preventing or interrupting
13 impulsive or destructive behaviors, reminding an individual
14 with mental illness to take prescribed medications, calming an
15 individual with post traumatic stress disorder during an
16 anxiety attack, doing other specific work, or performing other
17 special tasks. This shall include a dog owned, used, or in
18 training by any police or fire department, rescue or first
19 response squad, ambulance corps, or search and rescue
20 organization for the purpose of locating criminal and lost
21 persons, or detecting illegal substances, explosives,
22 cadavers, accelerants, or school or correctional facility
23 contraband. A service animal may not be a pet. For the
24 purposes of Sections 21-7-3, 21-7-4, and 21-7-5, the term
25 "service animal" shall be limited to a dog or a miniature
26 horse. The crime-deterrent effect of the presence of an animal
27 and the provision of emotional support, well-being, comfort,

1 or companionship may not constitute work or tasks for the
2 purposes of this definition.

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

4 "a. An owner with a disability who is actually
5 involved in the training process.

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

9 "c. A person having photo identification stating
10 that he or she is an employee, volunteer, agent, or graduate
11 of a school for seeing eye, hearing, service, or guide dogs or
12 an organization generally recognized by agencies involved in
13 the rehabilitation of persons with disabilities as reputable
14 and competent to provide dogs with training, and who is
15 actually involved in the training process.

16 "(9) TRANSIENT PUBLIC LODGING ESTABLISHMENT. Any
17 unit, group of units, dwelling, building, or group of
18 buildings within a single complex of buildings which is rented
19 to guests more than three times in a calendar year for periods
20 of less than 30 days or one calendar month, whichever is less,
21 or which is advertised or held out to the public as a place
22 regularly rented to guests.

23 "§21-7-2.

24 ~~The blind, the visually handicapped, and the~~
25 ~~otherwise physically disabled have~~ An individual with a
26 disability has the same right as ~~the able-bodied~~ a person who
27 is not disabled to the full and free use of the streets,

1 highways, sidewalks, walkways, public buildings, public
2 facilities, and other public places.

3 "§21-7-3.

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

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

18 "(c) This act may not require a person, firm,
19 business, or corporation, or an agent thereof, to modify or
20 provide a vehicle, premises, facility, or service to a higher
21 degree of accommodation than is required for a person who is
22 not disabled.

23 "§21-7-4.

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

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

10 ~~"(c) The work or tasks performed by a service animal~~
11 ~~must be directly related to the handler's disability.~~ (b) A
12 service animal shall be under the control of its handler and
13 shall have a harness, collar, leash, or other tether, unless
14 either the handler is unable because his or her disability
15 prevents him or her from the use of a harness, collar, leash,
16 or other tether, or the use of a harness, collar, leash, or
17 other tether would interfere with the safe, effective
18 performance of work or tasks by the service animal, in which
19 case the service animal shall be otherwise under the control
20 of the handler by means of voice control, signals, or other
21 effective means.

22 ~~"(d) A person training a service animal shall be~~
23 ~~entitled to the same privileges granted to a person with a~~
24 ~~disability pursuant to subsection (b).~~ (c) (1) The trainer of a
25 service animal, while engaged in the training of the animal,
26 has the same rights and privileges with respect to access to
27 areas of public accommodation and the same liability for

1 damage as is provided for an individual with a disability who
2 is accompanied by a service animal.

3 "(2)a. A service animal in training that is a dog
4 shall wear a harness, collar, leash, cape, or backpack that
5 identifies in writing that the dog is a service animal in
6 training.

7 "b. Other service animals in training shall be
8 identifiable by written identification as a service animal in
9 training.

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

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

16 "a. If a trainer is an owner trainer with a
17 disability or a qualified trainer with at least one year's
18 experience training animals.

19 "b. For photo identification stating that the
20 trainer is an employee, volunteer, agent, or graduate of a
21 school for seeing eye, hearing, service, or guide dogs or an
22 organization generally recognized by agencies involved in the
23 rehabilitation of persons with disabilities as reputable and
24 competent to provide dogs with training, and who is actually
25 involved in the training process.

1 "c. What task the animal is being trained to
2 perform, and if the trainer is currently engaged in the
3 training of the animal.

4 "(d) Documentation that the service animal is
5 trained is not a precondition for providing service to an
6 individual accompanied by a service animal.

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

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

13 "(3) A public accommodation may not impose a deposit
14 or surcharge on a trainer or an individual with a disability
15 as a precondition to permitting a service animal to accompany
16 the individual with a disability, even if a deposit is
17 routinely required for pets.

18 "(e) In the case of a ~~disabled child~~ minor with a
19 disability, including a ~~child~~ minor diagnosed on the autism
20 spectrum, any aide assigned to assist the ~~child~~ minor shall be
21 trained with the service animal in basic commands in order to
22 assist the ~~child~~ minor as a team.

23 "(f) ~~This section does not relieve a person~~
24 ~~accompanied by a service animal from liability for any damages~~
25 ~~done to the premises or facilities by the service animal. An~~
26 ~~individual with a disability is liable for damage caused by a~~
27 ~~service animal if it is the regular policy and practice of the~~

1 public accommodation to charge a person who is not disabled
2 for damages caused by a pet.

3 "(g) The care or supervision of a service animal is
4 the responsibility of the individual owner of the service
5 animal.

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

9 "(2) A public accommodation may exclude or remove an
10 animal from the premises, including a service animal, if the
11 animal is out of control and the handler of the animal does
12 not take effective action to control the animal, the animal is
13 not housebroken, or the behavior of the animal poses a direct
14 threat to the health and safety of others.

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

18 "(4) If a service animal is excluded or removed for
19 being a direct threat to others, the public accommodation
20 shall provide the individual with a disability the option of
21 continuing access to the public accommodation without having
22 the service animal on the premises.

23 "(h) A person who knowingly and willfully
24 misrepresents himself or herself, through conduct or verbal or
25 written notice, as using a service animal and being qualified
26 to use a service animal or as a trainer of a service animal is
27 guilty of a Class C misdemeanor, and in addition to any fines

1 and penalties provided by law, shall perform 100 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 "(i) A person convicted of a second or subsequent
7 violation of subsection (h) shall be guilty of a Class B
8 misdemeanor and shall be fined one hundred dollars (\$100).

9 "§21-7-5.

10 ~~"Any person, firm, or corporation, or the agent of~~
11 ~~any person, firm, or corporation, who denies or interferes~~
12 ~~with admittance to or enjoyment of the public facilities~~
13 ~~enumerated in Sections 21-7-2 and 21-7-3 or otherwise~~
14 ~~interferes with the rights of a totally or partially blind or~~
15 ~~otherwise disabled person under Sections 21-7-2 through 21-7-4~~
16 ~~shall be guilty of a misdemeanor.~~

17 "A conspicuous sign may be posted in a location
18 accessible to public view in a place of public accommodation
19 that contains the following, or substantially similar,
20 language:

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

24 "§21-7-6.

25 "(a) The driver of a vehicle approaching a totally
26 or partially blind pedestrian who is carrying a cane
27 predominantly white or metallic in color, with or without a

1 red tip, or using a ~~guide dog~~ service animal, or a person
2 employed by an accredited school for training ~~guide dogs~~ a
3 service animal who provides notice through a sign or other
4 method that he or she is training ~~a dog~~ an animal as a ~~guide~~
5 ~~dog~~ service animal shall take all necessary precautions
6 prescribed by law to avoid injury to the blind pedestrian, ~~and~~
7 or the ~~dog~~ trainer.

8 "(b) (1) A service animal in training that is a dog
9 shall wear a harness, collar, leash, cape, or backpack that
10 identifies in writing that the dog is a service animal in
11 training.

12 "(2) Other service animals in training shall be
13 identifiable by written identification as a service animal in
14 training.

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

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

21 "§21-7-7.

22 "A totally or partially blind pedestrian not
23 carrying a cane as described in Section 21-7-6 or any totally
24 or partially blind person not using a ~~guide dog~~ service animal
25 in ~~any of the places, accommodations, or conveyances listed in~~
26 ~~Sections 21-7-2 and 21-7-3~~ a public accommodation shall have
27 all of the rights and privileges conferred by law upon other

1 persons, and the failure of a totally or partially blind
2 pedestrian to carry ~~such~~ a cane or of a totally or partially
3 blind person to use a ~~guide dog~~ service animal in ~~any such~~
4 ~~places, accommodations, or conveyances shall~~ a public
5 accommodation may not be held to constitute nor be evidence of
6 contributory negligence.

7 "§21-7-8.

8 "It is the policy of this state that ~~the blind, the~~
9 ~~visually handicapped, and the otherwise physically disabled~~ an
10 individual with a disability shall be employed in the state
11 service, the service of the political subdivisions of the
12 state, in the public schools, and in all other employment
13 supported in whole or in part by public funds on the same
14 terms and conditions as ~~the able-bodied~~ a person who is not
15 disabled, and an employer may not refuse employment to an
16 individual with a disability on the basis of his or her
17 disability alone, unless it is shown that the particular
18 disability prevents the satisfactory performance of the work
19 involved.

20 "§21-7-9.

21 "(a) ~~Blind persons, visually handicapped persons,~~
22 ~~and other physically disabled persons~~ An individual with a
23 disability shall be entitled to full and equal access, as are
24 other members of the general public, to ~~all~~ any housing
25 accommodations offered for rent, lease, or compensation in
26 this state, subject to the conditions and limitations
27 established by law and applicable alike to all persons.

1 "~~(b) "Housing accommodations" means any real~~
2 ~~property or portion thereof which is used or occupied or is~~
3 ~~intended, arranged, or designed to be used or occupied as the~~
4 ~~home, residence, or sleeping place of one or more human~~
5 ~~beings, but shall not include any accommodations included~~
6 ~~within subsection (a) of this section or any single-family~~
7 ~~residence, the occupants of which rent, lease, or furnish for~~
8 ~~compensation not more than one room therein.~~

9 "~~(c)~~ (b) Nothing in this section shall require any
10 person renting, leasing, or providing for compensation real
11 property to modify his or her property in any way or provide a
12 higher degree of care for ~~a blind person, visually handicapped~~
13 ~~person, or other physically disabled person~~ an individual with
14 a disability than for a person who is not ~~physically~~ disabled.

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

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

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

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

5 Section 2. Although this bill would have as its
6 purpose or effect the requirement of a new or increased
7 expenditure of local funds, the bill is excluded from further
8 requirements and application under Amendment 621, now
9 appearing as Section 111.05 of the Official Recompilation of
10 the Constitution of Alabama of 1901, as amended, because the
11 bill defines a new crime or amends the definition of an
12 existing crime.

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

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 05-MAR-19

Read for the second time and placed on the calen-
dar with 1 substitute and..... 03-APR-19

Read for the third time and passed as amended 16-APR-19

Yeas 27
Nays 0

Patrick Harris,
Secretary.