

1 SB10
2 195705-1
3 By Senator Coleman-Madison
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/15/2019

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

18 "(a) 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. A person who has
4 a physical or mental impairment, including a physical,
5 sensory, psychiatric, intellectual, or other mental
6 disability, that substantially limits one or more major life
7 activities of the individual.

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

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

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

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

6 "(7) SERVICE ANIMAL. An animal that is trained to do
7 work or perform tasks for an individual with a disability. The
8 work done or tasks performed shall be directly related to the
9 disability of the individual and may include, but are not
10 limited to, guiding an individual who is visually impaired or
11 blind, alerting an individual who is deaf or hard of hearing,
12 pulling a wheelchair, assisting with mobility or balance,
13 alerting and protecting an individual who is having a seizure,
14 retrieving objects, alerting an individual to the presence of
15 allergens, providing physical support and assistance with
16 balance and stability to an individual with a mobility
17 disability, helping an individual with a psychiatric or
18 neurological disability by preventing or interrupting
19 impulsive or destructive behaviors, reminding an individual
20 with mental illness to take prescribed medications, calming an
21 individual with post traumatic stress disorder during an
22 anxiety attack, doing other specific work, or performing other
23 special tasks. 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) TRANSIENT PUBLIC LODGING ESTABLISHMENT. Any
4 unit, group of units, dwelling, building, or group of
5 buildings within a single complex of buildings which is rented
6 to guests more than three times in a calendar year for periods
7 of less than 30 days or one calendar month, whichever is less,
8 or which is advertised or held out to the public as a place
9 regularly rented to guests.

10 "§21-7-2.

11 ~~"The blind, the visually handicapped, and the~~
12 ~~otherwise physically disabled have~~ An individual with a
13 disability has the same right as ~~the able-bodied~~ a person who
14 is not disabled to the full and free use of the streets,
15 highways, sidewalks, walkways, public buildings, public
16 facilities, and other public places.

17 "§21-7-3.

18 ~~"The blind, the visually handicapped, and the~~
19 ~~otherwise physically disabled are~~ (a) An individual with a
20 disability is entitled to full and equal accommodations,
21 advantages, facilities, and privileges ~~of all common carriers,~~
22 ~~airplanes, motor vehicles, railroad trains, motor buses,~~
23 ~~streetcars, boats or any other public conveyances or modes of~~
24 ~~transportation, hotels, lodging places, places of public~~
25 ~~accommodation, amusement or resort, and other places to which~~
26 ~~the general public is invited, subject only to the conditions~~

1 ~~and limitations established by law and applicable alike to all~~
2 ~~persons in every public accommodation.~~

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

6 "(c) This act may not require a person, firm,
7 business, or corporation, or an agent thereof, to modify or
8 provide a vehicle, premises, facility, or service to a higher
9 degree of accommodation than is required for a person who is
10 not disabled.

11 "§21-7-4.

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

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

25 ~~"(c) The work or tasks performed by a service animal~~
26 ~~must be directly related to the handler's disability. (b) A~~
27 ~~service animal shall be under the control of its handler and~~

1 shall have a harness, leash, or other tether, unless either
2 the handler is unable because his or her disability prevents
3 him or her from the use of a harness, leash, or other tether,
4 or the use of a harness, leash, or other tether would
5 interfere with the safe, effective performance of work or
6 tasks by the service animal, in which case the service animal
7 shall be otherwise under the control of the handler by means
8 of voice control, signals, or other effective means.

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

17 "(d) Documentation that the service animal is
18 trained is not a precondition for providing service to an
19 individual accompanied by a service animal.

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

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

26 "(3) A public accommodation may not impose a deposit
27 or surcharge on an individual with a disability as a

1 precondition to permitting a service animal to accompany the
2 individual with a disability, even if a deposit is routinely
3 required for pets.

4 "(e) In the case of a ~~disabled child~~ minor with a
5 disability, including a ~~child~~ minor diagnosed on the autism
6 spectrum, any aide assigned to assist the ~~child~~ minor shall be
7 trained with the service animal in basic commands in order to
8 assist the ~~child~~ minor as a team.

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

16 "(g) The care or supervision of a service animal is
17 the responsibility of the individual owner of the service
18 animal.

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

22 "(2) A public accommodation may exclude or remove an
23 animal from the premises, including a service animal, if the
24 animal is out of control and the handler of the animal does
25 not take effective action to control the animal, the animal is
26 not housebroken, or the behavior of the animal poses a direct
27 threat to the health and safety of others.

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

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

9 "(h) A person who knowingly and willfully
10 misrepresents himself or herself, through conduct or verbal or
11 written notice, as using a service animal and being qualified
12 to use a service animal or as a trainer of a service animal is
13 guilty of a Class C misdemeanor, and in addition to any fines
14 and penalties provided by law, shall perform 30 hours of
15 community service for an organization that serves individuals
16 with disabilities, or for another entity or organization, at
17 the discretion of the court, to be completed in not more than
18 six months.

19 "§21-7-5.

20 ~~"Any~~ A person, firm, or corporation, or the agent of
21 ~~any~~ a person, firm, or corporation, who denies or interferes
22 with admittance to or enjoyment of ~~the public facilities~~
23 ~~enumerated in Sections 21-7-2 and 21-7-3~~ or a public
24 accommodation, or with regard to a public accommodation,
25 otherwise interferes with the rights of ~~a totally or partially~~
26 ~~blind or otherwise disabled person under Sections 21-7-2~~
27 ~~through 21-7-4~~ an individual with a disability or the trainer

1 of a service animal while engaged in the training of the
2 animal pursuant to Section 21-7-4, shall be guilty of a Class
3 C misdemeanor, and in addition to any fines and penalties
4 provided by law, shall perform 30 hours of community service
5 for an organization that serves individuals with disabilities,
6 or for another entity or organization, at the discretion of
7 the court, to be completed in not more than six months.

8 "§21-7-6.

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

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

22 "§21-7-7.

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

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

8 "§21-7-8.

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

21 "§21-7-9.

22 "(a) ~~Blind persons, visually handicapped persons,~~
23 ~~and other physically disabled persons~~ An individual with a
24 disability shall be entitled to full and equal access, as are
25 other members of the general public, to ~~all~~ any housing
26 accommodations offered for rent, lease, or compensation in

1 this state, subject to the conditions and limitations
2 established by law and applicable alike to all persons.

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

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

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

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

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

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

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

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