

1 SB10
2 198065-4
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 ENROLLED, An Act,

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

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 "§21-7-1.

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

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

8 "(1) HANDLER. Includes an individual with a
9 disability and a trainer.

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

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

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

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

11 "(6) PUBLIC ACCOMMODATION. A common carrier,
12 airplane, motor vehicle, railroad train, motor bus, streetcar,
13 boat, or other public conveyance or mode of transportation, a
14 hotel, a timeshare that is a transient public lodging
15 establishment, a lodging place, a place of public
16 accommodation, amusement, or resort, and other places to which
17 the general public is invited, subject only to the conditions
18 and limitations established by law and applicable alike to all
19 persons. The term does not include air carriers covered by the
20 Air Carrier Access Act of 1986, 49 U.S.C. Section 41705, and
21 by regulations adopted by the United States Department of
22 Transportation to implement that act.

23 "(7) SERVICE ANIMAL. As defined by 28 C.F.R.
24 §35.104, and further defined as an animal that is trained to
25 do work or perform tasks for an individual with a disability.

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

1 and the provision of emotional support, well-being, comfort,
2 or companionship may not constitute work or tasks for the
3 purposes of this definition.

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

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

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

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

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

24 "§21-7-2.

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

7 "§21-7-3.

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

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

22 "(c) This act may not require a person, firm,
23 business, or corporation, or an agent thereof, to modify or
24 provide a vehicle, premises, facility, or service to a higher

1 degree of accommodation than is required for a person who is
2 not disabled.

3 "§21-7-4.

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

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

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

1 case the service animal shall be otherwise under the control
2 of the handler by means of voice control, signals, or other
3 effective means.

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

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

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

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

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

1 "a. If a trainer is an owner trainer with a
2 disability or a qualified trainer with at least one year's
3 experience training animals.

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

11 "c. What task the animal is being trained to
12 perform, and if the trainer is currently engaged in the
13 training of the animal.

14 "(d) Documentation that the service animal is
15 trained is not a precondition for providing service to an
16 individual accompanied by a service animal.

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

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

23 "(3) A public accommodation may not impose a deposit
24 or surcharge on a trainer or an individual with a disability
25 as a precondition to permitting a service animal to accompany

1 the individual with a disability, even if a deposit is
2 routinely required for pets.

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

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

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

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

21 "(2) A public accommodation may exclude or remove an
22 animal from the premises, including a service animal, if the
23 animal is out of control and the handler of the animal does
24 not take effective action to control the animal, the animal is

1 not housebroken, or the behavior of the animal poses a direct
2 threat to the health and safety of others.

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

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

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

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

24 "§21-7-5.

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

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

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

15 "§21-7-6.

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

1 "(b) (1) A service animal in training that is a dog
2 shall wear a harness, collar, leash, cape, or backpack that
3 identifies in writing that the dog is a service animal in
4 training.

5 "(2) Other service animals in training shall be
6 identifiable by written identification as a service animal in
7 training.

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

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

14 "§21-7-7.

15 "A totally or partially blind pedestrian not
16 carrying a cane as described in Section 21-7-6 or any totally
17 or partially blind person not using a ~~guide dog~~ service animal
18 in ~~any of the places, accommodations, or conveyances listed in~~
19 ~~Sections 21-7-2 and 21-7-3~~ a public accommodation shall have
20 all of the rights and privileges conferred by law upon other
21 persons, and the failure of a totally or partially blind
22 pedestrian to carry ~~such~~ a cane or of a totally or partially
23 blind person to use a ~~guide dog~~ service animal in ~~any such~~
24 ~~places, accommodations, or conveyances shall~~ a public

1 accommodation may not be held to constitute nor be evidence of
2 contributory negligence.

3 "§21-7-8.

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

16 "§21-7-9.

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

24 "(b) ~~"Housing accommodations" means any real~~
25 ~~property or portion thereof which is used or occupied or is~~

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

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

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

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

23 "(3) A housing accommodation may request proof of
24 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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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB10
Senate 16-APR-19
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 30-MAY-19

By: Senator Coleman-Madison