



Ohio Legislative Service Commission

Bill Analysis

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H.B. 399

128th General Assembly
(As Reported by H. Health)

Reps. Bacon, Derickson, Murray, Gardner, Grossman, Huffman, Evans, J. Adams, Morgan, Coley, Lundy, Sears, R. Adams, Chandler, Stebelton, Beck, Okey, Stautberg

BILL SUMMARY

- Extends certain rights, privileges, and protections associated with the ownership or use of assistance dogs by mobility impaired persons to persons diagnosed with autism or assistance dogs used by persons diagnosed with autism.

CONTENT AND OPERATION

Background: use of assistance dogs by mobility impaired persons

(R.C. 955.011; R.C. 955.16 and 955.43 (not in the bill))

Under current law, a "service dog" is a type of "assistance dog" that has been trained or is in training to assist a mobility impaired person. A "mobility impaired person" is defined as any person, regardless of age, who is subject to a physiological defect or deficiency regardless of its cause, nature, or extent that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. "Mobility impaired person" includes a person with a neurological or psychological disability that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. This term also specifically includes a person with a seizure disorder.

An "assistance dog," under existing law, includes not only service dogs, but also "guide dogs" and "hearing dogs."¹ Owners of assistance dogs, mobility impaired persons who use assistance dogs, and assistance dogs inure certain rights, privileges, and protections, including (1) exemption from dog registration fees, (2) entitlement to full use and enjoyment of all places of public accommodation, (3) protection from physical harm in terms of criminal penalties that apply to persons who assault an assistance dog, (4) protection from harassment in terms of criminal penalties that apply to persons who harass an assistance dog, and (5) protection from theft of an assistance dog in terms of criminal penalties that apply to persons who steal an assistance dog. In addition, nonprofit special agencies engaged in training assistance dogs are entitled to receive, on request after certain holding periods, assistance dogs without the payment of registration fees.

Use of assistance dogs by persons with autism

(R.C. 955.011)

For purposes of the statutes governing assistance dogs, the bill modifies the definition of "mobility impaired person" to specifically include a person who is diagnosed with autism. Thus, an assistance dog (which includes a service dog) also includes a dog trained or in training to assist a person diagnosed with autism. As a result, the bill extends the rights, privileges, and protections discussed above to persons diagnosed with autism and the assistance dogs they use. More specifically, the bill establishes these rights, privileges, and protections as follows:

--Registration fee exemption

Under the bill, an owner of an assistance dog used by a person diagnosed with autism is exempt from any fee for registration on showing proof by certificate or other means that the dog is an assistance dog.²

--Entitlement to full use and enjoyment of all places of public accommodation

The bill provides that a person diagnosed with autism who uses an assistance dog, or a trainer of an assistance dog used by a person diagnosed with autism, is entitled to full and equal accommodations, advantages, facilities, and privileges of all public conveyances, hotels, lodging places, all places of public accommodation,

¹ Current law distinguishes service dogs from guide dogs and hearing dogs. A guide dog is a dog that has been trained or is in training to assist a blind person, while a hearing dog is a dog that has been trained or is in training to assist a deaf or hearing impaired person. (R.C. 955.011(B).)

² R.C. 955.011(A)).

amusement, or resort, all institutions of education, and other places to which the general public is invited.³ Subject to certain conditions, the person diagnosed with autism or the trainer of an assistance dog used by a person diagnosed with autism is authorized to take the dog into these conveyances and places. Anyone who deprives a person diagnosed with autism who uses an assistance dog, or the trainer of such a dog, of any of the advantages, facilities, or privileges discussed above, or charges such a person or trainer a fee for the dog, will be guilty of a misdemeanor of the fourth degree.⁴

--Protection from physical harm

Under the bill, a person who knowingly causes or attempts to cause physical harm to an assistance dog used by a person diagnosed with autism will generally be guilty of the crime of assaulting an assistance dog--a misdemeanor of the second degree--if the offender caused or attempted to cause physical harm (1) when the dog was assisting the person diagnosed with autism at the time the physical harm was caused or attempted, or (2) when the dog was not assisting the person diagnosed with autism at the time the physical harm was caused or attempted, but the offender had actual knowledge that the dog was an assistance dog.⁵ If the violation resulted in serious physical harm to the dog other than its death, however, the violation will be a felony of the fourth degree. If the violation resulted in physical harm to the dog other than death or serious physical harm, the violation will be a misdemeanor of the first degree.⁶

--Harassment of an assistance dog

Under the bill, a person will generally be guilty of the crime of harassing an assistance dog--a misdemeanor of the second degree--for recklessly doing any of the following:

- (1) Taunting, tormenting, or striking an assistance dog used by a person diagnosed with autism;
- (2) Throwing an object or substance at an assistance dog used by a person diagnosed with autism;

³ R.C. 955.43.

⁴ R.C. 955.99(D).

⁵ R.C. 2921.321(C).

⁶ R.C. 2921.321(E)(3).

(3) Interfering with or obstructing an assistance dog used by a person diagnosed with autism, or interfering with or obstructing a person diagnosed with autism who was being assisted or served by an assistance dog, in a manner that (a) inhibited or restricted the autistic person's control of the dog, (b) deprived the autistic person control of the dog, (c) released the dog from its area of control, (d) entered the area of control of the dog without the consent of the autistic person (including placing food or any other object or substance into that area), or (e) inhibited or restricted the ability of the dog to assist the person diagnosed with autism;

(4) Engaging in any conduct that was likely to cause serious physical injury or death to an assistance dog used by a person diagnosed with autism;

(5) If the person diagnosed with autism was the dog's owner, keeper, or harbinger--failing to reasonably restrain the dog from (a) taunting, tormenting, chasing, or approaching in a menacing fashion or apparent attitude of attack, or (b) attempting to bite or otherwise endanger an assistance dog used by a person diagnosed with autism that at the time of the conduct was assisting or serving the autistic person, or that the person knew was an assistance dog used by a person diagnosed with autism.⁷

If the violation resulted in the death of the dog used by a person diagnosed with autism, however, the violation will be a felony of the third degree. If the violation resulted in serious physical harm to the dog other than its death, the violation will be a felony of the fourth degree. If the violation resulted in physical harm to the dog other than death or serious physical harm, the violation will be a misdemeanor of the first degree.⁸

--Theft of an assistance dog

The bill provides that a person who steals an assistance dog used by a person diagnosed with autism and who knew or should have known that the stolen property was an assistance dog used by a person diagnosed with autism will be guilty of a felony of the third degree.⁹

⁷ R.C. 2921.321(D).

⁸ R.C. 2921.321(E)(4).

⁹ R.C. 2913.02(B)(7).

Donation of impounded dogs to nonprofit agencies

(R.C. 955.16(A) and (B) (not in the bill))

Under the bill, nonprofit special agencies engaged in training assistance dogs used by persons diagnosed with autism are entitled to donation of impounded dogs at the request of such agencies and without the payment of registration fees after the expiration of specified minimum holding periods for impounded dogs.

HISTORY

ACTION	DATE
Introduced	12-17-09
Reported, H. Health	05-13-10

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