

House Bill 668 (COMMITTEE SUBSTITUTE)

By: Representatives Thomas of the 21st, Seabaugh of the 34th, Washburn of the 144th,
McCollum of the 30th, Dempsey of the 13th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16, Chapter 4 of Title 30, and Chapter 6 of Title 40 of the Official Code of
2 Georgia Annotated, relating to crimes and offenses, rights of persons with disabilities, and
3 uniform rules of the road, respectively, so as to change references to assistance and guide
4 dogs to service dogs; to provide for definitions and conforming changes; to provide for a
5 criminal penalty for a person who interferes with, causes death, or physical harm to a service
6 dog; to provide for exceptions; to provide for restitution; to revise provisions relating to the
7 use and training of service dogs; to provide for a penalty for persons who misrepresent the
8 need for a service dog; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
13 amended in Chapter 11, relating to offenses against public order and safety, by revising Code
14 Section 16-11-107.1, relating to harassment of assistance dog by humans or other dogs and
15 penalty, as follows:

H. B. 668 (SUB)

16 "16-11-107.1.

17 (a) As used in this Code section, the term:

18 (1) ~~'Assistance dog' means a dog that is or has been trained by a licensed or certified~~
 19 ~~person, organization, or agency to perform physical tasks for a physically challenged~~
 20 ~~person. Assistance dogs include guide or leader dogs that guide individuals who are~~
 21 ~~legally blind; hearing dogs that alert individuals who are deaf or hard of hearing to~~
 22 ~~specific sounds; and service dogs for individuals with disabilities other than blindness or~~
 23 ~~deafness, which are trained to perform a variety of physical tasks, including, but not~~
 24 ~~limited to, pulling a wheelchair, lending balance support, picking up dropped objects, or~~
 25 ~~providing assistance in a medical crisis.~~

26 (2) ~~'Harass' means to engage in any conduct directed toward an assistance a service dog~~
 27 ~~that is knowingly likely to impede or interfere with the assistance service dog's~~
 28 ~~performance of its duties or that places the blind, deaf, or physically limited physically~~
 29 ~~or mentally impaired person being served or assisted by the service dog in danger of~~
 30 ~~injury.~~

31 (3) ~~'Notice' means an oral or otherwise communicated warning proscribing the behavior~~
 32 ~~of another person and a request that the person stop the particular behavior.~~

33 (2) 'Service dog' shall have the same meaning as set forth in Code Section 30-4-1.

34 (b) ~~Any person who knowingly and intentionally harasses or attempts to harass an~~
 35 ~~assistance dog, knowing the dog to be an assistance dog, shall be guilty of a misdemeanor~~
 36 ~~and, upon conviction thereof, shall be punished by imprisonment for not less than 90 days~~
 37 ~~or a fine not to exceed \$500.00, or both.~~

38 (b)(1) A person commits the offense of interfering with a service dog when he or she
 39 knows or should have known the dog to be a service dog and intentionally commits an
 40 act that:

41 (A) Frightens, agitates, harasses, or tampers with the dog;

42 (B) Delays, obstructs, or hinders the dog in the performance of its duty as a service
 43 dog; or

44 (C) Allows his or her dog to harass a service dog.

45 (2) Any person convicted of a violation of this subsection shall be guilty of a
 46 misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to
 47 exceed 12 months, or a fine not to exceed \$1,000.00, or both. Any person who is
 48 convicted of a second or subsequent violation of this subsection shall be punished as for
 49 a misdemeanor of a high and aggravated nature.

50 ~~(c)(1) A Any person who has received notice that his or her behavior is interfering with~~
 51 ~~the use of an assistance dog who continues to harass an assistance dog, knowing the dog~~
 52 ~~to be an assistance dog, commits the offense of harming a service dog when he or she~~
 53 ~~knows or should have known that a dog is a service dog and intentionally commits an act~~
 54 ~~that:~~

55 (A) Causes or is likely to cause physical harm, pain, or suffering to a service dog; or

56 (B) Allows his or her dog to cause physical harm, pain, or suffering to a service dog.

57 (2) Any person convicted of a violation of this subsection shall be guilty of a
 58 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
 59 punished by imprisonment for not less than 90 days six months nor more than 12 months
 60 or a fine not to exceed \$500.00 \$5,000.00, or both, provided that any person who is
 61 convicted of a second or subsequent violation of this subsection shall be punished as for
 62 a misdemeanor of a high and aggravated nature.

63 ~~(d)(1) A Any person who knowingly and intentionally allows his or her dog to harass~~
 64 ~~an assistance dog, knowing the dog to be an assistance dog, shall be guilty of a~~
 65 ~~misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not~~
 66 ~~less than 90 days or a fine not to exceed \$500.00, or both, provided that any person who~~
 67 ~~is convicted of a second or subsequent violation of this subsection shall be punished as~~
 68 ~~for a misdemeanor of a high and aggravated nature. commits the offense of aggravated~~

69 harming of a service dog when he or she knows or should have known that a dog is a
70 service dog and when he or she intentionally commits an act that:

71 (A) Causes the death of the dog; or

72 (B) Injures the dog in a manner that materially affects its ability to perform as a service
73 dog.

74 (2) Any person convicted of a violation of this subsection shall be guilty of a felony and,
75 upon conviction thereof, shall be punished by imprisonment for not less than two nor
76 more than ten years, a fine not to exceed \$50,000.00, or both, and the first two years of
77 such sentence shall not be suspended, probated, deferred, or withheld by a sentencing
78 court; provided, however, that in the court's discretion, the court may depart from such
79 mandatory minimum sentence when the prosecuting attorney and defendant have agreed
80 to a sentence that is below such mandatory minimum.

81 ~~(e) Any person who knowingly and intentionally allows his or her dog to cause death or~~
82 ~~physical harm to an assistance dog by rendering a part of the assistance dog's body useless~~
83 ~~or by seriously disfiguring the assistance dog, knowing the dog to be an assistance dog,~~
84 ~~shall be punished as for a misdemeanor of a high and aggravated nature. In addition to any~~
85 ~~other penalty provided for under this Code section, the court shall order the defendant to~~
86 ~~make restitution pursuant to Article 1 of Chapter 14 of Title 17 to the owner of a service~~
87 ~~dog for the costs of the veterinary expenses incurred in the treatment of such dog and the~~
88 ~~costs of any restorative training necessary to enable the dog to resume its duties.~~
89 ~~Notwithstanding Code Section 17-14-2 to the contrary, restitution when a service dog dies~~
90 ~~or is no longer able to engage in performance of its duties as a result of a violation of this~~
91 ~~Code section shall additionally include the amount of the actual replacement value of the~~
92 ~~service dog, which shall include the value of a dog to replace the service dog and all costs~~
93 ~~associated with training such dog and its handler or handlers.~~

94 (f) Nothing in this Code section shall prohibit the killing or euthanasia of a service dog for
95 humane purposes in a manner consistent with the provisions of Code Section 4-11-5.1.

96 (g) Nothing in this Code section shall prohibit the defense of a person against a service dog
 97 that attacks such person."

98 **SECTION 2.**

99 Said title is further amended in Chapter 12, relating to offenses against public health and
 100 morals, by revising paragraph (6) of subsection (a) of Code Section 16-12-120, relating to
 101 certain acts in public transit buses, rapid rail cars, or stations and penalty, as follows:

102 "(6) Carries or possesses any explosives, acids, other dangerous articles, or live animals,
 103 except for the following:

104 (A) A ~~guide dog or~~ service dog as described in Code Section 30-4-2, provided that
 105 such ~~guide dog or~~ service dog is accompanied by a ~~physically disabled person, blind~~
 106 ~~person, person with visual disabilities, deaf~~ physically or mentally impaired person; or
 107 a person who is responsible for training a ~~guide dog or~~ service dog; and

108 (B) Small pets confined to rigid pet carriers with locks or latches;"

109 **SECTION 3.**

110 Chapter 4 of Title 30 of the Official Code of Georgia Annotated, relating to rights of persons
 111 with disabilities, is amended by revising Code Section 30-4-1, relating to definitions, as
 112 follows:

113 "30-4-1.

114 As used in this chapter, the term:

115 (1) 'Activities of daily living' means tasks that are essential, routine, and provide for an
 116 individual's basic physical needs, including, but not limited to, eating, toileting,
 117 grooming, dressing, shaving, walking, and transferring.

118 (2) 'Housing accommodations' means any real property or portion thereof which is used
 119 or occupied, or intended, arranged, or designed to be used or occupied, as the home,
 120 residence, or sleeping place of one or more human beings but shall not include any

121 single-family residence the occupants of which rent, lease, or furnish for compensation
122 not more than one room therein.

123 ~~(2) 'Physically disabled person' means any person, regardless of age, who is subject to~~
124 ~~a physiological defect or deficiency regardless of its cause, nature, or extent that renders~~
125 ~~the person unable to move about without the aid of crutches, a wheelchair, or any other~~
126 ~~form of support, or that limits the person's functional ability to ambulate, climb, descend,~~
127 ~~sit, rise, or to perform any related function.~~

128 (3) 'Owner training' means training of a dog to become a service dog by an owner who
129 is a physically or mentally impaired person by teaching the dog to perform the specific
130 tasks that directly assist such owner and directly relate to such owner's specific disability
131 and to take a specific action when needed to assist the person.

132 (4) 'Physically or mentally impaired person' means any person, regardless of age, who,
133 regardless of the cause, nature, or extent, is rendered substantially limited or unable to
134 perform one or more activities of daily living as a result of developmental deficiencies,
135 the aging process, learning disabilities, physical injury or disease, cognitive impairments,
136 or psychological or social disabilities.

137 (5) 'Service dog' means any domestic canine that has been individually trained to do
138 work or perform tasks that directly assist a physically or mentally impaired person and
139 directly relate to such person's specific disability and to take a specific action when
140 needed to assist the person, or if still in training, that is operating under the guidance of
141 a trainer. Such term shall not include a dog that has not been trained to do a specific job
142 or task or that solely provides comfort, companionship, or emotional support to a person,
143 regardless of such person's disability status.

144 (6) 'Trainer' means a service dog owner with a disability who is involved in the training
145 process of his or her service dog or an individual who is competent to train service
146 animals and is involved in such processes."

147 **SECTION 4.**

148 Said chapter is further amended by revising Code Section 30-4-2, relating to right to equal
 149 public accommodations and right to be accompanied by guide dog or service dog, as follows:
 150 "30-4-2.

151 (a) Physically or mentally impaired ~~Blind persons, persons with visual disabilities, persons~~
 152 ~~with physical disabilities, and deaf~~ persons are entitled to full and equal accommodations,
 153 advantages, facilities, and privileges on all common carriers, airplanes, motor vehicles,
 154 railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes
 155 of transportation and at hotels, lodging places, places of public accommodation,
 156 amusement, or resort, and other places to which the general public is invited, subject only
 157 to the conditions and limitations established by law and applicable alike to all persons.

158 (b)(1) Every ~~totally or partially blind person shall have the right to be accompanied by~~
 159 ~~a guide dog, and every physically disabled person and every deaf~~ physically or mentally
 160 impaired person shall have the right to be accompanied by a service dog, especially
 161 trained for the purpose, in any of the places listed in subsection (a) of this Code section
 162 without being required to pay an extra charge for the ~~guide or~~ service dog; provided,
 163 however, that he or she shall be liable for any damage done to the premises or facilities
 164 by such service dog. In addition, if such ~~totally or partially blind person, physically~~
 165 ~~disabled person, or deaf~~ physically or mentally impaired person is a student at a private
 166 or public school in this state, such person shall have the right to be accompanied by a
 167 ~~guide dog or~~ service dog subject to liability for damage as provided in the preceding
 168 sentence. ~~The guide dog or service dog must be identified as having been trained by a~~
 169 ~~school for seeing eye, hearing, service, or guide dogs.~~

170 (2) Every person engaged in the training of a ~~guide dog or~~ service dog for the purpose
 171 of accompanying a person as provided in paragraph (1) of this subsection shall have the
 172 same right to be accompanied by such service dog being trained as the ~~totally or partially~~
 173 ~~blind person, deaf person, or physically disabled~~ physically or mentally impaired person

174 has under paragraph (1) of this subsection, so long as such trainer is engaged in owner
175 training or is identified as an agent or employee of a school for ~~seeing eye, hearing,~~
176 ~~service, or guide~~ service dogs.

177 (3) Every person engaged in the raising of a dog for training as a ~~guide dog or~~ service
178 dog for the purpose of accompanying a person as provided in paragraph (1) of this
179 subsection and every physically or mentally impaired person who is engaged in owner
180 training of his or her dog as a service dog shall have the same right to be accompanied
181 by such dog being raised for training or in owner training as the ~~totally or partially blind~~
182 ~~person, deaf person, or physically disabled~~ physically or mentally impaired person has
183 under paragraph (1) of this subsection, so long as:

184 (A) The trainer notifies an onsite manager that a service animal in training is being
185 brought onto the premises;

186 (B) Each trainer or puppy raiser during the training of a service animal is liable for any
187 damage done to persons, premises, or facilities by that service animal in training;

188 (C) Such dog is being held on a leash and is under the control of the person raising
189 such dog for an accredited school for seeing eye, hearing, service, or guide dogs at all
190 times and such control includes that such dog is on a harness, leash, or other tether,
191 unless either the handler is unable because of a disability to use a harness, leash, or
192 other tether, or the use of a harness, leash, or other tether would interfere with the
193 service dog's safe, effective performance of work or tasks, in which case the service dog
194 must be otherwise under the handler's control through the use of voice control, signals,
195 or other effective means;

196 (B) ~~Such person has on his or her person and available for inspection credentials from~~
197 ~~the accredited school for which the dog is being raised; and~~

198 (D) Such dog is at least six months of age and is reliably housebroken; and

199 ~~(C)~~(E) Such dog is wearing a collar, leash, or other appropriate apparel or device that
 200 identifies such dog ~~with the accredited school for which such dog is being raised as~~
 201 being trained as a service dog.

202 (c) If a person engaged in the raising and training of a service dog does not uphold the
 203 requirements of paragraph (3) of subsection (b) of this Code section, then business and
 204 public entities shall have the right to ask the person to remove the service dog in training.
 205 In such instance, the staff of the business or public entity shall offer the person with the
 206 disability the opportunity to obtain goods or services without the animal's presence.

207 (d) Service dogs in training shall have the same rights and protections under the law as
 208 working service dogs.

209 (e) Every totally or partially blind person operating a vending stand shall have the right to
 210 be accompanied by a trained ~~guide~~ service dog on the entire premises of his or her vending
 211 operation."

212 SECTION 5.

213 Said chapter is further amended by revising Code Section 30-4-3, relating to right to housing
 214 accommodations, as follows:

215 "30-4-3.

216 (a) ~~Physically or mentally impaired Blind persons, visually disabled persons, physically~~
 217 ~~disabled persons, and deaf persons~~ shall be entitled to rent, lease, or purchase, as other
 218 members of the general public, all housing accommodations offered for rent, lease, or other
 219 compensation in this state, subject to the conditions and limitations established by law and
 220 applicable alike to all persons.

221 (b) ~~Every totally or partially blind person, every physically disabled person, and every deaf~~
 222 physically or mentally impaired person who has a ~~guide dog or~~ service dog or who obtains
 223 a ~~guide dog or~~ service dog and every person engaged in the training of a ~~guide dog or~~
 224 service dog shall be entitled to full and equal access to all housing accommodations

225 provided for in this Code section, and he or she shall not be required to pay extra
 226 compensation for such ~~guide dog or service dog~~. However, he or she shall be liable for any
 227 damage done to the premises by such ~~guide dog or service dog~~.

228 (c) Nothing in this Code section shall require any person renting, leasing, or otherwise
 229 providing real property for compensation to modify his or her property in any way or
 230 provide a higher degree of care for a ~~blind, visually disabled, physically disabled, or deaf~~
 231 physically or mentally impaired person than for a person who is not ~~so disabled physically~~
 232 or mentally impaired."

233 SECTION 6.

234 Said chapter is further amended by revising Code Section 30-4-4, relating to denial of or
 235 interference with admittance to or enjoyment of facilities or exercise of rights, as follows:

236 "30-4-4.

237 (a) Any person, firm, or corporation, or the agent of any person, firm, or corporation, who
 238 denies or interferes with admittance to or enjoyment of the facilities enumerated in this
 239 chapter or otherwise interferes with the rights of a ~~totally or partially blind person,~~
 240 ~~physically disabled person, or deaf~~ physically or mentally impaired person or person
 241 engaged in the training or raising of a ~~guide dog or service dog~~ as provided by this chapter
 242 shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction
 243 thereof, shall be punished by a fine not to exceed \$2,000.00, ~~imprisonment~~ confinement
 244 for not more than 30 days, or both.

245 (b) Any individual who deliberately misrepresents himself or herself as qualified to use
 246 a service dog or train or raise service dogs for the purpose of obtaining accommodations
 247 or securing rights under this chapter shall be guilty of a misdemeanor of a high and
 248 aggravated nature and, upon conviction thereof, shall be punished by a fine not to
 249 exceed \$2,000.00, confinement for not more than 30 days, or both."

250

SECTION 7.

251 Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to uniform rules
252 of the road, is amended by revising Code Section 40-6-94, relating to right of way of blind
253 pedestrian, as follows:

254 "40-6-94.

255 The driver of every vehicle shall yield the right of way to any blind pedestrian who is
256 carrying a walking cane or stick white in color or white tipped with red or who is
257 accompanied by a ~~guide dog~~ service dog."

258

SECTION 8.

259 All laws and parts of laws in conflict with this Act are repealed.