

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 505

(Delegate Kullen, *et al.*)

Health and Government Operations

Judicial Proceedings

Maryland Service Animal Reform Act - "Gretchen's Law"

This bill replaces references to “service dogs” with references to “service animals” to conform to the Americans with Disabilities Act (ADA), which defines “service animal” as any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability.

The bill repeals the requirement for a disabled person to carry identification under certain circumstances. It requires any organization or agency that requires a professional training program for first responders, emergency shelter operators, and 9-1-1 operators to include a segment on the rights of individuals with disabilities accompanied by service animals.

Fiscal Summary

State Effect: Minimal increase in general fund revenues due to broader application of existing penalty provisions. The Maryland Emergency Management Agency should be able to implement any changes required by the bill within existing resources.

Local Effect: Potential minimal. Revenues could increase minimally for uncontested civil penalties paid to local jurisdictions.

Small Business Effect: Potential minimal.

Analysis

Current Law: Blind, visually impaired, deaf, and hard of hearing individuals have the same rights as nondisabled individuals to the full and free use of roads, sidewalks, public buildings and facilities, and other public places. These individuals are entitled to full and equal rights and privileges with respect to public transportation conveyances, public accommodations, and other places to which the general public is invited, subject only to the generally applied conditions and limitations established by law.

The failure of a blind or visually impaired pedestrian to carry a cane, or a deaf or hard of hearing person to use a service dog in a place, accommodation, or conveyance is not contributory negligence per se. Unless the accommodation or single-family residence only offers one room for compensation, then a blind or visually impaired individual is entitled to the same access as other members of the general public to housing accommodations in the State, subject to any generally applied conditions or limitations. A blind, visually impaired, deaf, or hard of hearing individual who has or wishes to obtain a service dog is entitled to full and equal access to housing accommodations and may not be required to pay extra compensation for the service dog. However, the individual may be held liable for damages to the premises or facilities that the service dog causes.

A blind or visually impaired pedestrian using a service dog and not carrying a cane, a deaf or hard of hearing pedestrian using a service dog that is not wearing an orange collar or tag and is not on a leash, a blind, visually impaired, deaf or hard of hearing pedestrian using a service animal in a public place, accommodation, or conveyance has the same rights as those conferred on nondisabled individuals. These rights also apply to a service dog trainer who is accompanied by a dog that is being trained as a service dog and displays required identification. A mobility impaired individual accompanied by a service dog especially trained for that purpose has the right to be accompanied by the service dog in any place where a blind, visually impaired, deaf, or hard of hearing individual has that same right.

A blind, visually impaired, deaf, hard of hearing, or mobility impaired individual who is accompanied by a service dog, or a service dog trainer with a dog undergoing training must display identification issued by a service dog trainer organization. A dog being trained as a service dog may be excluded from a place where the dog would create a clear danger of disturbance or physical harm to an individual, but otherwise the service dog trainer may be accompanied by a dog that is being trained in any place where a blind, visually impaired, deaf, hard of hearing, or mobility impaired individual has the right to be accompanied by a service dog.

A blind, visually impaired, deaf, hard of hearing, or mobility impaired individual who is accompanied by a service dog, especially trained for that purpose in a place, accommodation, or conveyance may not be required to pay extra compensation for the service dog, but may be liable for any damages to premises or facilities caused by the service dog. A service dog trainer who is accompanied by a dog undergoing training may not be required to pay extra compensation for the dog, but may be liable for any personal injuries or damages to premises or facilities caused by the dog.

A person who denies or interferes with the admittance of a service dog that accompanies a blind, visually impaired, deaf, hard of hearing, or mobility impaired individual is guilty of a misdemeanor and is subject to a maximum fine of \$500 for each offense. A person who denies or interferes with the admittance of a dog being trained as a service dog that accompanies a service dog trainer is subject to a maximum fine of \$25.

A person who denies or interferes with the admittance to or enjoyment of a public place, accommodation, or conveyance or otherwise interferes with the rights of a blind, visually impaired, deaf, or hard of hearing individual is guilty of a misdemeanor and is subject to a maximum fine of \$500 for each offense. A person may maintain a civil action for injunctive relief against a person who denies or interferes with the rights of blind, visually impaired, deaf or hard of hearing persons to enjoy public places, accommodations, or conveyances.

Background: During the recodification of provisions into the proposed Human Services Article, the Human Services Article Review Committee noted for consideration by the General Assembly that references to service “dog” may be too limited. Under the ADA, businesses and organizations that serve the public must allow individuals with disabilities to bring their service animals into all areas where customers are normally allowed. It was recommended that references to service “dog” be broadened to the term service “animal.” While service dogs are the most familiar type of service animal, there are other types of animals that assist people by alerting them to sounds, pulling wheelchairs, assisting with balance, or picking things up for those with mobility impairments. For example, ferrets have been trained to help autistic children, and capuchin monkeys have been trained to help quadriplegics.

According to the American Council of the Blind of Maryland, disabled individuals with guide dogs were refused evacuation during Hurricane Katrina unless they agreed to be separated from their service animals. These incidents indicate that emergency workers may not be aware of the legal protections afforded to service animal users.

The Department of Disabilities advises that the Maryland Fire and Rescue Institute (MFRI) and the Maryland Institute for Emergency Medical Services System (MIEMMS)

already train first responders and 9-1-1 operators in other emergency procedures including evacuation and sheltering. Treatment of service animals is also part of this training. MFRI manages the State's training and education system for emergency services. MFRI researches, develops, and delivers programs to enhance the ability of first responders to protect lives during emergencies. MIEMMS is an independent State agency that oversees and coordinates the statewide emergency medical system in Maryland, including operations, evaluation, and research. MIEMMS is responsible for licensing and regulating commercial ambulance services and designating trauma and specialty care centers.

State Revenues: General fund revenues could increase minimally due to the broader application of monetary penalty provisions for those cases heard in the District Court.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Disabilities, Maryland Emergency Management Agency, American Council of the Blind of Maryland, Americans with Disabilities Act, Northwest ADA/IT Center, autism.about.com, Department of Legislative Services

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