

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 19, 2016
Date

Committee on Public Health Care & Human Services.

After consideration on the merits, the Committee recommends the following:

HB16-1426 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, after line 1, insert:
- 2 **"SECTION 1. Legislative declaration.** (1) The general
3 assembly finds and declares that:
- 4 (a) Service animals that are properly trained to assist persons with
5 disabilities play a vital role in establishing independence for such persons;
- 6 (b) The term "service animal" has a distinct meaning in the law.
7 A service animal means a dog or miniature horse trained to do work or
8 perform tasks for the benefit of an individual with a disability and whose
9 work or task is directly related to the individual's disability. Under the
10 law, the provision of emotional support, well-being, comfort, or
11 companionship does not constitute the work or tasks of a service animal.
- 12 (c) No vest, other marking, or documentation is required for an
13 animal to qualify as a service animal, nor are such vests, markings, or
14 documentation a reliable indication of whether an animal is, by law, a
15 service animal. People sometimes erroneously think that a therapy animal,
16 an emotional support animal, or any animal wearing a vest or having any
17 other type of marking is a service animal as defined by law.
- 18 (d) There are an increasing number of occurrences where people
19 exploit the confusion related to service animals and attempt to bring an
20 animal into a place that it would otherwise not be allowed to enter by
21 passing off a pet, therapy animal, or emotional support animal as a service
22 animal or a service-animal-in-training, either by oral misrepresentation,

1 placing a vest or other marking on the animal, or presenting a
2 "certificate", despite knowing that it is not a service animal;

3 (e) Some companies mislead individuals into believing that they
4 will be entitled to the rights or privileges for individuals with disabilities
5 with service animals if only they buy the company's vests or obtain some
6 type of certificate. These misrepresentations, in some cases, are unlawful
7 deceptive trade practices and compound the confusion around service
8 animals.

9 (f) Commendably, federal and state laws require places of public
10 accommodation, including restaurants, theaters, stores, hospitals, and
11 more, to allow any animal that is presented as a service animal or a
12 service-animal-in-training into the place of public accommodation. These
13 same places of public accommodation face a dilemma when someone
14 enters the premises and intentionally misrepresents his or her animal as
15 a service animal or service-animal-in-training.

16 (g) To respect the privacy of individuals with disabilities,
17 regulations sensibly allow businesses and other places of public
18 accommodation to ask only two questions of a person who is being
19 assisted by an animal in such a place:

20 (I) Is the dog [or miniature horse] a service animal required
21 because of a disability?

22 (II) What work or task has the dog [or miniature horse] been
23 trained to perform?

24 (h) False answers to these two questions harm not only the place
25 of public accommodation and its patrons, but also individuals with
26 disabilities who legitimately rely on service animals. If an animal is not
27 properly trained, the place of public accommodation and its clientele may
28 suffer damages, health issues, injury, or other problems. When people try
29 to falsely represent a non-service animal as a service animal or a
30 service-animal-in-training, business owners and other places of public
31 accommodation become increasingly distrustful that an animal being
32 represented to them as a service animal or service-animal-in-training is,
33 in fact, a service animal or service-animal-in-training. Misrepresentation
34 of service animals delegitimizes the program and makes it harder for
35 persons with disabilities to gain unquestioned acceptance of their
36 legitimate, properly trained, and essential service animals.

37 (2) Therefore, the general assembly finds that the state of
38 Colorado needs to enact a crime of intentional misrepresentation of a
39 service animal for a person with a disability."

- 1 Renumber succeeding sections accordingly.
- 2 Page 2, line 13, strike "DISABILITY." and substitute "DISABILITY OR THE
3 DISABILITY-RELATED NEED FOR THE ANIMAL."
- 4 Page 4, line 12, strike "DISABILITY." and substitute "DISABILITY OR THE
5 DISABILITY-RELATED NEED FOR THE ANIMAL."
- 6 Page 5, line 27, strike "DISABILITY." and substitute "DISABILITY OR THE
7 DISABILITY-RELATED NEED FOR THE ANIMAL."
- 8 Page 7, line 4, strike "18-13-107.5" and substitute "18-13-107.3 and
9 18-13-107.7".
- 10 Page 7, line 6, strike "**18-13-107.5.**" and substitute "**18-13-107.3.**".
- 11 Page 7, lines 19 and 20, strike "SECTION COMMITS A CLASS 1 PETTY
12 OFFENSE AND," and substitute "SECTION,".
- 13 Page 7, line 22, strike the second "A" and substitute "THE PERSON
14 COMMITS A CLASS 2 PETTY OFFENSE WITH A CORRESPONDING FINE OF FIFTY
15 DOLLARS UNLESS THE VIOLATION ENDANGERED ONE OR MORE THIRD
16 PARTIES, IN WHICH CASE THE PERSON IS GUILTY OF A MISDEMEANOR WITH
17 A CORRESPONDING".
- 18 Page 7, line 24, after "OFFENSE," insert "THE PERSON IS GUILTY OF A
19 MISDEMEANOR WITH".
- 20 Page 7, line 26, after "OFFENSE," insert "THE PERSON IS GUILTY OF A CLASS
21 3 MISDEMEANOR WITH".
- 22 Page 8, line 15, strike "PAID;" and substitute "PAID OR THE DEFENDANT
23 HAS FILED A MOTION TO FILE WITHOUT PAYMENT WITH A SUPPORTING
24 FINANCIAL AFFIDAVIT AND THE COURT HAS GRANTED THE MOTION;".
- 25 Page 9, line 4, strike "BUREAU." and substitute "BUREAU UNLESS THE
26 COURT HAS GRANTED THE MOTION SPECIFIED IN SUBPARAGRAPH (II) OF
27 PARAGRAPH (b) OF THIS SUBSECTION (3)".
- 28 Page 10, after line 9 insert:

1 **"18-13-107.7. Intentional misrepresentation of a service**
2 **animal for a person with a disability - penalty - sealing of conviction**
3 **records - definitions.** (1) A PERSON COMMITS INTENTIONAL
4 MISREPRESENTATION OF A SERVICE ANIMAL IF:
5 (a) THE PERSON INTENTIONALLY MISREPRESENTS AN ANIMAL IN HIS
6 OR HER POSSESSION AS HIS OR HER SERVICE ANIMAL OR
7 SERVICE-ANIMAL-IN-TRAINING FOR THE PURPOSE OF OBTAINING ANY OF
8 THE RIGHTS OR PRIVILEGES SET FORTH IN SECTION 24-34-803, C.R.S.; AND
9 (b) THE PERSON KNOWS THAT THE ANIMAL IN QUESTION IS NOT A
10 SERVICE ANIMAL OR SERVICE-ANIMAL-IN-TRAINING.
11 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION,
12 UPON CONVICTION, SHALL BE PUNISHED AS FOLLOWS:
13 (a) FOR A FIRST OFFENSE, THE PERSON COMMITS A CLASS 2 PETTY
14 OFFENSE WITH A CORRESPONDING FINE OF FIFTY DOLLARS UNLESS THE
15 VIOLATION ENDANGERED ONE OR MORE THIRD PARTIES, IN WHICH CASE
16 THE PERSON IS GUILTY OF A MISDEMEANOR WITH A CORRESPONDING FINE
17 OF NOT LESS THAN THREE HUNDRED FIFTY DOLLARS BUT NOT MORE THAN
18 ONE THOUSAND DOLLARS;
19 (b) FOR A SECOND OFFENSE, THE PERSON IS GUILTY OF A
20 MISDEMEANOR WITH A CORRESPONDING FINE OF NOT LESS THAN SIX
21 HUNDRED DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS; AND
22 (c) FOR A THIRD OR SUBSEQUENT OFFENSE, THE PERSON IS GUILTY
23 OF A MISDEMEANOR WITH A CORRESPONDING FINE OF NOT LESS THAN ONE
24 THOUSAND DOLLARS BUT NOT MORE THAN FIVE THOUSAND DOLLARS, IN
25 ADDITION TO NOT MORE THAN TEN HOURS OF COMMUNITY SERVICE.
26 (3) (a) A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE
27 DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE
28 DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL MISREPRESENTATION
29 OF A SERVICE ANIMAL, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION,
30 ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT
31 FOR BASIC IDENTIFYING INFORMATION.
32 (b) IF A PETITION IS FILED PURSUANT TO PARAGRAPH (a) OF THIS
33 SUBSECTION (3) FOR THE SEALING OF A RECORD OF CONVICTION FOR
34 INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL, THE COURT
35 SHALL ORDER THE RECORD SEALED IF THE FOLLOWING CRITERIA ARE MET:
36 (I) THE PETITION IS FILED;
37 (II) THE FILING FEE IS PAID OR THE DEFENDANT HAS FILED A
38 MOTION TO FILE WITHOUT PAYMENT WITH A SUPPORTING FINANCIAL
39 AFFIDAVIT AND THE COURT HAS GRANTED THE MOTION;
40 (III) THE DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL

1 MISREPRESENTATION OF A SERVICE ANIMAL WAS AT LEAST THREE YEARS
2 PRIOR TO THE DATE OF THE FILING OF THE PETITION; AND

3 (IV) THE DEFENDANT HAS NOT HAD A SUBSEQUENT CONVICTION
4 FOR INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL.

5 (c) AN ORDER ENTERED PURSUANT TO THIS SUBSECTION (3) MUST
6 BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART
7 OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER.
8 WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS
9 PURSUANT TO THIS SUBSECTION (3), THE DEFENDANT SHALL PROVIDE THE
10 COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE
11 CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE
12 BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
13 CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU UNLESS
14 THE COURT HAS GRANTED THE MOTION SPECIFIED IN SUBPARAGRAPH (II)
15 OF PARAGRAPH (b) OF THIS SUBSECTION (3). THEREAFTER, THE
16 DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER
17 SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE
18 SEALED.

19 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

21 (a) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
22 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
23 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
24 REGULATIONS.

25 (b) "QUALIFIED INDIVIDUAL WITH A DISABILITY" HAS THE SAME
26 MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES
27 ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED
28 AMENDMENTS AND IMPLEMENTING REGULATIONS.

29 (c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN
30 THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE
31 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
32 12101 ET SEQ.

33 (d) "SERVICE-ANIMAL-IN-TRAINING" MEANS A DOG OR MINIATURE
34 HORSE THAT IS BEING INDIVIDUALLY TRAINED TO DO WORK OR PERFORM
35 TASKS FOR THE BENEFIT OF A QUALIFIED INDIVIDUAL WITH A DISABILITY.

36 (e) "TRAINER OF A SERVICE ANIMAL" MEANS A PERSON WHO IS
37 INDIVIDUALLY TRAINING A SERVICE ANIMAL TO DO WORK OR PERFORM
38 TASKS FOR THE BENEFIT OF A QUALIFIED INDIVIDUAL WITH A DISABILITY.

39 **SECTION 6.** In Colorado Revised Statutes, **add** 24-34-606 as
40 follows:

1 **24-34-606. Public education - service and assistance animals**
2 **- form used in housing.** (1) THE DIVISION IS AUTHORIZED TO EDUCATE
3 THE PUBLIC ABOUT THE DEFINITIONS OF ASSISTANCE AND SERVICE
4 ANIMALS, AS THOSE TERMS ARE DEFINED IN SECTIONS 18-13-107.3 AND
5 18-13-107.7, C.R.S., AND THE RIGHTS THAT ACCOMPANY PEOPLE WITH
6 DISABILITIES WHO USE THOSE ANIMALS. THE DIVISION MAY:
7 (a) USE ITS WEB SITE TO INCLUDE INFORMATION ON HOW A PERSON
8 WITH A DISABILITY CAN COMPLAIN ABOUT DISCRIMINATION ENCOUNTERED
9 IN PLACES OF PUBLIC ACCOMMODATION AND INFORMATION ON THE
10 CRIMINAL PENALTIES FOR MISREPRESENTATION OF A SERVICE OR
11 ASSISTANCE ANIMAL CONTAINED IN SECTIONS 18-13-107.3 AND
12 18-13-107.7, C.R.S.;
13 (b) CREATE AND PUBLICIZE PUBLIC SERVICE ANNOUNCEMENTS
14 ABOUT THE CRIMINAL PENALTIES CONTAINED IN SECTIONS 18-13-107.3
15 AND 18-13-107.7, C.R.S., AND LINKS TO THE DIVISION'S WEBSITE TO
16 ALLOW THE PUBLIC TO ACCESS MORE INFORMATION;
17 (c) CREATE AND PUBLICIZE UNIFORM SIGNAGE FOR ALL PLACES OF
18 PUBLIC ACCOMMODATION TO DISPLAY TO INFORM THE PUBLIC OF THE
19 RULES SURROUNDING ANIMALS IN PUBLIC AND THE CRIMINAL PENALTIES
20 FOR MISREPRESENTATION OF A SERVICE ANIMAL CONTAINED IN SECTIONS
21 18-13-107.3 AND 18-13-107.7, C.R.S.;
22 (d) CREATE AND PUBLICIZE ONE OR MORE FORMS THAT
23 LANDLORDS, QUALIFIED INDIVIDUALS WITH A DISABILITY, AND HEALTH
24 CARE PROVIDERS MAY USE IN MAKING A DETERMINATION CONTEMPLATED
25 BY SECTION 12-36-142, 12-38-132.5, OR 12-43-226.5, C.R.S.; AND
26 (e) ESTABLISH A TRAINING PROGRAM FOR ALL LAW ENFORCEMENT
27 OFFICERS IN COLORADO TO INFORM THEM ON THE CRIMINAL PENALTIES
28 CONTAINED IN SECTIONS 18-13-107.3 AND 18-13-107.7, C.R.S., AND HOW
29 TO PROVIDE EFFECTIVE COMMUNICATION TO PEOPLE WITH DISABILITIES
30 WHEN MAKING INQUIRIES UNDER APPLICABLE LAW.
31 (2) IF A LANDLORD REQUIRES A TENANT TO PROVIDE
32 DOCUMENTATION IN CONNECTION WITH THE TENANT'S ASSISTANCE
33 ANIMAL, AS THAT TERM IS DEFINED IN SECTION 18-13-107.3, C.R.S., THE
34 LANDLORD SHALL PROVIDE THE TENANT WITH THE FORM SPECIFIED IN
35 PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION IF THE DIVISION HAS
36 POSTED THE FORM ON ITS WEBSITE."

37 Renumber succeeding section accordingly.

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