
UNFINISHED BUSINESS

Bill No: SB 774
Author: Hertzberg (D)
Amended: 8/29/22
Vote: 21

PRIOR VOTES NOT RELEVANT

ASSEMBLY FLOOR: Not available

SUBJECT: Pets and veterinary services: emotional support dogs

SOURCE: Los Angeles Homeless Services Authority

DIGEST: This bill exempts individuals who are verified to be homeless from a requirement under existing law that individuals have a 30-day existing relationship with a health care practitioner before being able to obtain a certification for an emotional support dog.

Assembly Amendments create a new bill.

ANALYSIS:

Existing federal law:

- 1) Establishes the American with Disabilities Act (ADA), which prohibits discrimination against individuals with disabilities in areas of employment, transportation, public accommodations and more, as specified. (42 United States Code §12101 et seq.)
- 2) States that that individuals with disabilities be permitted to be accompanied by their service animals in all areas of a public entity's facilities where members of the public are allowed to go. (28 CFR § 35.136(g))
- 3) Defines "Continuum of Care and Continuum" to mean the group organized to carry out the responsibilities required under the Federal Continuum of Care Program, that is composed of representatives of organizations, including

nonprofit homeless providers, victim service providers, faith-based organizations, governments, business, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons to the extent these groups are represented within the geographic area and available to participate. (16 CFR § 578.3)

- 4) Defines the “homeless management information system (HMIS)” to mean the information system designated by the Continuum of Care to comply with the HMIS requirements prescribed by Housing and Urban Development regulations. (16 CFR § 578.3)

Existing state law:

- 1) Requires a person or business that sells or provides a dog for use as an emotional support dog to provide a written notice to the buyer or recipient of the dog that states the following:
 - a) The dog does not have the special training required to qualify as a guide, signal, or service dog;
 - b) The dog is not entitled to the rights and privileges accorded by law to a guide, signal, or service dog; and,
 - c) Knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation, as specified. (Health and Safety Code (HSC) § 12237(a))
- 2) Requires a person or business that sells or provides a certificate, identification, tag, vest leash, or harness for an emotional support dog to provide a written notice to the buyer or recipient that includes specified information. (HSC § 12237(b))
- 3) Prohibits a healthcare practitioner from providing documentation relating to an individual’s need for an emotional support dog unless the healthcare practitioner complies with the following criteria:
 - a) Possesses an active professional license, as specified;
 - b) Is licensed to provide professional services within the scope of the license in the jurisdiction in which the documentation is provided;

- c) Establishes a client-provider relationship with the individual for at least 30 days prior to providing the documentation requested regarding the individual's need for an emotional support dog;
 - d) Completes a clinical evaluation of the individual regarding the need for an emotional support dog;
 - e) Provides a verbal or written notice to the individual that knowingly and fraudulently representing oneself to be the owner or trainer of a guide, signal, or service dog is a misdemeanor, as specified. (HSC § 122318(a))
- 4) States that a healthcare practitioner may be subject to discipline from the health care practitioner's licensing board for a violation of 3) above. (HSC 122318(c))
 - 5) Defines an "emotional support dog" to mean a dog that provides emotional, cognitive, or other similar support to an individual with a disability, and that does not need to be trained or certified. (HSC § 122319.5(b))
 - 6) Defines a "guide dog" as a dog that has been trained or is being trained to assist blind or visually impaired individuals. (Business and Professions Code (BPC) § 7201)
 - 7) Defines a "signal dog" as a dog trained to alert an individual who is deaf or hard of hearing to intruders or sounds. (Penal Code § 365.5(e) and Civil Code § 54.1(b)(6)(B)(ii))
 - 8) Defines a "service dog" as a dog trained individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items. (Penal Code § 365.5(f) and Civil Code § 54.1(b)(6)(B)(iii))

This bill:

- 1) Exempts the requirement that a healthcare provider establish a client-provider relationship of 30 days or more for an individual verified to be homeless when seeking documentation relating to an individual's need for an emotional support dog, as specified.
- 2) States that homelessness status can be verified by the following:
 - a) Identification through the local Homeless Management Information System, as defined in the Code of Federal Regulations;

- b) Via a continuum of care, as defined in the Code of Federal Regulations; or a homeless service provider that is contracting with a continuum of care; or,
- c) Visual confirmation by a homeless services provider of an individual's dwelling in a homeless shelter, homeless encampment outdoor makeshift shelter, or vehicle.

Background

In 2021, the Legislature passed and Governor Newsom signed AB 468 (Friedman, Chapter 168, Statutes of 2021) into law. That bill aimed to address concerns of emotional support dogs being identified and/or treated as service dogs, which are defined separately under California law and are afforded different accommodations. To help alleviate confusion for consumers and individuals obtaining emotional support dogs, AB 468 required information about the different protections afforded to “service, signal and guide” dogs be provided to consumers in the process of obtaining an emotional support dog. The required information also includes a notice that fraudulently representing oneself to be the owner or trainer of a guide, service or signal dog is a misdemeanor violation. In addition, similar notifications are required for a person or business that provides a certificate, tag, vest, leash or harness for an emotional support dog to provide a notice to the buyer that the material does not entitle the emotional support dog to the rights and privileges afforded to a guide, signal or service dog.

AB 468 required a person to obtain documentation from a health care practitioner about their need for an emotional support dog. In addition to the requirement that the health care practitioner be licensed, AB 468 also required the healthcare practitioner and the individual to have an established client-provider relationship of at least 30 days prior to providing the documentation related to that individual's need for an emotional support dog. AB 468 was specific in that it is applicable only to emotional support dogs.

Although AB 468 has only been in effect since January 1, 2022, concerns have been raised because of the requirement that an individual and health care practitioner have a 30-day relationship prior to the issuance of a certification.

As noted by the author, “local homeless services agencies, such as the Los Angeles Homeless Services Authority (LAHSA) and numerous nonprofit providers, began to experience challenges moving people into shelter. Emergency housing programs like Project Roomkey required unhoused individuals to have an emotional support animal certification for their animal companions. As these opportunities require fast turnaround, homeless service providers typically reach out to health care

practitioners for help to provide day-of certifications. After the passage of AB 468, health care practitioners could no longer sign off on individuals ‘certification without working with these clients for at least 30 days prior. Homeless service agencies are then forced to scramble to find alternative housing placements, which is not often possible.” Specifically, this bill exempts the requirement for a 30-day patient-health care practitioner relationship for individuals who are verified to be homeless.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

This bill is keyed fiscal by Legislative Counsel.

SUPPORT: (Verified 8/30/22)

Los Angeles Homeless Services Authority (source)

OPPOSITION: (Verified 8/30/22)

None received

ARGUMENTS IN SUPPORT: Los Angeles Homeless Services Authority writes in support and notes, “This [bill] will help house homeless individuals more quickly since many interim housing placements require an [emotional support animal] certification in order to bring an animal companion into shelters.”

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