

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE DRH70167-RF-3 (2/2)

Short Title: Update Disability Statutes/Service Animals.

(Public)

Sponsors: Representative Gibson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE LANGUAGE OF CHAPTER 168 OF THE GENERAL  
STATUTES REGARDING PERSONS WITH DISABILITIES AND TO CLARIFY  
THE LAW ALLOWING SERVICE ANIMALS IN TRAINING TO ACCESS  
PUBLIC FACILITIES AND CONVEYANCES WHEN ACCOMPANIED BY A  
PERSON WHO TRAINS SERVICE ANIMALS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 168 of the General Statutes reads as rewritten:

**"Chapter 168.**

**"Handicapped Persons. Persons with Disabilities.**

"Article 1.

"Rights.

**"§ 168-1. Purpose and definition.**

The State shall encourage and enable ~~handicapped~~ persons with disabilities to participate fully in the social and economic life of the State and to engage in remunerative employment. ~~The definition of "handicapped persons" shall include those individuals with physical, mental and visual disabilities. For the purposes of this Article the definition of "visually impaired" in G.S. 111-11 shall apply. For purposes of this Article, the term "person with a disability" shall have the same meaning as set forth in G.S. 168A-3(7a).~~

**"§ 168-2. Right of access to and use of public places.**

~~Handicapped persons~~ Persons with disabilities have the same right as ~~the able-bodied persons without disabilities~~ to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and all other buildings and facilities, both publicly and privately owned, which serve the public. The Department of Health and Human Services shall develop, print, and promote the publication ACCESS NORTH CAROLINA. It shall make copies of the publication available to the

1 Department of Commerce for its use in Welcome Centers and other appropriate  
2 Department of Commerce offices. The Department of Commerce shall promote  
3 ACCESS NORTH CAROLINA in its publications (including providing a toll-free  
4 telephone line and an address for requesting copies of the publication) and provide  
5 technical assistance to the Department of Health and Human Services on travel  
6 attractions to be included in ACCESS NORTH CAROLINA. The Department of  
7 Commerce shall forward all requests for mailing ACCESS NORTH CAROLINA to the  
8 Department of Health and Human Services.

9 **"§ 168-3. Right to use of public conveyances, accommodations, etc.**

10 ~~The handicapped and physically disabled~~ Persons with disabilities are entitled to  
11 accommodations, advantages, facilities, and privileges of all common carriers,  
12 airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other  
13 public conveyances or modes of transportation; hotels, lodging places, places of public  
14 accommodation, amusement or resort to which the general public is invited, subject  
15 only to the conditions and limitations established by law and applicable alike to all  
16 persons.

17 **"§ 168-4.2. May be accompanied by service animal.**

18 ~~(a) Every mobility impaired person, as defined in this section, visually impaired~~  
19 ~~person, as broadly defined to include visual disability, hearing impaired person, as~~  
20 ~~defined in G.S. 8B 1(2), or person with a seizure disorder has the right to be~~  
21 ~~accompanied by a service animal especially trained for the purpose of providing~~  
22 ~~assistance to a person with the same impairing condition as the person wishing to be~~  
23 ~~accompanied.~~ Every person with a disability has the right to be accompanied by a  
24 service animal trained to assist the person with their specific disability in any of the  
25 places listed in G.S. 168-3, and has the right to keep the service animal on any premises  
26 the person leases, rents, or uses. The person qualifies for these rights upon the showing  
27 of a tag, issued by the Department of Health and Human Services, under G.S. 168-4.3,  
28 stamped "NORTH CAROLINA SERVICE ANIMAL PERMANENT  
29 REGISTRATION" and stamped with a registration number, or upon a showing that the  
30 animal is being trained or has been trained as a service animal. The service animal may  
31 accompany a person in any of the places listed in G.S. 168-3 but may not occupy a seat  
32 in any of these places. G.S. 168-3. The service animal may accompany that animal's  
33 trainer during training sessions in any of the places listed in G.S. 168-3.

34 ~~A mobility impaired person is a person with a physiological deficiency, regardless of~~  
35 ~~its cause, nature, or extent, that renders the individual unable to move about without the~~  
36 ~~aid of crutches, a wheelchair, or other form of support, or that limits the person's~~  
37 ~~functional ability to ambulate, climb, descend, sit, rise, or perform any other related~~  
38 ~~function.~~

39 (b) An animal in training to become a service animal may be taken into any of  
40 the places listed in G.S. 168-3 for the purpose of training when the animal is  
41 accompanied by a person who is training the service animal and the animal wears a  
42 collar and leash, harness, or cape that identifies the animal as a service animal in  
43 training. The trainer shall be liable for any damage caused by the animal while using a

1 public conveyance or on the premises of a public facility or other place listed in  
2 G.S. 168-3.

3 **"§ 168-4.3. Training and registration of service animal.**

4 The Department of Health and Human Services, shall adopt rules for the registration  
5 of service animals and shall issue registrations to a ~~visually impaired person, a hearing~~  
6 ~~impaired person, a mobility impaired person, or a person with a seizure disorder~~ person  
7 with a disability who makes application for registration of an animal that serves as a  
8 service ~~animal.~~ animal or to a person who is training an animal as a service animal.

9 The rules adopted regarding registration shall require that the animal be trained or  
10 be in training as a service animal ~~by an appropriate agency, animal, and that the~~ The  
11 rules shall provide that the certification and registration be permanent need not be  
12 renewed while the animal is serving or training with the person applying for the  
13 registration.~~for the particular animal and need not be renewed while that particular~~  
14 ~~animal serves the person applying for registration as a service animal.~~ No fee may be  
15 charged the person for the application, registration, tag, or replacement in the event the  
16 original is lost. The Department of Health and Human Services may, by rule, issue a  
17 certification or accept the certification issued by the appropriate training facilities.

18 **"§ 168-4.4. Responsibility for service animal.**

19 ~~The visually impaired person, hearing impaired person, mobility impaired person, or~~  
20 ~~person with a seizure disorder~~ Neither a person with a disability who is accompanied  
21 by a service ~~animal~~ animal, nor a person who is training a service animal, may ~~not~~  
22 be required to pay any extra compensation for the animal. The person has all the  
23 responsibilities and liabilities placed on any person by any applicable law when that  
24 person owns or uses any animal, including liability for any damage done by the animal.

25 **"§ 168-4.5. Penalty.**

26 It is unlawful to disguise ~~a dog as an assistance dog, or to deprive a visually~~  
27 ~~impaired person, a hearing impaired person, or a mobility impaired person~~ an animal as  
28 a service animal or service animal in training. It is unlawful to deprive a person with a  
29 disability or a person training a service animal of any rights granted the person pursuant  
30 to G.S. 168-4.2 through G.S. 168-4.4, or of any rights or privileges granted the general  
31 public with respect to being accompanied by ~~dogs,~~ animals or to charge any fee for the  
32 use of the ~~assistance dog.~~ service animal. Violation of this section shall be a Class 3  
33 misdemeanor.

34 **"§ 168-4.6. Donation of dogs for training.**

35 Dogs impounded by a local dog warden that are not redeemed shall be donated to a  
36 nonprofit agency engaged in the training of ~~assistance~~ service dogs, upon the agency's  
37 request.

38 **~~"§ 168-5. Traffic and other rights of persons using certain canes.~~**

39 ~~The driver of a vehicle approaching a visually impaired pedestrian who is carrying a~~  
40 ~~cane predominantly white or silver in color (with or without a red tip) or using a guide~~  
41 ~~dog shall take all necessary precautions to avoid injury to such pedestrian.~~

42 **"§ 168-8. Right to habilitation and rehabilitation services.**

43 ~~Handicapped persons~~ A person with a disability shall be entitled to such habilitation  
44 and rehabilitation services as available and needed for the development or restoration of

1 their capabilities to the fullest extent possible. Such services shall include, but not be  
2 limited to, education, training, treatment and other services to provide for adequate  
3 food, clothing, housing and transportation during the course of education, training and  
4 treatment. ~~Handicapped persons~~ A person with a disability shall be entitled to these  
5 rights subject only to the conditions and limitations established by law and applicable  
6 alike to all persons.

7 **"§ 168.9. Right to housing.**

8 Each ~~handicapped~~ person with a disability who is a citizen shall have the same right  
9 as any other citizen to live and reside in residential communities, homes, and group  
10 homes, and no person or group of persons, including governmental bodies or political  
11 subdivisions of the State, shall be permitted, or have the authority, to prevent any  
12 ~~handicapped~~ person with a disability who is a citizen, ~~on the basis of his or her~~  
13 ~~handicap,~~ citizen from living and residing in residential communities, homes, and group  
14 homes on the same basis and conditions as any other citizen. Nothing herein shall be  
15 construed to conflict with provisions of Chapter 122C of the General Statutes

16 **"§ 168-10. Eliminate discrimination in treatment of ~~handicapped and disabled~~  
17 persons with disabilities.**

18 Each ~~handicapped person~~ person with a disability shall have the same consideration  
19 as any other person for individual accident and health insurance coverage, and no  
20 insurer, service corporation, multiple employer welfare arrangement, or health  
21 maintenance organization subject to Chapter 58 of the General Statutes solely on the  
22 basis of the person's ~~handicap,~~ disability, shall deny such coverage or benefits. The  
23 availability of coverage or benefits shall not be denied solely because of the ~~handicap;~~  
24 disability; however, any such insurer may charge the appropriate premiums or fees for  
25 the risk insured on the same basis and conditions as insurance issued to other persons, in  
26 accordance with actuarial and underwriting principles and other coverage provisions  
27 prescribed in Chapter 58 of the General Statutes. No insurer, service corporation,  
28 multiple employer welfare arrangement, or health maintenance organization subject to  
29 Chapter 58 of the General Statutes shall be prohibited from excluding by waiver or  
30 otherwise, any preexisting conditions from coverage as prescribed in  
31 G.S. 58-51-15(a)(2)b.

32 "Article 2.

33 "Vocational Rehabilitation.

34 **"§ 168-14. Vocational rehabilitation services for deaf persons.**

35 The Department of Health and Human Services shall promote the employment of  
36 deaf persons in this State. The Department shall assist deaf persons whose disability  
37 limits employment opportunities in obtaining gainful employment commensurate with  
38 their abilities and in maintaining such employment.

39 The Department, in furtherance of these objectives, shall maintain statistics  
40 regarding trades and occupations in which deaf persons are employed.

41 The Department shall attempt to employ deaf persons in its vocational rehabilitation  
42 services for deaf persons and shall have at least one deaf person so employed.

43 "Article 3.

44 "Family Care Homes.

1 **"§ 168-20. Public policy.**

2 The General Assembly has declared in Article 1 of this Chapter that it is the public  
3 policy of this State to provide ~~handicapped~~—persons with disabilities with the  
4 opportunity to live in a normal residential environment.

5 **"§ 168-21. Definitions.**

6 As used in this Article:

7 (1) "Family care home" means a home with support and supervisory  
8 personnel that provides room and board, personal care and habilitation  
9 services in a family environment for not more than six resident  
10 ~~handicapped persons.~~ persons with disabilities.

11 (2) ~~"Handicapped person"~~ "Person with disabilities" means a person with  
12 a temporary or permanent physical, emotional, or mental disability  
13 including but not limited to mental retardation, cerebral palsy,  
14 epilepsy, autism, hearing and sight impairments, emotional  
15 disturbances and orthopedic impairments but not including mentally ill  
16 persons who are dangerous to others as defined in G.S. 122C-3(11)b.

17 **"§ 168-22. Family care home; zoning and other purposes.**

18 (a) A family care home shall be deemed a residential use of property for zoning  
19 purposes and shall be a permissible use in all residential districts of all political  
20 subdivisions. No political subdivision may require that a family care home, its owner, or  
21 operator obtain, because of the use, a conditional use permit, special use permit, special  
22 exception or variance from any such zoning ordinance or plan; provided, however, that  
23 a political subdivision may prohibit a family care home from being located within a  
24 one-half mile radius of an existing family care home.

25 (b) A family care home shall be deemed a residential use of property for the  
26 purposes of determining charges or assessments imposed by political subdivisions or  
27 businesses for water, sewer, power, telephone service, cable television, garbage and  
28 trash collection, repairs or improvements to roads, streets, and sidewalks, and other  
29 services, utilities, and improvements.

30 **"§ 168-23. Certain private agreements void.**

31 Any restriction, reservation, condition, exception, or covenant in any subdivision  
32 plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of  
33 property which would permit residential use of property but prohibit the use of such  
34 property as a family care home shall, to the extent of such prohibition, be void as  
35 against public policy and shall be given no legal or equitable force or effect."

36 **SECTION 2.** This act is effective when it becomes law.