

STORAGE NAME: h3147s1.ca

DATE: February 10, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3147

RELATING TO: Dog Guides and Service Dogs

SPONSOR(S): Rep. Heyman

COMPANION BILL(S): SB 136

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME AND PUNISHMENT YEAS 7 NAYS 0
 - (2) COMMUNITY AFFAIRS YEAS 6 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill expands the coverage of the second degree misdemeanor offense of interfering with a disabled person's rights under s. 413.08(2), F.S., by including trainers of dog guides and service dogs. Thus, under the bill, a public establishment is subject to a second degree misdemeanor if it excludes a trainer of dog guides and service dogs from lawfully entering its premises. A second-degree misdemeanor is punishable by potential imprisonment in jail not exceeding 60 days, and a potential fine not exceeding \$500.

Also, the bill conforms current law relating to the roles, responsibilities, and technical matters (such as the composition and term limits) of the Advisory Council for the Blind to federal law.

Implementation of this bill does not appear to have a fiscal impact on the Departments of Corrections, Community Affairs, or Labor and Employment Security.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 413.08(1), F.S., provides that the deaf, hard of hearing, blind, visually handicapped, and otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges on common carriers and other public modes of transportation, hotels, places of public accommodation, amusement, and other places to which the general public is invited, subject only to lawful limitations applicable to all persons. In addition, such **disabled persons have the right to be accompanied by a specially trained guide dog or service dog in any of these enumerated places**, as long as the animal can be easily identified as a special service animal.

Section 413.08(2), F.S., makes it a second degree misdemeanor for any person, firm, or corporation, or any agent of such entities, to deny or interfere with such disabled person's admittance to or enjoyment of the previously mentioned public facilities, or to otherwise interfere with their rights under this section. (A second degree misdemeanor is punishable by potential imprisonment in jail not exceeding 60 days, and a potential fine not exceeding \$500 under sections 775.082 and 775.083, F.S.)

Section 413.08(7), F.S., provides that any trainer of a guide dog or service dog, while engaged in training such dogs has the same rights and privileges with respect to access to public facilities as a disabled person, and the same liability for damage as is applied to the physically disabled. However, the criminal penalty provision in s. 413.08(2), F.S., does not specifically cover interference with the right's of a trainer while engaged in training.

Section 413.011(2), F.S., creates within the Department of Labor and Employment Security (department) the Advisory Council for the Blind (council). The nine member council advises the director of the department's Division of Blind Services (division). The members are appointed by the Secretary of Labor and Employment Security for a 4-year term.

Under existing state law, the council is not expressly required to prepare or submit any types of reports or plans relevant to its creation. However, the division advises that the council has continued to operate under current federal law that does require certain reports and other similar documents.

Current law prohibits persons employed by the state from membership on the council. The department believes that this provision is too restrictive as it unduly restricts the pool of potential council members. Consequently, the department states that this provision should be changed especially since the prohibition is not required by either the council's by-laws or federal law.

According to the Department of Labor and Employment Security, states are not eligible for federal financial assistance under the federal Vocational Rehabilitation Act of 1973 (act), as amended unless they establish a state rehabilitation advisory council. The United States Congress amended the act in 1992 that included changes to more clearly define the roles and responsibilities of states' rehabilitation advisory councils. However, Florida's relevant existing law does not reflect these federal changes.

B. EFFECT OF PROPOSED CHANGES:

The bill expands the coverage of the second degree misdemeanor offense of interfering with a disabled person's rights under s. 413.08(2), F.S., by including trainers of guide dogs and service dogs while engaged in the training of such dogs. Thus, under the bill, a public establishment would be subject to a second degree misdemeanor if it excludes a trainer of dog guides and service dogs from lawfully entering its premises. A second-degree misdemeanor is punishable by potential imprisonment in jail not exceeding 60 days, and a potential fine not exceeding \$500.

In addition, the bill conforms the current roles, responsibilities, and technical matters of the Advisory Council for the Blind (council) to the latest changes in federal law. Specifically, the bill clarifies the council's role to help the Division of Blind Services in the planning and development of statewide rehabilitation programs and services. It expressly provides for the council's reporting and planning responsibilities as required under federal law (See Application of Principle, section C(1)(a)(2) below, for more details).

Technically, the bill changes the membership from nine to 13. It also increases the number of blind members required on the council from at least three to a majority. The council members' terms are reduced from four years to three years and the Governor must appoint council members. The bill deletes the prohibition against state employees being members of the council. Thereby, allowing the broadest base possible to make membership selections.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Section 1 of the bill could, minimally, increase enforcement activity of local law enforcement units when such violations occur and are reported.

At first glance, it might appear that Section 2 of the bill requires new reporting responsibilities of the Advisory Council for the Blind (council). However, this is not the case. Technically, the reporting requirements are not new. According to the division, the council is currently complying with the bill's expressed reporting requirements because these same requirements are currently federally prescribed. The council must follow and continues to follow federal law even though state law does not yet

conform to federal law. The council's reporting requirements required by federal law are:

- A review and analysis of the effectiveness of, and consumer satisfaction with certain public and private entities responsible for performing vocational rehabilitation services and functions for blind individuals;
- An annual report on the status of vocational rehabilitation services for the blind to the Governor and the commissioner of the Rehabilitative Services Administration, as established under the federal Rehabilitative Act; and
- A resource plan.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Section 1 of the bill requires private business to accommodate the presence of persons training dog guides and service dogs for training purposes. Under Section 2 of the bill, the Advisory Council for the Blind may indirectly influence and encourage the state and its citizens to allow, where reasonable, blind individuals to become more self-sufficient.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 413.08, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 413.08, F.S., to expand the coverage of the second degree misdemeanor offense to protect the legal rights of trainers of dog guides and service dogs as set forth in chapter 413, F.S.

Section 2: Amends s. 413.011, F.S., to conform with the 1992 changes made in the federal Rehabilitative Act of 1973, as amended.

Section 3: Provides an effective date of July 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

It is anticipated that there will be an insignificant or no fiscal impact resulting from the implementation of this bill. To date, the Criminal Justice Estimating Conference (conference) has not met on this bill. Although this bill involves criminal penalties, it is unlikely that the conference would review it. The conference routinely considers high profile and/or controversial bills with obvious fiscal impact and this bill does not appear to fall in such a category.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Section 1 of the bill is exempt from the mandates provision because the bill provides a criminal penalty. The remainder of the bill does not require cities or counties to spend money or take action that requires expenditures of money

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 4, 1998, the House Committee on Community Affairs adopted one amendment to HB 3147 and adopted a Committee Substitute. The difference between the bill as filed and the Committee Substitute is that the amendment conforms state law with federal law relating to the Advisory Council for the Blind. Chapter 413, F.S., does not currently conform to the federal Rehabilitation Act of 1973, as amended.

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VII. SIGNATURES:

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