
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 169 **Hearing Date:** June 11, 2019
Author: Lackey
Version: February 28, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Guide, Signal, and Service Dogs: Injury or Death*

HISTORY

Source: California Council for the Blind

Prior Legislation: AB 1865 (Lackey), 2018, vetoed
AB 1824 (Chang), 2016, vetoed
AB 1951 (Salas), 2016, failed passage in Assembly Appropriations
AB 2264 (Levine), Ch. 502, Stats. 2014
AB 1801 (Pavley), Ch. 322, Stats. 2004

Support: American Society for the Prevention of Cruelty to Animals; Association of Regional Center Agencies; California Council of the Blind; Canine Companions for Independence; Child & Family Center; Disability Rights California; Golden State Guide Dog Handlers, Inc.; Guide Dogs for the Blind; Guide Dogs of America; Guide Dog Users, Inc.; Helping Hands for the Blind; Independent Living Center of Kern County; International Association of Assistance Dog Partners; Lighthouse for the Blind; My Assistance Dog Inc.; Society for the Blind; multiple individuals

Opposition: None known

Assembly Floor Vote: 72 - 0

PURPOSE

The purpose of this bill is to expand the crime of causing injury to or the death of, any guide, signal, or service dog, and adds the medical expenses and lost wages of the owner to the existing list of recoverable restitution costs.

Existing law establishes that it is a crime for a person to permit a dog that is owned, harbored, or controlled by the person to cause injury to, or the death of, a guide, signal, or service dog while the guide, signal, or service dog is in discharge of its duties. (Pen. Code, § 600.2 (a).)

Existing law states a violation in this section is an infraction punishable by a fine not to exceed \$250 if the injury or death to any guide, signal, or service dog is caused by the person's failure to exercise ordinary care in the control of their dog. (Pen. Code, § 600.2 (b).)

Existing law states in any case in which a defendant is convicted of a violation of this section is a misdemeanor if the injury or death to any guide, signal, or service dog is caused by the person's reckless disregard in the exercise of control over his or her dog, under circumstances that constitute such a departure from the conduct of a reasonable person as to be incompatible with a proper regard for the safety and life of any guide, signal, or service dog. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year, or by a fine of not less than \$2500 nor more than \$5000, or both. (Pen. Code, § 600.2 (c).)

Existing law states that in any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the person with a disability who has custody or ownership of the guide, signal, or service dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. (Pen. Code, § 600.2 (d).)

Existing law establishes that any person who intentionally causes injury to or the death of any guide, signal, or service dog, while the dog is in discharge of its duties, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$10,000, or by both a fine and imprisonment. (Pen. Code, 600.5 (a).)

Existing law states in any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the person with a disability who has custody or ownership of the dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. (Pen. Code, 600.5 (b).)

Existing law authorizes a person with a disability whose dog has been injured or killed in violation of either crime to apply for compensation from the California Victim Compensation Board in an amount not to exceed \$10,000. (Gov. Code, §§ 13955, subd. (f)(4) & 13957, subd. (a)(10); and Pen. Code, §§ 600.5, subd. (b) & 600.2, subd. (d).)

Existing law defines "guide dog" as any guide dog that was trained by a licensed person, as specified, or as defined under the regulations implementing the Americans with Disabilities Act. (Civil Code § 54.1 (b)(6)(C)(i).)

Existing law defines "signal dog" as "any dog trained to alert an individual who is deaf or hearing impaired to intruders or sounds." (Civil Code § 54.1 (b)(6)(C)(ii).)

Existing law defines "service dog" as "any dog individually trained to the requirements of the individual with a disability including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items." (Civil Code § 54.1 (b)(6)(C)(iii).)

This bill deletes from specified crimes against guide, signal, or service dogs the requirement that the dog be in discharge of its duties when the injury or death occurs.

This bill requires a defendant convicted of these crimes to also make restitution to the person for medical or medical-related expenses, or for loss of wages or income.

This bill states that a peace officer enforcing this section shall remain at the crime scene until an animal control officer is present if a guide, signal, or service dog has been injured or killed by another dog.

This bill defines the following for the purposes of this section:

- 1) “Guide, signal, or service dog” means a guide dog, signal dog, or service dog, established within Civil Code Section 54.1. “Guide, signal, or service dog” also includes a dog enrolled in a training school or program, located in this state, for guide, signal or service dogs.
- 2) “Located in this state” includes the training of a guide, signal, or service dog that occurs in this state, even if the training school or program is located in another state.
- 3) “Loss of wages or income” means wages or income that are lost by the person with a disability as a direct result of a violation of this section.
- 4) “Replacement costs” means all costs that are incurred in the replacement of the guide, signal, or service dog, including, but not limited to, the training costs for a new dog, if needed, the cost of keeping the now-disabled dog in a kennel while the handler travels to receive the new dog, and, if needed, the cost of the travel required for the handler to receive the new dog.

COMMENTS

1. Need for This Bill

According to the author:

Currently in California, it is a crime for any person to cause injury or death to any guide, signal, or service dog, while the guide, signal, or service dog is in active service. However, this law does not protect service animals in every respect.

The protections stated do not extend to service dogs in training, nor do they apply to those not actively fulfilling their duties as a service animal. If an off-duty animal is harmed or killed, the owner is often left without the help of their service dog. Without the aid of service animals, the independence of the owners is put on hold. Members of the disabled community are likely to miss work, get injured, or be unable to complete everyday tasks while trying to get through without their service animal.

This legislation will enable victims to receive restitution for any lost wages or medical expenses incurred while they are without the service of their guide, signal, or service dog and would extend the protections that already exist for on-duty dogs, to off-duty animals as well.

2. Governor’s Veto Message of AB 1865 of 2018

AB 1865 (Lackey), of the 2017-2018 legislative session, was substantially similar to this bill and was vetoed.

In his veto message, Governor Brown said:

[This bill] expands the scope of several crimes without commensurate evidence that this is needed. Moreover, the existing provisions allowing compensation for crimes against service dogs have been in place for over three years and have not resulted in a single eligible claim. No claim has been denied because a dog was not in the performance of its duties at the time of a crime-the subject matter of this ‘Replacement costs’ means all costs that are incurred in the replacement of the guide, signal, or service dog, including, but not limited to, the training costs for a new dog, if needed, the cost of keeping the now-disabled dog in a kennel while the handler travels to receive the new dog, and, if needed, the cost of the travel required for the handler to receive the new dog. Accordingly I don't believe the proposed changes are warranted.

3. The Cost of Injury to Guide and Service Dog

If a guide dog must be retired due to injury or death, the cost, in both economic and human terms, is significant. According to Guide Dogs of America, which provides specially bred and trained dog guides for blind persons, “Formal training takes four to six months with the instructor. Then, each guide dog and their blind partner will spend three weeks in class learning to work together as a team.” As far as economic costs, according to The Seeing Eye Dog, “[T]he cost incurred by the guide dog school to breed, raise and train a replacement guide dog and to instruct the blind person to work with a new dog well exceeds \$50,000. (See, 2011 Dog Attack and Interference Survey United States Report, <http://www.seeingeye.org/assets/pdfs/dog-attack-survey.pdf>).

4. Changes to Provisions for Crimes Against a Guide/Signal/Service Dog

This bill expands crimes against a guide/signal/service dog by eliminating a provision that requires the dog to be in the discharge of their duties at the time of their injury or death. This bill also expands to include dogs in a training school.

This bill also expands restitution to include medical or medical-related expenses of the person with the disability, loss of wages or income, the cost of keeping the now-disabled dog in a kennel while the handler travels to receive the new dog, and the cost of the travel required for the handler to receive the new dog.

Lastly, this bill requires peace officers to remain at the crime scene until an animal control officer is present.

5. Related Legislation

AB 415 (Maienschein) authorizes the California Victim Compensation Board to reimburse as part of eligible relocation costs both a pet deposit and any additional rent required because the victim has a pet. AB 415 is pending hearing in Senate Public Safety.

6. Argument in Support

According to the American Council of the Blind:

Currently in California, it is a crime for any person to cause injury or death to any service dog, while the service dog is in active service. However, this does not protect service dogs in every respect.

It makes no difference to a person who is blind who relies on a service dog whether their service dog is injured or killed in service, in training, or off duty. A person who is blind is faced with the same loss of independence, and placed at a greater risk of injury, without the aide of their service dog. As a result, a person who is blind may incur lost wages, and increased expenses related to the injury or loss of their service dog, and the service dog's ability to perform its vital functions.

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