
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 1865 **Hearing Date:** May 15, 2018
Author: Lackey
Version: April 2, 2018
Urgency: No **Fiscal:** Yes
Consultant: MK

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

HISTORY

Source: California Council of the Blind

Prior Legislation: AB 1824 (Chang) Vetoed 2015
AB 2264 (Levine) Chapter 502, Stats. 2014
AB 1801 (Pavley) – Ch. 322, Stats. 2004

Support: American Association for the Deaf and Blind; American Society for the Prevention of Cruelty to Animals; Canine Companions for Independence; Disability Rights California; Golden State Guide Dog Handlers, Inc.; Guide Dogs for the Blind; Guide Dogs of America; Guide Dog Users; Lighthouse for the Blind and Visually Impaired; National Federation of the Blind of California; Northern California Association of the DeafBlind; Inc.; Paws'itive Teams; Pro-Train Innovative Dog Training; Society for the Blind

Opposition: California Public Defenders Association

Assembly Floor Vote: 68 - 0

PURPOSE

The purpose of this bill is to expand the situations in which an individual can be charged with causing injury to, or the death of, any guide, signal, or service dog, and adds the medical bills and lost wages of the owner to the existing list of recoverable restitution costs.

Existing law states that a 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 for up to one year, or by a fine not exceeding \$10,000, or by both a fine and imprisonment. (Penal Code § 600.5 (a).)

Existing law provides that a defendant convicted of personally causing injury or death to a guide, signal, or service dog must pay restitution for any veterinary bills, replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. (Penal Code, § 600.5 (b).)

Existing law makes it a crime for a person to allow a dog owned or controlled by him or her to cause injury to or the death of any guide, signal, or service dog, while the dog is discharging its duties punishable as follows: (Penal Code § 600.2 (a).)

- If a violation is caused by the person’s failure to exercise ordinary care in the control of his or her dog, then it is punishable as an infraction; or (Penal Code, § 600.2 (b).)
- If a violation is caused by the person’s reckless disregard in controlling his or her dog, then it is punishable as a misdemeanor. (Penal Code § 600.2 (c).)

Existing law provides that if a defendant is convicted of allowing his or her dog to cause injury or death to a guide, signal, or service dog, then he or she must pay restitution for any veterinary bills, replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. (Penal Code § 600.2 (d).)

Existing law authorizes a person with a disability whose dog has been injured or killed in violation of either crime to apply for compensation by the California Victim Compensation Board in an amount not to exceed \$10,000. (Penal Code §§ 600.5 (b) & 600.2 (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 makes these crimes applicable to the injury or death of dogs that are enrolled in a training school or program for guide, signal, or service dogs, as specified.

This bill defines “located in this state” to include the training of guide, signal or service dogs that occurs in this state but where the training school or program is located in another state.

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.

COMMENTS

1. Need for This Bill

According to the author:

Currently, it is a crime for any individual to intentionally attack or allow their animal to attack a guide or service dog while the dog is in performance of its duties. However, there are situations where a guide or service dog may temporarily be off-duty, such as if a dog handler removes a harness to allow the dog to relieve itself. Unfortunately, under current law, these guide and service dogs and their handlers are not legally protected from damaging attacks in these off-duty moments. Though the guide or service dog may not be actively providing service, the dog’s

value to the handler does not diminish. These animals go beyond monetary value by providing a service which countless members of the disabled community depend on. AB 1865 will provide protections to guide or service dogs regardless of whether or not it is in discharge of its duties, ensuring that a handler will receive restitution for any loss of wages or medical expenses incurred as a result of an attack on his or her guide or service dog. AB 1865 will eliminate vulnerability in current law by making it a crime to attack a guide or service dog regardless of whether or not it is in discharge of its duties. This legislation will enable victims, who often lose their independence as a result of these attacks, to hold attackers accountable.

2. 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>.)

3. Changes to Provisions for Crimes Against a Guide Dog

Existing law makes it a wobblette for any person to permit any dog to attack a guide dog and a misdemeanor for any person to intentionally cause injury or death to a guide dog. This bill deletes the requirement from both provisions that the dog be in the discharge of the duties at the time of the injury or death and includes dogs that are enrolled in a training school. It also provides that restitution includes medical or medical-related expenses and loss wages that are a direct result of a violation.

4. Governor’s Veto Message

AB 1824 (Chang), of the 2015-2016 legislative session, like this bill, would have expanded the definition of a guide, signal or service dog, and would have added an owner's medical bills and lost wages to the existing list of recoverable restitution costs. AB 1824 also lowered the standard for convicting an individual who causes injury or death to such a dog.

In his veto message, the Governor said:

Lowering the mens rea standard for one of the misdemeanors covered by this measure expands the scope of the current penal code which already is convoluted and unnecessarily complex. I believe that existing law provides an adequate deterrent and sufficient punishment.

The veto message did not address the provisions relating to restitution or to expanding the crime to include dogs in training and dogs which were not discharging their duties at the time of the crime.

5. Argument in Support

In support Disability Rights California states:

We appreciate the author’s recognition that the death or injury to a guide, signal, or service dog is a significant loss to the person who relies on the dog for assistance. This is true regardless of whether death or injury occurs while the dog is “working.”

Notwithstanding the tremendous emotional and personal loss experienced by a person whose dog is killed or injured there is also a loss of a person’s lifeline to work and community. The law should recognize the severity of this loss to the dog’s owner, which can be as devastating and incapacitating as it would be if the dog has been discharging its duties as the time.

6. Argument in Opposition

The California Public Defender’s Association opposes this bill because “there currently exists a variety of criminal laws and penalties that would address the behavior sought to be prohibited...”

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