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Chapter No. 341
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HOUSE BILL NO. 944

Originated in House _____ Clerk

HOUSE BILL NO. 944

AN ACT TO AMEND SECTION 43-6-153, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "TRAUMATIC," "POST TRAUMATIC STRESS DISORDER," "SUPPORT ANIMAL" AND "SUPPORT ANIMAL TRAINER" IN THE MISSISSIPPI SUPPORT ANIMAL ACT; TO AMEND SECTION 43-6-155, MISSISSIPPI CODE OF 1972, TO INCLUDE VETERANS DIAGNOSED WITH POST TRAUMATIC STRESS DISORDER IN THE QUALIFYING LIST OF DISABILITIES AND IMPAIRMENTS FOR WHICH AN INDIVIDUAL MAY BE PROVIDED THE USE OF A SUPPORT ANIMAL; TO BRING FORWARD SECTIONS 37-7-342, 43-6-1, 43-6-3, 43-6-5, 43-6-7, 43-6-9, 63-3-1111, 77-8-31 AND 99-43-101, MISSISSIPPI CODE OF 1972, WHICH RELATE TO CERTAIN DISABILITIES AND SERVICE ANIMALS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-6-153, Mississippi Code of 1972, is amended as follows:

43-6-153. The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Mobility impaired person" means any person, regardless of age, who is subject to a physiological defect or deficiency regardless of its cause, nature, or extent that renders the person unable to move about without the aid of crutches, a

wheelchair or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or to perform any related function.

(b) "Blind" means either of the following:

(i) Vision 20/200 or less in the better eye with proper correction.

(ii) Field defect in the better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than twenty (20) degrees.

(c) "Traumatic event" means a life-threatening event such as military combat, natural disaster, terrorist incident, serious accident or violent personal assault of a physical or sexual nature that occurred while an individual was on active duty or deployment as a member of the United States Armed Services.

(d) "Post traumatic stress disorder" or PTSD means an anxiety disorder that occurs following the experience of a frightening, distressing or traumatic event or from witnessing a traumatic event. PTSD is also referred to as "post traumatic stress syndrome" or PTSS.

(e) "Support animal" means an animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work

done or task performed must be directly related to the individual's disability and may include, but not be limited to:

(i) Guiding individuals who are visually impaired or blind;

(ii) Alerting individuals who are hearing impaired or deaf to an intruder or sounds;

(iii) Providing minimal protection or rescue work;

(iv) Pulling a wheelchair;

(v) Fetching dropped items;

(vi) Detecting the onset of a seizure, and alerting and protecting individuals having a seizure;

(vii) Retrieving objects;

(viii) Alerting an individual to the presence of allergens;

(ix) Providing physical support and assistance with balance and stability to an individual with a mobility disability;

(x) Helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors;

(xi) Reminding an individual with mental illness to take prescribed medication;

(xii) Calming an individual with post traumatic stress disorder during an anxiety attack; or

(xiii) Doing other specific work or performing other special tasks.

The term "support animal" includes service animals, guide animals, seeing-eye animals, hearing-ear animals, therapeutic animals, comfort animals and facility animals. However, the term "support animal" does not mean an animal considered a pet, and is limited to a dog or miniature horse.

(f) "Support animal trainer" means a person who trains or raises support animals for individuals with disabilities, whether the person is a professional trainer, or serving as a volunteer with a professional trainer.

SECTION 2. Section 43-6-155, Mississippi Code of 1972, is amended as follows:

43-6-155. (1) Any blind person, mobility impaired person, armed services veteran diagnosed with PTSD or hearing impaired person who uses a * * * support animal specifically trained as a guide, leader, listener or for any other necessary assistance * * * in day-to-day activities shall be entitled to the full and equal accommodations, advantages, facilities and privileges of all public conveyances, hotels, lodging places, businesses open to the public for the sale of any goods or services and all places of public accommodation, amusement, or resort and other places to which the general public is invited, and may take the * * * support animal into conveyances and places,

subject only to the conditions and limitations applicable to all persons not so accompanied, except that:

(a) The * * * support animal shall not occupy a seat in any public conveyance.

(b) The * * * support animal shall be upon a leash or otherwise sufficiently restrained in a manner appropriate for the animal while using the facilities of a common carrier.

(2) Support animal trainers * * * shall have the same rights of accommodations, advantages, facilities and privileges with support animals-in-training as those provided to blind persons, mobility impaired * * * persons, hearing impaired persons or veterans diagnosed with PTSD with support animals under this section.

(3) No person shall deprive a blind person, mobility impaired person, hearing impaired person, veteran diagnosed with PTSD or a support animal trainer of any of the advantages, facilities or privileges provided in this section, nor charge such blind person, mobility impaired * * * person, hearing impaired person, veteran diagnosed with PTSD or support animal trainer a fee or charge for the use of the animal.

SECTION 3. Section 37-7-342, Mississippi Code of 1972, is brought forward as follows:

37-7-342. (1) The Legislature recognizes the necessity of school districts to provide reasonable accommodations to students and licensed employees of a school district who are diagnosed with

debilitating illnesses or disabilities, including, but not limited to, diabetes and epilepsy.

(2) The school board of any school district shall authorize the use, in all district facilities and property, of service or assistance dogs which have been specifically trained to alert people of symptoms or conditions resulting from a debilitating illness or disability that threaten their health.

(3) In providing accommodations for students, the parent of a child with such illness or disability, the teacher or teachers of the student and the appropriate school administrator shall meet and develop a written 504 Plan consistent with the provisions of Chapter 23, Title 37, Mississippi Code of 1972, that would permit the use of service dogs in the school facility. Also, in providing accommodations for students, the teacher or teachers of the student and the appropriate school administrator shall develop a plan designed to educate other students of the appropriate behavior in the presence of such dogs, as well as the proper handling of such dogs in the presence of those students who may have an allergic reaction to the dog and the reasonable care to be taken in efforts to prevent contact by students who are allergic with such dogs.

SECTION 4. Section 43-6-1, Mississippi Code of 1972, is brought forward as follows:

43-6-1. As used in this article, "blind," "totally blind," "visually handicapped," and "partially blind" mean having central

visual acuity not to exceed 20/200 in the better eye, with corrected lenses as measured by the Snellen test, or having visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than twenty (20) degrees.

As used in this article, "deaf person" means a person who cannot readily understand spoken language through hearing alone with or without a hearing aid, and who may also have a speech defect which renders his speech unintelligible to most people with normal hearing.

SECTION 5. Section 43-6-3, Mississippi Code of 1972, is brought forward as follows:

43-6-3. Blind persons, visually handicapped persons, deaf persons and other physically disabled persons shall have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

SECTION 6. Section 43-6-5, Mississippi Code of 1972, is brought forward as follows:

43-6-5. Blind persons, visually handicapped persons, deaf persons and other physically disabled persons shall be entitled to full and equal access, as are other members of the general public, to accommodations, advantages, facilities and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats or any other public conveyances or

modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

SECTION 7. Section 43-6-7, Mississippi Code of 1972, is brought forward as follows:

43-6-7. Every totally or partially blind person and every deaf person shall have the right to be accompanied by a guide dog or hearing ear dog on a blaze orange leash, especially trained for the purpose, in any of the places specified in Section 43-6-5 without being required to pay an extra charge for the guide dog or hearing ear dog on a blaze orange leash. However, such person shall be liable for any damage done to the premises or facilities by such dog.

SECTION 8. Section 43-6-9, Mississippi Code of 1972, is brought forward as follows:

43-6-9. A totally or partially blind pedestrian or deaf person shall have all the rights and privileges conferred by law upon other persons in any of the places, accommodations, or conveyances specified in Sections 43-6-3 and 43-6-5, notwithstanding the fact that such person is not carrying a predominantly white cane (with or without a red tip), or using a guide dog or hearing ear dog on a blaze orange leash. The failure of a totally or partially blind person or deaf person to carry

such a cane or to use such a guide dog or hearing ear dog on a blaze orange leash shall not constitute negligence per se.

SECTION 9. Section 63-3-1111, Mississippi Code of 1972, is brought forward as follows:

63-3-1111. (1) Whenever a pedestrian is crossing or attempting to cross a public street or highway, at or near an intersection or crosswalk, guided by a guide dog or carrying in a raised or extended position a cane or walking stick which is metallic or white in color, or white tipped with red, the driver of every vehicle approaching in said intersection or crosswalk shall take such precautions as may be necessary to avoid injuring or endangering such pedestrian, and if injury or danger to such pedestrian can be avoided only by bringing his vehicle to a full stop, he shall bring his said vehicle to a full stop. The word "vehicle," when used in this section, does not include a train operated on railroad tracks.

(2) Nothing contained in this section shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways. The failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick or to be guided by a guide dog upon the streets, highways or sidewalks of this state, shall not be held to constitute or be evidence of contributory negligence.

(3) It shall be unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is metallic or white in color, or white tipped with red.

(4) The violation of any provision of this section shall be punishable by a fine of not more than Twenty-five Dollars ($25.00) or by imprisonment in the county jail for not more than ten (10) days.

SECTION 10. Section 77-8-31, Mississippi Code of 1972, is brought forward as follows:

77-8-31. (1) The transportation network company shall adopt a policy of nondiscrimination with respect to riders and potential riders and notify transportation network company drivers of the policy.

(2) Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against riders or potential riders.

(3) Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.

(4) A transportation network company shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

SECTION 11. Section 99-43-101, Mississippi Code of 1972, is brought forward as follows:

99-43-101. (1) The following terms have the meanings ascribed:

(a) "Child" means any individual under the age of eighteen (18) years of age who must testify in any legal or criminal proceeding.

(b) "Proceeding," "criminal proceeding" or "legal proceeding" means:

(i) Any criminal hearing, criminal trial or other criminal proceeding in the circuit or county court in which a child testifies as a victim of a crime or as a witness as to a material issue; or

(ii) A youth court proceeding in which a child testifies as a victim of a crime or delinquent act or as a witness to a crime or delinquent act.

(2) In any proceeding in which a child testifies, a child shall have the following rights to be enforced by the court on its own motion or upon motion or notice of an attorney in the proceeding:

(a) To be asked questions in a manner a child of that age can reasonably understand, including, but not limited to, a child-friendly oath.

(b) To be free of nuisance, vexatious or harassment tactics in the proceeding.

(c) To have present in the courtroom and in a position clearly visible in close proximity to the child, a support person, if the support person is not a witness in the proceeding.

(d) To have the courtroom or the hearing room adjusted to ensure the comfort and protection of the child.

(e) To have the relaxation of the formalities of the proceedings in an effort to ensure the comfort of the child.

(f) To permit a properly trained facility animal or comfort item or both to be present inside the courtroom or hearing room.

(g) To permit the use of a properly constructed screen that would permit the judge and jury in the courtroom or hearing room to see the child but would obscure the child's view of the defendant or the public or both.

(h) To have a secure and child-friendly waiting area provided for the child during court proceedings and to have a support person stay with the child while waiting.

(i) To have an advocate or support person inform the court about the child's ability to understand the nature of the proceedings, special accommodations that may be needed for the child's testimony, and any other testimony relevant to any of the rights set forth in this section.

(3) In circumstances where a defendant in a proceeding has chosen to proceed without counsel, the court may appoint standby counsel for that party and may order standby counsel to question a

child on behalf of the pro se party if the court finds that there is a substantial likelihood that emotional harm would come to the child if the pro se party were allowed to question the child directly.

(4) (a) If the child is the victim of a crime, the court shall ensure that all steps necessary to secure the physical safety of the child, both in the courtroom and during periods of time that the child may spend waiting for court, have been taken.

(b) The court and all attorneys involved in a proceeding involving a child shall not disclose to any third party any discovery, including, but not limited to, the personal information of the child including the child's name, address and date of birth, any and all interviews of the child, and any other identifying information of a child. Upon written motion by a party, the court may authorize by written order the production of any discovery to a third party, if the third party agrees to maintain the security and nondisclosure of the discovery and return the discovery to the party upon conclusion of the case. The court shall enforce any violations of this section through its contempt powers.

(c) In any proceeding in which a child is alleged to have been emotionally, sexually, or physically abused, the child shall be given notice of all pretrial discovery motions, and the notice must be given in sufficient time to allow the guardian ad

litem or counsel for the child to file any pleadings deemed appropriate to that situation.

(5) (a) In a proceeding involving an alleged offense against a child, the prosecuting attorney, the child's attorney, the child's parent or legal guardian, or the guardian ad litem may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape and by stenographic means.

(b) The court shall make a preliminary finding as to whether, at the time of trial, the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, or public for any of the following reasons:

(i) The child will be unable to testify because of fear.

(ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

(iii) The child suffers a mental or other infirmity or medical condition which could potentially prevent the child from being present to testify at the trial.

(iv) Conduct of the defendant or defense counsel may cause or already has caused the child to be unable to testify or continue to testify out of fear or emotional distress.

(c) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in

paragraph (b) of this subsection (5), the court shall order that the child's deposition be taken and preserved by videotape and stenographic means.

(d) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are:

(i) The prosecuting attorney or attorneys;

(ii) The attorney or attorneys for the defendant;

(iii) The child's attorney or attorneys and guardian ad litem;

(iv) Persons necessary to operate the videotape equipment; and

(v) Other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

(e) (i) If the court finds the child is unable to testify in open court, based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is

conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that two-way closed-circuit television equipment be used as provided in Section 13-1-405.

(ii) The complete record of the examination of the child, including the image and voices of all persons who in any way participated in the examination, shall be made and preserved on videotape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours.

(f) If, at the time of trial, the court finds that the child is unable to testify for a reason described in subsection (5)(b), the court may admit into evidence the child's videotaped deposition in lieu of the child's testimony at trial. The court's ruling must be supported by findings on the record.

(g) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

(h) In connection with the taking of a videotaped deposition, the court may enter a protective order for the purpose

of protecting the privacy or emotional well-being of the child or for any other purposes.

(i) The videotape of a deposition taken under this paragraph shall be destroyed five (5) years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal, including Supreme Court review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

SECTION 12. This act shall take effect and be in force from and after July 1, 2018.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 1, 2018.

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
February 28, 2018

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

March 8, 2018
10:40 AM