

BILL ANALYSIS

Senate Research Center
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H.B. 4164
By: Cortez et al. (Whitmire)
Criminal Justice
5/17/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over the last few years, there has been an increase in reports of non-disabled people misrepresenting their dogs as service animals to obtain the benefits provided to individuals with disabilities. For example, some people attempt to pass off their pets as service dogs to circumvent breed restrictions and avoid paying a pet deposit at their apartment. Moreover, others attempt to bring their dogs into restaurants and other business establishments.

As a result of these attempts to pass off pets as service animals, business owners and employees have become increasingly distrustful that an animal represented as a service dog is, in fact, a legitimate service animal. Consequently, people with disabilities who legitimately need a service animal have been aggressively questioned or kicked out of establishments by employees and business owners.

H.B. 4164 revises provisions relating to the improper use of assistance animals in order to deter future offenders from exploiting the disabled by ensuring their actions are adequately addressed and punished.

H.B. 4164 revises provisions on the offense of improper use of assistance animals by:

- changing the conduct constituting the offense from using a service animal with a harness or leash of the type commonly used by persons with disabilities who use trained animals, in order to falsely represent that his or her animal is a specially trained service animal to intentionally or knowingly representing that an animal is an assistance animal or service animal when the animal is not specially trained or equipped to help a person with a disability;
- by accordingly renaming the offense as improper use of assistance and service animals; and
- by raising the cap on the amount of the fine for the offense from \$300 to \$1,000.

The bill subjects a person who habitually abuses or neglects to feed or otherwise neglects to properly care for the person's service animal to seizure of the animal under Health and Safety Code provisions relating to the disposition of cruelly treated animals.

H.B. 4164 amends current law relating to the improper use and treatment of an assistance animal or service animal and increases a criminal penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 121.006, Human Resources Code, as follows:

Sec. 121.006. New heading: IMPROPER USE OF ASSISTANCE AND SERVICE ANIMALS; OFFENSE. (a) Provides that a person commits an offense if the person intentionally or knowingly represents that an animal is an assistance animal or a service

animal when the animal is not specially trained or equipped to help a person with a disability. Provides that an offense under this subsection is a misdemeanor punishable by certain penalties, including a fine of not more than \$1,000. Deletes existing text providing that a person who uses a service animal with a harness or leash of the type commonly used by persons with disabilities who use trained animals, in order to represent that his or her animal is a specially trained service animal when training has not in fact been provided, is guilty of a misdemeanor and on conviction is required to be punished by certain penalties, including a fine of not more than \$300.

(b) Makes conforming and nonsubstantive changes to this subsection.

SECTION 2. Makes application of Section 121.006(a), Human Resources Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2023.