



March 20, 2009

**ENGROSSED  
HOUSE BILL No. 1603**

DIGEST OF HB 1603 (Updated March 18, 2009 3:43 pm - DI 110)

**Citations Affected:** IC 16-32; IC 22-9.

**Synopsis:** Service animals. Provides that it is the policy of the state that individuals with a mental disability: (1) are encouraged to participate fully in the social and economic life of the state and engage in remunerative employment; and (2) shall be employed in positions with state and local government, public schools, and other entities supported by public funds (current law is limited to individuals who are blind or have another visual or physical disability). Provides that a person with a disability is entitled to be accompanied by a service animal (instead of a guide dog) in certain public accommodations (including various educational entities) without an extra charge. Provides that an employer, employment agency, labor organization, or joint labor-management committee must allow an employee with a disability to keep a service animal with the employee at all times.

**Effective:** July 1, 2009.

**Leonard, Tyler, Niezgodski,  
Gutwein**

(SENATE SPONSORS — STUTZMAN, KRUSE, BECKER)

January 16, 2009, read first time and referred to Committee on Labor and Employment.  
February 16, 2009, amended, reported — Do Pass.  
February 19, 2009, read second time, amended, ordered engrossed.  
February 20, 2009, engrossed.  
February 25, 2009, read third time, passed. Yeas 96, nays 0.

**SENATE ACTION**

March 3, 2009, read first time and referred to Committee on Commerce, Public Policy and Interstate Cooperation.  
March 19, 2009, amended, reported favorably — Do Pass.

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March 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1603

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A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-32-3-1, AS AMENDED BY P.L.99-2007,  
2 SECTION 155, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2009]: Sec. 1. It is the policy of this state to  
4 encourage and enable individuals who are blind, individuals with a  
5 visual disability, and other individuals with a physical **or mental**  
6 disability to participate fully in the social and economic life of the state  
7 and to engage in remunerative employment.

8 SECTION 2. IC 16-32-3-1.5 IS ADDED TO THE INDIANA CODE  
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2009]: **Sec. 1.5. As used in this chapter, "service animal" refers**  
11 **to an animal trained as:**

- 12 (1) a hearing animal;  
13 (2) a guide animal;  
14 (3) an assistance animal;  
15 (4) a seizure alert animal;  
16 (5) a mobility animal;  
17 (6) a psychiatric service animal; or

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1 (7) **an autism service animal.**

2 SECTION 3. IC 16-32-3-2, AS AMENDED BY P.L.99-2007,  
3 SECTION 156, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) As used in this section,  
5 "public accommodation" means an establishment that caters or offers  
6 services, facilities, or goods to the general public. **The term includes**  
7 **the following educational facilities:**

- 8 (1) **A nursery school.**
- 9 (2) **An elementary school.**
- 10 (3) **A secondary school.**
- 11 (4) **An undergraduate or postgraduate public or private**
- 12 **institution.**
- 13 (5) **Other places of education.**

14 (b) A person who:

- 15 (1) is totally or partially blind;
- 16 (2) is hearing impaired; or
- 17 (3) has a physical **or mental** disability;

18 is entitled to be accompanied by a ~~guide dog~~, **service animal**,  
19 especially trained for the purpose, in any public accommodation  
20 without being required to pay an extra charge for the ~~guide dog~~. **service**  
21 **animal.** However, the person is liable for any damage done to the  
22 accommodation by the ~~dog~~. **service animal.**

23 (c) A person who:

- 24 (1) refuses access to a public accommodation; or
- 25 (2) charges a fee for access to a public accommodation;

26 to a person who is totally or partially blind, who has a hearing  
27 impairment, or who has a physical **or mental** disability, because that  
28 person is accompanied by a ~~guide dog~~ **service animal** commits a Class  
29 C infraction.

30 (d) A ~~guide dog~~ **service animal** trainer, while engaged in the  
31 training process of a ~~guide dog~~. **service animal**, is entitled to access to  
32 any public accommodation granted by this section.

33 SECTION 4. IC 16-32-3-3 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person not  
35 totally blind who:

- 36 (1) approaches a totally or partially blind pedestrian carrying a  
37 cane predominantly white or metallic in color, with or without a  
38 red tip, or using a ~~guide dog~~; **service animal**; and
  - 39 (2) fails to take all necessary precautions to avoid injury to the  
40 blind pedestrian;
- 41 commits a Class C infraction.

42 (b) A person not totally or partially blind who carries, in a public

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1 place, a cane or walking stick that is white and tipped with red commits  
2 a Class C infraction.

3 SECTION 5. IC 16-32-3-5, AS AMENDED BY P.L.99-2007,  
4 SECTION 158, IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2009]: Sec. 5. It is the policy of this state that  
6 individuals who are blind, individuals with a visual disability, and other  
7 individuals with a physical **or mental** disability shall be employed in:

- 8 (1) the state service;
- 9 (2) the service of the political subdivisions of the state;
- 10 (3) the public schools; and
- 11 (4) all other employment supported in whole or in part by public  
12 funds;

13 on the same terms and conditions as the able-bodied, unless it is shown  
14 that the particular disability prevents the performance of the work  
15 involved.

16 SECTION 6. IC 22-9-5-9.5 IS ADDED TO THE INDIANA CODE  
17 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2009]: **Sec. 9.5. As used in this chapter, "service animal" refers**  
19 **to an animal trained as:**

- 20 (1) **a hearing animal;**
- 21 (2) **a guide animal;**
- 22 (3) **an assistance animal;**
- 23 (4) **a seizure alert animal;**
- 24 (5) **a mobility animal;**
- 25 (6) **a psychiatric service animal; or**
- 26 (7) **an autism service animal.**

27 SECTION 7. IC 22-9-5-20 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The prohibition  
29 against discrimination in section 19 of this chapter includes medical  
30 examinations and inquiries. Except as otherwise provided by this  
31 section, a covered entity may not conduct a medical examination or  
32 make inquiries of a job applicant as to whether the applicant is an  
33 individual with a disability or as to the nature or severity of a disability.

34 (b) A covered entity may make preemployment inquiries into the  
35 ability of an applicant to perform job related functions.

36 (c) A covered entity may require a medical examination after an  
37 offer of employment has been made to a job applicant and before the  
38 commencement of the employment duties of the applicant and may  
39 condition an offer of employment on the results of that examination if:

- 40 (1) all entering employees are subjected to the examination  
41 regardless of disability;
- 42 (2) information obtained regarding the medical condition or

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1 history of the applicant is collected and maintained on separate  
 2 forms and in separate medical files and is treated as a confidential  
 3 medical record, except that:  
 4 (A) supervisors and managers may be informed regarding  
 5 necessary restrictions on the work or duties of the employee  
 6 and necessary accommodations;  
 7 (B) first aid and safety personnel may be informed, when  
 8 appropriate, if the disability might require emergency  
 9 treatment; and  
 10 (C) government officials investigating compliance with this  
 11 chapter shall be provided relevant information on request; and  
 12 (3) the results of the examination are used only in accordance  
 13 with this chapter.  
 14 (d) A covered entity may not require a medical examination and  
 15 may not make inquiries of an employee as to whether the employee is  
 16 an individual with a disability or as to the nature or severity of the  
 17 disability, unless the examination or inquiry is shown to be job related  
 18 and consistent with business necessity.  
 19 (e) A covered entity may conduct voluntary medical examinations,  
 20 including voluntary medical histories, that are part of an employee  
 21 health program available to employees at that work site. A covered  
 22 entity may make inquiries into the ability of an employee to perform  
 23 job related functions. Information obtained under this subsection is  
 24 subject to the requirements of subsection (c)(2) and (c)(3).  
 25 **(f) A covered entity may not interfere, directly or indirectly,**  
 26 **with the use of an animal that has been or is being specially trained**  
 27 **as a service animal.**  
 28 **(g) A covered entity may not refuse to permit an employee with**  
 29 **a disability to keep a service animal with the employee at all times**  
 30 **in the place of employment.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1603, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 8, after "disability" insert ",,".

and when so amended that said bill do pass.

(Reference is to HB 1603 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 10, nays 0.

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1603 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-32-3-1, AS AMENDED BY P.L.99-2007, SECTION 155, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. It is the policy of this state to encourage and enable individuals who are blind, individuals with a visual disability, and other individuals with a physical **or mental** disability to participate fully in the social and economic life of the state and to engage in remunerative employment."

Page 1, line 16, after "physical" insert "**or mental**".

Page 1, line 17, strike "dog," and insert "**animal**".

Page 2, line 2, strike "dog." and insert "**animal**".

Page 2, line 3, strike "dog." and insert "**animal**".

Page 2, line 9, strike "dog" and insert "**animal**".

Page 2, line 10, strike "dog" and insert "**animal**".

Page 2, line 11, strike "dog," and insert "**animal**".

Page 2, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 3. IC 16-32-3-5, AS AMENDED BY P.L.99-2007, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. It is the policy of this state that individuals who are blind, individuals with a visual disability, and other individuals with a physical **or mental** disability shall be employed in:

(1) the state service;

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(2) the service of the political subdivisions of the state;  
 (3) the public schools; and  
 (4) all other employment supported in whole or in part by public funds;  
 on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved."

Page 3, line 12, delete "a dog" and insert "**an animal**".  
 Page 3, line 14, delete "dog;" and insert "**animal;**".  
 Page 3, line 15, delete "dog;" and insert "**animal;**".  
 Page 3, line 16, delete "dog." and insert "**animal.**".  
 Page 3, line 19, delete "dog;" and insert "**animal;**".  
 Page 3, line 20, delete "dog;" and insert "**animal;**".  
 Page 3, line 21, delete "dog;" and insert "**animal;**".  
 Renumber all SECTIONS consecutively.

(Reference is to HB 1603 as printed February 17, 2009.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred House Bill No. 1603, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 2. IC 16-32-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. As used in this chapter, "service animal" refers to an animal trained as:**

- (1) a hearing animal;
- (2) a guide animal;
- (3) an assistance animal;
- (4) a seizure alert animal;
- (5) a mobility animal;
- (6) a psychiatric service animal; or
- (7) an autism service animal."

Page 2, line 7, strike "guide".

Page 2, line 7, after "dog," insert "**service**".



Page 2, line 9, strike "guide".

Page 2, line 9, after "dog." insert "**service**".

Page 2, line 11, after "dog." insert "**service**".

Page 2, line 16, after "physical" insert "**or mental**".

Page 2, line 17, strike "guide".

Page 2, line 17, after "dog" insert "**service**".

Page 2, line 18, strike "guide" and insert "**service**".

Page 2, line 19, strike "guide".

Page 2, line 19, after "dog," insert "**service**".

Page 2, between lines 20 and 21, begin a new paragraph and insert:  
"SECTION 4. IC 16-32-3-3 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person not  
totally blind who:

- (1) approaches a totally or partially blind pedestrian carrying a cane predominantly white or metallic in color, with or without a red tip, or using a ~~guide dog~~; **service animal**; and
- (2) fails to take all necessary precautions to avoid injury to the blind pedestrian;

commits a Class C infraction.

(b) A person not totally or partially blind who carries, in a public place, a cane or walking stick that is white and tipped with red commits a Class C infraction."

Page 2, between lines 33 and 34, begin a new paragraph and insert:  
"SECTION 6. IC 22-9-5-9.5 IS ADDED TO THE INDIANA CODE  
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
1, 2009]: **Sec. 9.5. As used in this chapter, "service animal" refers to an animal trained as:**

- (1) **a hearing animal;**
- (2) **a guide animal;**
- (3) **an assistance animal;**
- (4) **a seizure alert animal;**
- (5) **a mobility animal;**
- (6) **a psychiatric service animal; or**
- (7) **an autism service animal."**

Page 3, line 34, delete "a:" and insert "**a service animal**".

Page 3, delete lines 35 through 37.

Page 3, line 39, delete "a:" and insert "**a service animal**".

Page 3, delete lines 40 through 42.

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Page 3, run in line 39 through page 4, line 1.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1603 as reprinted February 20, 2009.)

ALTING, Chairperson

Committee Vote: Yeas 11, Nays 0.

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