



Reprinted
February 20, 2009

HOUSE BILL No. 1603

DIGEST OF HB 1603 (Updated February 19, 2009 2:49 pm - DI 44)

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 guide 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 guide animal, hearing animal, or assistance animal with the employee at all times.

Effective: July 1, 2009.

**Leonard, Tyler, Niezgodski,
Gutwein**

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.

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HB 1603—LS 7415/DI 14+



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.

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HOUSE BILL No. 1603

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

- 14 (1) **A nursery school.**
15 (2) **An elementary school.**
16 (3) **A secondary school.**
17 (4) **An undergraduate or postgraduate public or private**



1 **institution.**
2 **(5) Other places of education.**
3 (b) A person who:
4 (1) is totally or partially blind;
5 (2) is hearing impaired; or
6 (3) has a physical **or mental** disability;
7 is entitled to be accompanied by a guide ~~dog~~ **animal**, especially
8 trained for the purpose, in any public accommodation without being
9 required to pay an extra charge for the guide ~~dog~~ **animal**. However,
10 the person is liable for any damage done to the accommodation by the
11 ~~dog~~ **animal**.
12 (c) A person who:
13 (1) refuses access to a public accommodation; or
14 (2) charges a fee for access to a public accommodation;
15 to a person who is totally or partially blind, who has a hearing
16 impairment, or who has a physical disability, because that person is
17 accompanied by a guide ~~dog~~ **animal** commits a Class C infraction.
18 (d) A guide ~~dog~~ **animal** trainer, while engaged in the training
19 process of a guide ~~dog~~ **animal**, is entitled to access to any public
20 accommodation granted by this section.
21 SECTION 3. IC 16-32-3-5, AS AMENDED BY P.L.99-2007,
22 SECTION 158, IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2009]: Sec. 5. It is the policy of this state that
24 individuals who are blind, individuals with a visual disability, and other
25 individuals with a physical **or mental** disability shall be employed in:
26 (1) the state service;
27 (2) the service of the political subdivisions of the state;
28 (3) the public schools; and
29 (4) all other employment supported in whole or in part by public
30 funds;
31 on the same terms and conditions as the able-bodied, unless it is shown
32 that the particular disability prevents the performance of the work
33 involved.
34 SECTION 4. IC 22-9-5-20 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The prohibition
36 against discrimination in section 19 of this chapter includes medical
37 examinations and inquiries. Except as otherwise provided by this
38 section, a covered entity may not conduct a medical examination or
39 make inquiries of a job applicant as to whether the applicant is an
40 individual with a disability or as to the nature or severity of a disability.
41 (b) A covered entity may make preemployment inquiries into the
42 ability of an applicant to perform job related functions.

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

- 5 (1) all entering employees are subjected to the examination
6 regardless of disability;
- 7 (2) information obtained regarding the medical condition or
8 history of the applicant is collected and maintained on separate
9 forms and in separate medical files and is treated as a confidential
10 medical record, except that:

11 (A) supervisors and managers may be informed regarding
12 necessary restrictions on the work or duties of the employee
13 and necessary accommodations;

14 (B) first aid and safety personnel may be informed, when
15 appropriate, if the disability might require emergency
16 treatment; and

17 (C) government officials investigating compliance with this
18 chapter shall be provided relevant information on request; and

19 (3) the results of the examination are used only in accordance
20 with this chapter.

21 (d) A covered entity may not require a medical examination and
22 may not make inquiries of an employee as to whether the employee is
23 an individual with a disability or as to the nature or severity of the
24 disability, unless the examination or inquiry is shown to be job related
25 and consistent with business necessity.

26 (e) A covered entity may conduct voluntary medical examinations,
27 including voluntary medical histories, that are part of an employee
28 health program available to employees at that work site. A covered
29 entity may make inquiries into the ability of an employee to perform
30 job related functions. Information obtained under this subsection is
31 subject to the requirements of subsection (c)(2) and (c)(3).

32 (f) **A covered entity may not interfere, directly or indirectly,**
33 **with the use of an animal that has been or is being specially trained**
34 **as a:**

- 35 (1) **guide animal;**
- 36 (2) **hearing animal; or**
- 37 (3) **service animal.**

38 (g) **A covered entity may not refuse to permit an employee with**
39 **a disability to keep a:**

- 40 (1) **guide animal;**
- 41 (2) **hearing animal; or**
- 42 (3) **service animal;**

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1 **with the employee at all times 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 inset "**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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