

By: Representatives Mims, Sykes, Eubanks,
Gibbs (72nd), Holloway, Paden

To: Public Health and Human
Services

HOUSE BILL NO. 944

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

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

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

16 43-6-153. The following words and phrases shall have the
17 meanings ascribed herein unless the context clearly indicates
18 otherwise:

19 (a) "Mobility impaired person" means any person,
20 regardless of age, who is subject to a physiological defect or
21 deficiency regardless of its cause, nature, or extent that renders
22 the person unable to move about without the aid of crutches, a
23 wheelchair or any other form of support, or that limits the



24 person's functional ability to ambulate, climb, descend, sit,
25 rise, or to perform any related function.

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

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

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

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

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

43 (e) "Support animal" means an animal individually
44 trained to do work or perform tasks for the benefit of an
45 individual with a disability, including a physical, sensory,
46 psychiatric, intellectual or other mental disability. The work
47 done or task performed must be directly related to the
48 individual's disability and may include, but not be limited to:



- 49 (i) Guiding individuals who are visually impaired
50 or blind;
- 51 (ii) Alerting individuals who are hearing impaired
52 or deaf to an intruder or sounds;
- 53 (iii) Providing minimal protection or rescue work;
54 (iv) Pulling a wheelchair;
55 (v) Fetching dropped items;
56 (vi) Detecting the onset of a seizure, and
57 alerting and protecting individuals having a seizure;
- 58 (vii) Retrieving objects;
59 (viii) Alerting an individual to the presence of
60 allergens;
- 61 (ix) Providing physical support and assistance
62 with balance and stability to an individual with a mobility
63 disability;
- 64 (x) Helping an individual with a psychiatric or
65 neurological disability by preventing or interrupting impulsive or
66 destructive behaviors;
- 67 (xi) Reminding an individual with mental illness
68 to take prescribed medication;
- 69 (xii) Calming an individual with post traumatic
70 stress disorder during an anxiety attack; or
- 71 (xiii) Doing other specific work or performing
72 other special tasks.



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

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

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

84 43-6-155. (1) Any blind person, mobility impaired person,
85 armed services veteran diagnosed with PTSD or hearing impaired
86 person who uses a * * * support animal specifically trained as a
87 guide, leader, listener or for any other necessary
88 assistance * * * in day-to-day activities shall be entitled to the
89 full and equal accommodations, advantages, facilities and
90 privileges of all public conveyances, hotels, lodging places,
91 businesses open to the public for the sale of any goods or
92 services and all places of public accommodation, amusement, or
93 resort and other places to which the general public is invited,
94 and may take the * * * support animal into conveyances and places,
95 subject only to the conditions and limitations applicable to all
96 persons not so accompanied, except that:



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

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

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

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

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

117 37-7-342. (1) The Legislature recognizes the necessity of
118 school districts to provide reasonable accommodations to students
119 and licensed employees of a school district who are diagnosed with
120 debilitating illnesses or disabilities, including, but not limited
121 to, diabetes and epilepsy.



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

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

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

143 43-6-1. As used in this article, "blind," "totally blind,"
144 "visually handicapped," and "partially blind" mean having central
145 visual acuity not to exceed 20/200 in the better eye, with
146 corrected lenses as measured by the Snellen test, or having visual



147 acuity greater than 20/200, but with a limitation in the field of
148 vision such that the widest diameter of the visual field subtends
149 an angle not greater than twenty (20) degrees.

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

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

157 43-6-3. Blind persons, visually handicapped persons, deaf
158 persons and other physically disabled persons shall have the same
159 right as the able-bodied to the full and free use of the streets,
160 highways, sidewalks, walkways, public buildings, public
161 facilities, and other public places.

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

164 43-6-5. Blind persons, visually handicapped persons, deaf
165 persons and other physically disabled persons shall be entitled to
166 full and equal access, as are other members of the general public,
167 to accommodations, advantages, facilities and privileges of all
168 common carriers, airplanes, motor vehicles, railroad trains,
169 motorbuses, streetcars, boats or any other public conveyances or
170 modes of transportation, hotels, lodging places, places of public
171 accommodation, amusement or resort, and other places to which the



172 general public is invited, subject only to the conditions and
173 limitations established by law, or state or federal regulation,
174 and applicable alike to all persons.

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

177 43-6-7. Every totally or partially blind person and every
178 deaf person shall have the right to be accompanied by a guide dog
179 or hearing ear dog on a blaze orange leash, especially trained for
180 the purpose, in any of the places specified in Section 43-6-5
181 without being required to pay an extra charge for the guide dog or
182 hearing ear dog on a blaze orange leash. However, such person
183 shall be liable for any damage done to the premises or facilities
184 by such dog.

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

187 43-6-9. A totally or partially blind pedestrian or deaf
188 person shall have all the rights and privileges conferred by law
189 upon other persons in any of the places, accommodations, or
190 conveyances specified in Sections 43-6-3 and 43-6-5,
191 notwithstanding the fact that such person is not carrying a
192 predominantly white cane (with or without a red tip), or using a
193 guide dog or hearing ear dog on a blaze orange leash. The failure
194 of a totally or partially blind person or deaf person to carry
195 such a cane or to use such a guide dog or hearing ear dog on a
196 blaze orange leash shall not constitute negligence per se.



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

199 63-3-1111. (1) Whenever a pedestrian is crossing or
200 attempting to cross a public street or highway, at or near an
201 intersection or crosswalk, guided by a guide dog or carrying in a
202 raised or extended position a cane or walking stick which is
203 metallic or white in color, or white tipped with red, the driver
204 of every vehicle approaching in said intersection or crosswalk
205 shall take such precautions as may be necessary to avoid injuring
206 or endangering such pedestrian, and if injury or danger to such
207 pedestrian can be avoided only by bringing his vehicle to a full
208 stop, he shall bring his said vehicle to a full stop. The word
209 "vehicle," when used in this section, does not include a train
210 operated on railroad tracks.

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

220 (3) It shall be unlawful for any person, unless totally or
221 partially blind or otherwise incapacitated, while on any public



222 street or highway, to carry in a raised or extended position a
223 cane or walking stick which is metallic or white in color, or
224 white tipped with red.

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

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

231 77-8-31. (1) The transportation network company shall adopt
232 a policy of nondiscrimination with respect to riders and potential
233 riders and notify transportation network company drivers of the
234 policy.

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

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

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

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

245 99-43-101. (1) The following terms have the meanings
246 ascribed:



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

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

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

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

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

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

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

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



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

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

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

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

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

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

290 (3) In circumstances where a defendant in a proceeding has
291 chosen to proceed without counsel, the court may appoint standby
292 counsel for that party and may order standby counsel to question a
293 child on behalf of the pro se party if the court finds that there
294 is a substantial likelihood that emotional harm would come to the



295 child if the pro se party were allowed to question the child
296 directly.

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

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

313 (c) In any proceeding in which a child is alleged to
314 have been emotionally, sexually, or physically abused, the child
315 shall be given notice of all pretrial discovery motions, and the
316 notice must be given in sufficient time to allow the guardian ad
317 litem or counsel for the child to file any pleadings deemed
318 appropriate to that situation.



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

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

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

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

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

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

340 (c) If the court finds that the child is likely to be
341 unable to testify in open court for any of the reasons stated in
342 paragraph (b) of this subsection (5), the court shall order that



343 the child's deposition be taken and preserved by videotape and
344 stenographic means.

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

349 (i) The prosecuting attorney or attorneys;
350 (ii) The attorney or attorneys for the defendant;
351 (iii) The child's attorney or attorneys and
352 guardian ad litem;

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

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

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

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



368 from the deposition room, the court shall order that two-way
369 closed-circuit television equipment be used as provided in Section
370 13-1-405.

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

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

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

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



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

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

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

