

***Criminal Justice & Corrections
Committee***

ESSB 5942

Brief Description: *Increasing penalties for crimes against dog guides and service animals.*

Sponsors: *By Senate Committee on Judiciary (originally sponsored by Senators McAuliffe, Jacobsen and Oke).*

Brief Summary of Engrossed Substitute Bill

- *Creates new crimes relating to dog guides and service animals.*

Hearing Date: *3/26/01*

Staff: *Katy Freeman (786-7386).*

Background:

The state of Washington has provided protection and regulation of dog guides and service animals under the "White Cane Law" since 1969.

A "dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog trained for the purpose of assisting hearing impaired persons.

A "service animal" means an animal that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

Under the White Cane Law, it is a misdemeanor offense for a person, firm, corporation, or agent of a firm or corporation, to deny or interfere with admittance to or enjoyment of public facilities or otherwise interfere with the rights of a totally or partially blind, hearing impaired, or otherwise physically disabled person.

A person is guilty of a gross misdemeanor and must also pay a fee of at least \$500 per pet animal if, with intent to deprive or defraud the owner, he or she:

•Takes, leads away, confines, secretes or converts a pet animal when the value of the pet animal does not exceed \$250; or

• Willfully or recklessly kills or injures a pet animal, unless excused by law.

A person who commits either of the above crimes may also be convicted of separate offenses of theft and possession of stolen property. Currently, the theft statutes and the possession of stolen property statutes are based on the value of the property stolen or possessed.

For example, theft in the first degree is a class B felony and may be charged when a person commits theft of:

• Property or services which exceed \$1,500 in value other than a firearm; or

• Property of any value other than a firearm taken from the person of another.

Theft in the first degree is categorized as a seriousness level II on the sentencing guidelines grid. The presumptive sentence range for a level II offender with no prior criminal history is 0 to 90 days. A class B felony carries a maximum sentence of 10 years of incarceration, a fine of \$20,000, or both.

A misdemeanor offense carries a maximum sentence of 90 days of incarceration, a fine of \$1,000, or both.

A gross misdemeanor offense carries a maximum sentence of one year of incarceration, a fine of \$5,000, or both.

Offenders convicted of "unranked felonies," felonies without an established seriousness level on the sentencing guidelines grid, are not subject to standard sentence ranges. Generally, in these cases, courts are required to impose a determinate sentence which may include not more than one year of confinement and may also include community service, legal financial obligations, a term of community supervision not to exceed one year, and/or a fine.

Generally, in a criminal case, a person is required to make restitution when he or she is convicted of an offense that resulted in injury to any person or damage to or loss of property. Restitution is based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution may be up to double the amount of the offender's gain or the victim's loss from commission of the crime.

Summary of Bill:

This act is known as "Layla's Law."

Interfering with the Use of a Dog Guide or a Service Animal

It is a misdemeanor offense for a person who has received notice that his or her behavior is interfering with the use of a dog guide or a service animal to continue, with reckless disregard, interfering with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing: (1) the safety of the dog guide or service animal user, or (2) the safety of the dog guide or service animal. A second or subsequent offense is a gross misdemeanor.

It is also a misdemeanor offense for a person, with reckless disregard, to allow his or her dog to interfere with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing: (1) the safety of the dog guide or service animal user, or (2) the safety of the dog guide or service animal. A second or subsequent offense is a gross misdemeanor.

Injure, Disable, or Cause the Death of a Dog Guide or a Service Animal

It is a gross misdemeanor offense for a person, with reckless disregard, to allow his or her dog to injure, disable, or cause the death of a dog guide or service animal.

It is also a gross misdemeanor offense for a person, with reckless disregard, to injure, disable, or cause the death of a dog guide or service animal.

Additionally, it is an unranked class C felony for a person to intentionally injure, disable, or cause the death of a dog guide or service animal.

Theft of a Dog Guide or a Service Animal

It is theft in the first degree for a person to wrongfully obtain or exert unauthorized control over a dog guide or service animal with the intent to deprive the dog guide or service animal user of his or her dog guide or service animal.

Restitution

When a person is convicted of any of the above crimes, the person must make full restitution for all damages, including incidental and consequential expenses incurred by the dog guide or service animal user and the dog guide or service animal, which arise out of or are related to the criminal offense. Restitution includes, but is not limited to:

- The value of the replacement of an incapacitated or a deceased dog guide or service animal;*
- The value of training a replacement dog guide or service animal;*
- The value of retraining the affected dog guide or service animal and all related veterinary and care expenses;*
- Medical expenses of the dog guide or service animal user;*
- The value of training of the dog guide or service animal user; and*

•Compensation for wages or earned income lost by the dog guide or service animal user.

Civil Remedies

The criminal penalties and the restitution do not preclude civil remedies available for these violations.

Definitions

The definitions of a "dog guide" and a "service animal" are identical to the definitions in the White Cane Law.

"Value" means the value to the dog guide or service animal user and does not refer to cost or fair market value.

"Notice" means a verbal or otherwise communicated warning prescribing the behavior of another person and a request that the person stop their behavior.

Appropriation: *None.*

Fiscal Note: *Requested on March 20, 2001.*

Effective Date: *Ninety days after adjournment of session in which bill is passed.*