



## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #11

March 21, 2023

S. 4081

By: Senator Brisport

A. 5499

By: M. of A. L. Rosenthal

Senate Committee: Social Services

Assembly Committee: Social Services

Effective Date: 180<sup>th</sup> day after it shall have become a law

**AN ACT** to amend the social services law, in relation to assistance for guide dogs, hearing dogs and service dogs and to repeal section 303-a of such law relating thereto

**LAW & SECTION REFERRED TO:** Sections 303-a & 131-y of the Social Services Law.

### **THE COMMITTEE ON ANIMALS AND THE LAW** **SUPPORTS THIS LEGISLATION**

S.4081 / A.5499 seeks to repeal § 303-a of the Social Services Law (SSL) and to add § 131-y thereto. Currently, the Social Services Law mandates that social services “provide assistance . . .to a person with a disability using a guide dog, hearing dog or service dog who has been determined to be eligible for or is receiving federal supplemental security income benefits and/or additional state payments, for the purchase of food for such dog.”<sup>1</sup>

The new, proposed § 131-y SSL, which largely follows current § 303-a SSL, makes a few needed changes to the Social Services Law. First, in addition to the cost of food for the dog, it adds the cost of veterinarian expenses to the deductions that an eligible disabled person can make to their declared income for purposes of calculation of their social service benefits. Second, the minimum amount deducted from an eligible disabled person’s declared income to calculate their social service benefits increases from thirty-five to fifty dollars a month—even if the food and veterinary expenses for that month were to be lower, and if the costs of food and veterinary expenses were higher, that higher amount applies. Third, it contains its own expansive definition of the term “service dog,” which reads as follows: “Any dog, regardless of certification, under the control of the person using or training it and that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability.” This is more

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<sup>1</sup> N.Y.S. Social Services Law §303-a(1).

expansive than the definition provided under the Americans with Disabilities Act (“ADA”) stating: “Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. . . . The work or tasks performed by a service animal must be directly related to the individual’s disability.”<sup>2</sup> Remarkably, in contrast with the ADA, this bill specifically includes dogs that are in the process of being trained. It also includes dogs being trained “to do work or perform tasks *for the benefit of*” (emphasis added) the disabled person, while the ADA requires that the tasks which the dog performs be “directly related to the person’s disability.” Neither the ADA nor the definition in this proposed bill require that a service dog be certified or licensed.

This bill also demonstrates an intent to broaden the scope of eligibility for the beneficiaries, which is hugely important. While the current law applies to those who “ha[ve] been determined to be eligible for or [are] receiving federal supplemental security income benefits and or additional state payments”<sup>3</sup> this bill proposes expanding the benefits to include those who “ha[ve] been determined to be eligible for or [are] receiving, **including but not limited to, federal supplemental security income benefits, supplemental nutrition assistance program benefits, medical assistance for needy persons and/or additional state payments under this chapter.**” [Emphasis added.]

Increasing the benefits provided to persons with disabilities who are using a service dog as defined in this bill aligns more closely with the description of the duty of those responsible for the implementation of the proposed § 131-y, the social services officials:

It shall be the duty of social services officials, insofar as funds are available for that purpose, to provide adequately for those unable to maintain themselves, in accordance with the requirements of this article and other provisions of this chapter. They shall, whenever possible, administer such care, treatment and service as may restore such persons to a condition of self-support or self-care, and shall further give such service to those liable to become destitute as may prevent the necessity of their becoming public charges.<sup>4</sup>

Including a broad definition of “service dog” in this bill represents a great step forward. For persons with disabilities, the opportunity of having a service dog who can assist them is of the utmost importance. Service dogs compensate for physical needs of individuals with disabilities. For instance, service dogs can be trained to pull a wheelchair, turn light switches on and off or pick up dropped or needed items, to name a few examples.<sup>5</sup> As § 131 of the Social Services Law makes clear, it is the duty of social services officials to administer services with the goal of restoring disabled persons to a condition of self-support or self-care. Given that service dogs can provide the assistance leading to independence in so many varied areas of life, it is clear that they contribute to the achievement of that goal and, as such, their definition should be broadly encompassing.

Without the changes introduced by this bill, persons with disabilities who could otherwise gain autonomy and obtain more control over their own well-being by having a service dog, guide dog or hearing

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<sup>2</sup> Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2018).

<sup>3</sup> N.Y.S. Social Services Law §303-a(1).

<sup>4</sup> N.Y.S. Social Services Law § 131.

<sup>5</sup> “Assistance Dog United Campaign, Little Paws with a Big Job,” <https://assistancedogunitedcampaign.org>, April 17, 2022.

dog<sup>6</sup> may never see this possibility materialize. The costs involved with the maintenance and care of such dog can be prohibitive for a lot of people, particularly persons with disabilities.<sup>7</sup> A March 7, 2022 Bankrate article analyzed the costs associated with getting and owning a service dog, and it also included a breakdown of the various expenses that can be incurred to care for a service dog. It determined those costs to be approximately \$1,280 for a year.<sup>8</sup> This is a sum of money that a lot of people do not have as expendable funds. While the purchase of dog food under § 303-a SSL currently is considered to be a necessity, it is vital that the costs of veterinary care also be so included. Indeed, The American Veterinary Medical Association considers health care as an essential need for a service dog.<sup>9</sup>

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.

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<sup>6</sup> New York State’s Civil Rights Law, § 47-b(4) defines “guide dog and hearing dog” as “a dog that is under the control, consistent with federal regulations implementing the Americans with Disabilities Act, Title III, at [28 CFR 36.302\(c\)](#), of the person using or training it and has been or is being trained to guide or otherwise to aid a person with a disability.”

<sup>7</sup> A national survey reported that in 2019, disabled adults experienced poverty at nearly twice the rate of their nondisabled counterparts. See Altirafi, Azza, The Center for American Progress, “Advancing Economic Security for People with Disabilities,” <https://www.americanprogress.org/article/advancing-economic-security-people-disabilities/>, visited April 17, 2022; Statista, Poverty rate among people with and without disabilities in the U.S. from 2008 to 2019, <https://www.statista.com/statistics/979003/disability-poverty-rate-us/#:~:text=According%20to%20the%20data%2C%20in,disabilities%20were%20living%20in%20poverty>, visited March 27, 2022.

<sup>8</sup> Mitchner, Rashawan, Bankrate, Life-Changing Companions : How to afford a service dog, <https://www.bankrate.com/loans/personal-loans/how-to-afford-a-service-dog>, visited April 17, 2022.

<sup>9</sup> AVMA, Considering Partnership with a Service Dog, <https://www.avma.org/sites/default/files/2019-12/AVF-Assistance-Animals-FAQ-v2-20190617.pdf>, visited March 27, 2022.