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TESTIMONY ON 18-S-2432,
RELATING TO SERVICE ANIMALS
May 1, 2018

The ACLU of Rhode Island appreciates the intent of this legislation, designed to address fraudulent claims of having a service animal. This misuse can create real problems for people with genuine service animals, both because they may disturb actual service animals, and because they make it more difficult for people with legitimate service animals to be allowed entry where they need to go. At the same time, we believe provisions in the bill run counter to the Americans with Disabilities Act and create unnecessary confusion, and therefore amendments are necessary.

1. Although the bill references the ADA in defining a “service dog,” it contains an additional definition – “service dog trainer” – that does not comport with the ADA. [Page 2, lines 10-12] By defining such a trainer as a “competent dog trainer,” this language could be interpreted to require that the dog be trained by a person with some specific qualifications/training, etc. However, the ADA does not require specially qualified trainers – only that the animal be specifically trained to perform disability-related tasks, whether that training is conducted by the person with disabilities or somebody else. See https://www.ada.gov/regs2010/service_animal_qa.html.

2. The bill makes it illegal to not only state that a dog is a service dog when it is not, but even to “imply” it. [Page 4, lines 13-15] However, no person should fear being found in violation of a law like this based solely on a third party’s inference about what the person said. Further, since “service dog” is a term of art, we are concerned that people who have companion animals that serve as “therapy dogs” may not understand the distinction, and could be found to violate the law merely because of their misunderstanding of the term and not because of any intent to deceive. We urge that the bill specify that any misrepresentation be a knowing and willful one.

3. The bill references “permissible questions” that a police officer or business owner may ask an individual about the status of their dog, leaving it to the Department of Health to prepare a brochure to explain what those “permissible questions” might be. However, federal guidance on the ADA is clear that there are only two permissible questions that can be asked:

In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability. *Id.*

By leaving things open-ended, the bill may actually encourage inappropriate questioning by business owners or the police, and subject them to liability for violating the ADA. For these reasons, the ACLU urges amendments to address these issues.