

Chapter 168.

Persons with Disabilities.

Article 1.

Rights.

§ 168-1. Purpose and definition.

The State shall encourage and enable persons with disabilities to participate fully in the social and economic life of the State and to engage in remunerative employment. For purposes of this Article, the term "person with a disability" shall have the same meaning as set forth in G.S. 168A-3(7a). (1973, c. 493, s. 1; 2000-121, s. 33; 2005-450, s. 1.)

§ 168-2. Right of access to and use of public places.

Persons with disabilities have the same right as persons without disabilities to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and all other buildings and facilities, both publicly and privately owned, which serve the public. (1973, c. 493, s. 1; 1991, c. 672, s. 4; c. 726, s. 23; 1991 (Reg. Sess., 1992), c. 959, s. 84; 1997-443, s. 11A.118(a); 2004-203, s. 61; 2005-450, s. 1; 2015-241, s. 12F.17; 2015-264, s. 87(a), (b).)

§ 168-3. Right to use of public conveyances, accommodations, etc.

Persons with disabilities are entitled to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation; hotels, lodging places, places of public accommodation, amusement or resort to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. (1973, c. 493, s. 1; 2005-450, s. 1.)

§§ 168-4 through 168-4.1: Repealed by Session Laws 1985, c. 514, s. 1.

§ 168-4.2. May be accompanied by service animal.

(a) Every person with a disability has the right to be accompanied by a service animal trained to assist the person with his or her specific disability in any of the places listed in G.S. 168-3, and has the right to keep the service animal on any premises the person leases, rents, or uses. The person qualifies for these rights upon the showing of a tag, issued by the Department of Health and Human Services, under G.S. 168-4.3, stamped "NORTH CAROLINA SERVICE ANIMAL PERMANENT REGISTRATION" and stamped with a registration number, or upon a showing that the animal is being trained or has been trained as a service animal. The service animal may accompany a person in any of the places listed in G.S. 168-3.

(b) An animal in training to become a service animal may be taken into any of the places listed in G.S. 168-3 for the purpose of training when the animal is accompanied by a person who is training the service animal and the animal wears a collar and leash, harness, or cape that identifies the animal as a service animal in training. The trainer shall be liable for any damage caused by the animal while using a public conveyance or on the premises of a public facility or

other place listed in G.S. 168-3. (1985, c. 514, s. 1; 1987, c. 401, s. 1; 1995, c. 276, s. 1; 1997-443, s. 11A.118(a); 2004-203, s. 62(a); 2005-450, s. 1.)

§ 168-4.3. Training and registration of service animal.

The Department of Health and Human Services, shall adopt rules for the registration of service animals and shall issue registrations to a person with a disability who makes application for registration of an animal that serves as a service animal or to a person who is training an animal as a service animal.

The rules adopted regarding registration shall require that the animal be trained or be in training as a service animal. The rules shall provide that the certification and registration need not be renewed while the animal is serving or training with the person applying for the registration. No fee may be charged the person for the application, registration, tag, or replacement in the event the original is lost. The Department of Health and Human Services may, by rule, issue a certification or accept the certification issued by the appropriate training facilities. (1985, c. 514, s. 1; 1987, c. 401, s. 2; 1997-443, s. 11A.118(a); 2004-203, s. 62(b); 2005-450, s. 1.)

§ 168-4.4. Responsibility for service animal.

Neither a person with a disability who is accompanied by a service animal, nor a person who is training a service animal, may be required to pay any extra compensation for the animal. The person has all the responsibilities and liabilities placed on any person by any applicable law when that person owns or uses any animal, including liability for any damage done by the animal. (1985, c. 514, s. 1; 2004-203, s. 62(c); 2005-450, s. 1.)

§ 168-4.5. Penalty.

It is unlawful to disguise an animal as a service animal or service animal in training. It is unlawful to deprive a person with a disability or a person training a service animal of any rights granted the person pursuant to G.S. 168-4.2 through G.S. 168-4.4, or of any rights or privileges granted the general public with respect to being accompanied by animals or to charge any fee for the use of the service animal. Violation of this section shall be a Class 3 misdemeanor. (1985, c. 514, s. 1; 1987, ch. 401, s. 3; 1993, c. 539, s. 1120; 1994, Ex. Sess., c. 24, s. 14(c); 2005-450, s. 1.)

§ 168-4.6. Donation of dogs for training.

Dogs impounded by a local dog warden that are not redeemed shall be donated to a nonprofit agency engaged in the training of service dogs, upon the agency's request. (1985, c. 514, s. 1; 2005-450, s. 1.)

§ 168-5: Repealed by Session Laws 2005-450, s. 1, effective September 1, 2005.

§ 168-6. Repealed by Session Laws 1985, c. 571, s. 3.

§§ 168-7 through 168-7.1: Repealed by Session Laws 1985, c. 514, s. 1.

§ 168-8. Right to habilitation and rehabilitation services.

A person with a disability shall be entitled to such habilitation and rehabilitation services as available and needed for the development or restoration of their capabilities to the fullest extent possible. Such services shall include, but not be limited to, education, training, treatment and other services to provide for adequate food, clothing, housing and transportation during the course of education, training and treatment. A person with a disability shall be entitled to these rights subject only to the conditions and limitations established by law and applicable alike to all persons. (1973, c. 493, s. 1; 2005-450, s. 1.)

§ 168-9. Right to housing.

Each person with a disability who is a citizen shall have the same right as any other citizen to live and reside in residential communities, homes, and group homes, and no person or group of persons, including governmental bodies or political subdivisions of the State, shall be permitted, or have the authority, to prevent any person with a disability who is a citizen from living and residing in residential communities, homes, and group homes on the same basis and conditions as any other citizen. Nothing herein shall be construed to conflict with provisions of Chapter 122C of the General Statutes. (1975, c. 635; 1985, c. 589, s. 61; 2005-450, s. 1.)

§ 168-10. Eliminate discrimination in treatment of persons with disabilities.

Each person with a disability shall have the same consideration as any other person for individual accident and health insurance coverage, and no insurer, service corporation, multiple employer welfare arrangement, or health maintenance organization subject to Chapter 58 of the General Statutes solely on the basis of the person's disability, shall deny such coverage or benefits. The availability of coverage or benefits shall not be denied solely because of the disability; however, any such insurer may charge the appropriate premiums or fees for the risk insured on the same basis and conditions as insurance issued to other persons, in accordance with actuarial and underwriting principles and other coverage provisions prescribed in Chapter 58 of the General Statutes. No insurer, service corporation, multiple employer welfare arrangement, or health maintenance organization subject to Chapter 58 of the General Statutes shall be prohibited from excluding by waiver or otherwise, any preexisting conditions from coverage as prescribed in G.S. 58-51-15(a)(2)b. (1977, c. 894, ss. 1, 2; 1991, c. 720, s. 80; 1999-219, s. 3.1; 2005-450, s. 1.)

§ 168-11: Reserved for future codification purposes.

§ 168-12: Reserved for future codification purposes.

§ 168-13: Reserved for future codification purposes.

Article 2.

Vocational Rehabilitation.

§ 168-14. Vocational rehabilitation services for deaf persons.

The Department of Health and Human Services shall promote the employment of deaf persons in this State. The Department shall assist deaf persons whose disability limits employment opportunities in obtaining gainful employment commensurate with their abilities and in maintaining such employment.

The Department, in furtherance of these objectives, shall maintain statistics regarding trades and occupations in which deaf persons are employed.

The Department shall attempt to employ deaf persons in its vocational rehabilitation services for deaf persons and shall have at least one deaf person so employed. (1975, c. 412, s. 2; 1997-443, s. 11A.118(a).)

Article 3.

Family Care Homes.

§ 168-20. Public policy.

The General Assembly has declared in Article 1 of this Chapter that it is the public policy of this State to provide persons with disabilities with the opportunity to live in a normal residential environment. (1981, c. 565, s. 1; 2005-450, s. 1.)

§ 168-21. Definitions.

As used in this Article:

- (1) "Family care home" means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities.
- (2) "Person with disabilities" means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b. (1981, c. 565, s. 1; 1985, c. 589, s. 62; 1995, c. 535, s. 36; 2002-159, s. 24; 2005-450, s. 1.)

§ 168-22. Family care home; zoning and other purposes.

(a) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts of all political subdivisions. No political subdivision may require that a family care home, its owner, or operator obtain, because of the use, a conditional use permit, special use permit, special exception or variance from any such zoning ordinance or plan; provided, however, that a political subdivision may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

(b) A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by political subdivisions or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or

improvements to roads, streets, and sidewalks, and other services, utilities, and improvements. (1981, c. 565, s. 1; 1993 (Reg. Sess., 1994), c. 619, s. 1; 1999-219, s. 3.2.)

§ 168-23. Certain private agreements void.

Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property which would permit residential use of property but prohibit the use of such property as a family care home shall, to the extent of such prohibition, be void as against public policy and shall be given no legal or equitable force or effect. (1981, c. 565, s. 1.)