

DAMAGES FOR HARM TO OR THEFT OF AN ASSISTANCE ANIMAL

2000 GENERAL SESSION

STATE OF UTAH

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AN ACT RELATING TO THE JUDICIAL CODE AND THE CRIMINAL CODE; PROVIDING A CAUSE OF ACTION REGARDING INJURY, DEATH, OR THEFT OF A SERVICE ANIMAL; AND CREATING A CRIMINAL OFFENSE AND PENALTY FOR HARASSING OR CAUSING THE INJURY OR DEATH OF A SERVICE ANIMAL.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

18-1-3, as last amended by Chapter 27, Laws of Utah 1973

ENACTS:

76-9-307, Utah Code Annotated 1953

78-47-101, Utah Code Annotated 1953

78-47-102, Utah Code Annotated 1953

78-47-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **18-1-3** is amended to read:

18-1-3. Dogs attacking domestic animals, assistance animals, hoofed protected wildlife, or domestic fowls.

Any person may injure or kill a dog while it is attacking, chasing, or worrying any domestic animal having a commercial value, any assistance animal as defined in Section 78-47-101, or any species of hoofed protected wildlife, while attacking domestic fowls, or while [~~such~~] the dog is being pursued thereafter.

Section 2. Section **76-9-307** is enacted to read:

76-9-307. Injury to service animals -- Penalties.

(1) As used in this section:

(a) "Assistance animal" means an animal that is trained or is in training to:

(i) lead or guide a person who is blind or has a visual disability;

(ii) assist a person who has a physical disability, including hearing impairment or deafness;

or

(iii) assist a person who has a mental disability.

(b) "Person with a disability" means a person who is blind, visually impaired, deaf, hearing impaired, or otherwise has a physical or mental disability.

(2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly cause substantial bodily injury or death to an assistance animal.

(3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from causing:

(a) any substantial bodily injury or the death of an assistance animal; or

(b) the assistance animal's subsequent inability to function as an assistance animal as a result of the animal's attacking, chasing, or harassing the assistance animal.

(4) It is a class B misdemeanor for a person to chase or harass an assistance animal.

(5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from chasing or harassing an assistance animal while it is carrying out its functions as an assistance animal, to the extent that the animal temporarily interferes with the assistance animal's ability to carry out its functions.

(6) (a) An assistance animal is exempt from quarantine or other animal control ordinances if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).

(b) The owner of the assistance animal or the person with a disability whom the assistance animal serves shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.

(7) In addition to any other penalty, a person convicted of any violation of this section is liable for restitution to the owner of the assistance animal or the person with disabilities whom the

assistance animal serves for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

(8) If the act committed under this section amounts to an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 3. Section **78-47-101** is enacted to read:

**CHAPTER 47. DAMAGES REGARDING INJURY TO OR THEFT
OF ASSISTANCE ANIMAL**

78-47-101. Definitions.

As used in this section:

(1) "Assistance animal" means an animal that is trained or is in training to:

(a) lead or guide a person who is blind or has a visual disability;

(b) assist a person who has a physical disability, including hearing impairment or deafness;

or

(c) assist a person who has a mental disability.

(2) "Person with a disability" means a person who is blind, visually impaired, deaf, hearing impaired, or otherwise has a physical or mental disability.

Section 4. Section **78-47-102** is enacted to read:

78-47-102. Damages recoverable for harm to or theft of assistance animal.

(1) A person with a disability who uses an assistance animal, or the owner of an assistance animal has a cause of action for economic and noneconomic damages against:

(a) any person who steals or, without provocation, attacks the assistance animal; and

(b) the owner or keeper of any animal that without provocation attacks an assistance animal due to the owner's or keeper's negligent failure to exercise sufficient control over the animal to prevent the attack.

(2) The action authorized by this section maybe brought by a person with a disability who uses the assistance animal, or the owner of the animal.

(3) The measure of economic damages in an action brought under Subsection (1) regarding

an assistance animal that is not returned or is killed or injured due to an unprovoked attack so that the animal is unable again function as a service animal includes:

(a) the replacement value of an equally trained assistance animal, without any differentiation for the age or experience of the animal;

(b) costs and expenses incurred by the person with a disability or the owner, including:

(i) costs of temporary replacement assistance services, whether provided by another assistance animal or by a person;

(ii) reasonable costs incurred in efforts to recover a stolen service animal; and

(iii) court and attorney costs incurred in bringing an action under this section.

(4) If the unprovoked attack on a service animal results in injuries from which the animal recovers so it is able to again function as a service animal for the person with a disability, or if the theft of the service animal results in the recovery of the service animal and the animal is again able to function as a service animal for the person with a disability, the measure of economic damages is the costs and expenses incurred by the person with a disability or the owner as a result of the theft of or injury to the service animal, and includes:

(a) veterinary medical expenses;

(b) costs of temporary replacement assistance services, whether provided by another assistance animal or a person;

(c) costs incurred in recovering the assistance animal, such as a reward; and

(d) court and attorney costs incurred in bringing an action under this section.

Section 5. Section **78-47-103** is enacted to read:

78-47-103. Limitation on cause of action.

A cause of action does not exist under this section if the person with a disability who uses the service animal or the person having custody or supervision of the service animal was committing a civil or criminal trespass at the time of the:

(1) theft of, or the chasing or harassment of the service animal by a person who owns or exercises control over the property upon which the trespass is committed; or

(2) attack upon, or the chasing or harassment of an assistance animal by an animal that is

currently kept or maintained on the property where the trespass is committed.