

SERVICE ANIMALS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions related to service animals, including guide dogs, emotional support animals, and search and rescue animals.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to attacking dogs by replacing "assistance animal" with "service animal";
- ▶ amends portions of the Utah Health Code by:
 - providing definitions;
 - replacing "blind, visually impaired, hearing impaired, or otherwise physically disabled person" and similar references with "person with a disability";
 - amending a provision that permits requiring a person to provide identification for a service animal; and
 - encouraging that a mental health therapist be permitted to be accompanied by a psychiatric therapy animal on the same basis that a person with a disability is permitted to be accompanied by a service animal;
- ▶ amends portions of the Utah Criminal Code by:
 - amending definitions; and
 - replacing "assistance animal" with "service animal";
- ▶ creates misdemeanor penalties for falsely representing that an animal is a service animal, or for misrepresenting to a health care provider the need for a service animal;

- 30 ▶ amends portions of the Utah Judicial Code by:
- 31 • amending definitions; and
- 32 • replacing "assistance animal" with "service animal";
- 33 ▶ makes clarifying and conforming changes; and
- 34 ▶ makes technical corrections.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

41 **18-1-3**, as last amended by Chapter 302, Laws of Utah 2000

42 **76-9-307**, as enacted by Chapter 302, Laws of Utah 2000

43 **78-20-101**, as enacted by Chapter 302, Laws of Utah 2000

44 **78-20-102**, as enacted by Chapter 302, Laws of Utah 2000

45 **78-20-103**, as enacted by Chapter 302, Laws of Utah 2000

46 RENUMBERS AND AMENDS:

47 **62A-5b-103**, (Renumbered from 26-30-1, as last amended by Chapter 73, Laws of Utah
48 2001)

49 **62A-5b-104**, (Renumbered from 26-30-2, as last amended by Chapter 73, Laws of Utah
50 2001)

51 **62A-5b-105**, (Renumbered from 26-30-3, as last amended by Chapter 73, Laws of Utah
52 2001)

53 **62A-5b-106**, (Renumbered from 26-30-4, as last amended by Chapter 34, Laws of Utah
54 1986)

55 **62A-5b-107**, (Renumbered from 26-30-5, as enacted by Chapter 126, Laws of Utah
56 1981)

57 ENACTS:

58 **62A-5b-101**, Utah Code Annotated 1953

59 **62A-5b-102**, Utah Code Annotated 1953



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

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

63 **18-1-3. Dogs attacking domestic animals, service animals, hoofed protected**
64 **wildlife, or domestic fowls.**

65 Any person may injure or kill a dog while [it]:

66 (1) the dog is attacking, chasing, or worrying [any]:

67 (a) a domestic animal having a commercial value[~~,-any assistance~~];

68 (b) a service animal, as defined in Section [78-20-101,] **62A-5b-102**; or

69 (c) any species of hoofed protected wildlife[~~,white~~];

70 (2) the dog is attacking domestic fowls[~~;~~]; or [white]

71 (3) the dog is being pursued [thereafter] for committing an act described in Subsection

72 (1) or (2).

73 Section 2. Section **62A-5b-101** is enacted to read:

74 **CHAPTER 5b. RIGHTS AND PRIVILEGES OF A PERSON WITH A DISABILITY**

75 **62A-5b-101. Title.**

76 This chapter is known as "Rights and Privileges of a Person with a Disability."

77 Section 3. Section **62A-5b-102** is enacted to read:

78 **62A-5b-102. Definitions.**

79 As used in this chapter:

80 (1) "Disability" has the same meaning as defined in 42 U.S.C. 12102 of the Americans

81 With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. 36.104 of the

82 Code of Federal Regulations, as may be amended in the future.

83 (2) "Emotional support animal":

84 (a) means an animal in the possession of a person:

85 (i) with a disability; and

86 (ii) with specific documentation from a mental health therapist that the animal is
87 needed in a particular location described in Section 62A-5b-103, other than a restaurant, by the
88 person to address a mental health condition; and

89 (b) does not include an animal in the possession of a person with a disability in any
90 other location than the particular location described in Subsection (2)(a)(ii).

91 (3) "Mental health therapist" has the same meaning as defined in Title 58, Chapter 60,
92 Mental Health Professional Practice Act.

93 (4) "Mental health therapy" has the same meaning as defined in Title 58, Chapter 60,
94 Mental Health Professional Practice Act.

95 (5) "Psychiatric therapy animal" means an animal:

96 (a) specifically trained for use by a mental health therapist in the course of providing
97 mental health therapy to a person with a disability; and

98 (b) in the possession of a mental health therapist.

99 (6) "Restaurant":

100 (a) includes any coffee shop, cafeteria, luncheonette, soda fountain, dining room, or
101 fast-food service where food is prepared or served for immediate consumption; and

102 (b) does not include:

103 (i) any retail establishment whose primary business or function is the sale of fuel or
104 food items for off-premise, but not immediate, consumption; and

105 (ii) except for a dinner theater, a theater that sells food items.

106 (7) "Service animal" means:

107 (a) (i) a guide dog;

108 (ii) a signal dog; or

109 (iii) any other animal individually trained to do work or perform tasks for the benefit of
110 a person with a disability, including:

111 (A) guiding a person with impaired vision;

112 (B) alerting a person with impaired hearing to intruders or sounds;

113 (C) providing minimal protection or rescue work;

- 114 (D) pulling a wheelchair; or
- 115 (E) fetching dropped items;
- 116 (b) an emotional support animal; or
- 117 (c) an animal in training to become an animal described in Subsection (7)(a) or (b).

118 Section 4. Section **62A-5b-103**, which is renumbered from Section 26-30-1 is
 119 renumbered and amended to read:

120 ~~[26-30-1].~~ **62A-5b-103. Rights and privileges of a person with a disability.**

121 ~~[(1) The blind, visually impaired, hearing impaired, or otherwise physically disabled~~
 122 ~~person]~~

123 (1) A person with a disability has the same rights and privileges in the use of highways,
 124 streets, sidewalks, walkways, public buildings, public facilities, and other public areas as
 125 ~~[able-bodied persons]~~ a person who is not a person with a disability.

126 ~~[(2) The blind, visually impaired, hearing impaired, or otherwise physically disabled~~
 127 ~~person]~~

128 (2) A person with a disability has equal rights to accommodations, advantages, and
 129 facilities offered by common carriers, including air carriers, railroad carriers, motor buses,
 130 motor vehicles, water carriers, and all other modes of public conveyance in this state.

131 ~~[(3) The blind, visually impaired, hearing impaired, or otherwise physically disabled~~
 132 ~~person]~~

133 (3) A person with a disability has equal rights to accommodations, advantages, and
 134 facilities offered by hotels, motels, lodges, and all other places of public accommodation in this
 135 state, and to places of amusement or resort to which the public is invited.

136 ~~[(4) (a) The blind, visually impaired, hearing impaired, or otherwise physically~~
 137 ~~disabled person]~~

138 (4) (a) A person with a disability has equal rights and access to public and private
 139 housing accommodations offered for rent, lease, or other compensation in this state.

140 (b) This chapter does not require a person renting, leasing, or selling private housing or
 141 real property to modify the housing or property in order to accommodate a ~~[blind, visually~~

142 ~~impaired, hearing impaired, or otherwise physically disabled person,]~~ person with a disability
 143 or to provide a higher degree of care for that person than for ~~[a person]~~ someone who is not
 144 ~~[physically disabled]~~ a person with a disability.

145 (c) A person renting, leasing, or selling private housing or real property to a person
 146 ~~[who is blind, visually impaired, hearing impaired, or a person who is otherwise physically~~
 147 ~~disabled,]~~ with a disability shall comply with the provisions of Section ~~[26-30-2]~~ 62A-5b-104,
 148 regarding the right of ~~[those persons]~~ the person to be accompanied by a ~~[guide or]~~ service
 149 animal specially trained for that purpose.

150 Section 5. Section **62A-5b-104**, which is renumbered from Section 26-30-2 is
 151 renumbered and amended to read:

152 ~~[26-30-2].~~ **62A-5b-104. Right to be accompanied by service animal -- Security**
 153 **deposits -- Discrimination -- Animals in training -- Liability -- Identification -- Psychiatric**
 154 **therapy animals.**

155 ~~[(1)(a) The blind, visually impaired, hearing impaired, or otherwise physically~~
 156 ~~disabled person]~~

157 (1) (a) A person with a disability has the right to be accompanied by a ~~[guide or]~~
 158 service animal~~[, as defined by], unless the service animal is a danger or nuisance to others as~~
 159 interpreted under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102~~[, specially~~
 160 ~~trained for that purpose,];~~

161 (i) in any of the places specified in Section ~~[26-30-1]~~ 62A-5b-103; and

162 (ii) without additional charge for the ~~[guide or]~~ service animal.

163 (b) This section does not prohibit an owner or lessor of private housing
 164 accommodations from charging a person, including a person with a disability, a reasonable
 165 deposit as security for any damage or wear and tear that might be caused by ~~[the]~~ a service
 166 animal~~[-]~~ if the owner or lessor would charge a similar deposit to other persons for potential
 167 wear and tear.

168 (c) An owner or lessor of private housing accommodations may not, in any manner,
 169 discriminate against a ~~[blind, visually impaired, hearing impaired, or otherwise physically~~

170 ~~disabled person]~~ person with a disability on the basis of the person's possession of a [~~guide or~~
171 service animal [~~specially trained for that purpose~~].

172 (2) A person [~~, whether or not the person is blind, visually impaired, hearing impaired,~~
173 ~~or otherwise physically disabled,~~] who is not a person with a disability has the right to be
174 accompanied by an animal that is in training to become a [~~guide or~~] service animal:

175 (a) in any of the places specified in Section [~~26-30-1~~] 62A-5b-103; and

176 (b) without additional charge for the animal.

177 (3) A [~~blind, visually impaired, hearing impaired, or otherwise physically disabled~~
178 ~~person]~~ person with a disability is liable for any loss or damage caused or inflicted to the
179 premises by the [~~individual's guide or~~] person's service animal.

180 (4) [~~Persons~~] A person accompanied by a [~~specially trained guide or~~] service animal [~~;~~
181 ~~or by an animal that is in training to become a guide or service animal, may first be required]~~ is
182 encouraged to identify the animal by exhibiting one or more of the following:

183 (a) the animal's laminated identification card [~~or other~~];

184 (b) the animal's service vest; or

185 (c) another form of identification [~~, before these provisions apply~~].

186 (5) Owners, operators, and regulators of places described in Section 62A-5b-103 are
187 encouraged to permit a mental health therapist to be accompanied by a psychiatric therapy
188 animal in the course of providing mental health therapy to a person with a disability on the
189 same basis as a person with a disability is permitted to be accompanied by a service animal
190 under this section.

191 Section 6. Section **62A-5b-105**, which is renumbered from Section 26-30-3 is
192 renumbered and amended to read:

193 [~~26-30-3~~]. **62A-5b-105. Policy of state to employ persons with a disability.**

194 It is the policy of this state that a person [~~who is blind, visually impaired, and otherwise~~
195 ~~physically disabled]~~ with a disability shall be employed in the state service, the service of the
196 political subdivisions of the state, in the public schools, and in all other employment supported
197 in whole or in part by public funds on the same terms and conditions as [~~the able-bodied~~] a

198 person who is not a person with a disability, unless it is shown that the particular disability
199 prevents the performance of the work involved.

200 Section 7. Section **62A-5b-106**, which is renumbered from Section 26-30-4 is
201 renumbered and amended to read:

202 ~~[26-30-4].~~ **62A-5b-106. Interference with rights provided in this chapter --**
203 **Misrepresentation of rights under this chapter.**

204 (1) Any person, or agent of any person, who denies or interferes with the rights
205 provided in this chapter is guilty of a class C misdemeanor.

206 (2) A person is guilty of a class B misdemeanor if:

207 (a) the person intentionally and knowingly falsely represents to another person that an
208 animal is a service animal as defined in Section 62A-5b-102; or

209 (b) the person knowingly and intentionally misrepresents a material fact to a health
210 care provider for the purpose of obtaining documentation from the health care provider
211 necessary to designate an animal as a service animal as defined in Section 62A-5b-102.

212 Section 8. Section **62A-5b-107**, which is renumbered from Section 26-30-5 is
213 renumbered and amended to read:

214 ~~[26-30-5].~~ **62A-5b-107. Annual "White Cane Safety Day" proclaimed.**

215 Each year the governor shall take notice of October [~~15th~~] 15 as White Cane Safety
216 Day.

217 Section 9. Section **76-9-307** is amended to read:

218 **76-9-307. Injury to service animals -- Penalties.**

219 (1) As used in this section:

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

221 ~~[(i) lead or guide a person who is blind or has a visual disability;]~~

222 ~~[(ii) assist a person who has a physical disability, including hearing impairment or~~
223 ~~deafness; or]~~

224 ~~[(iii) assist a person who has a mental disability.]~~

225 ~~[(b) "Person with a disability" means a person who is blind, visually impaired, deaf,~~

226 ~~hearing impaired, or otherwise has a physical or mental disability.]~~

227 (a) "Disability" has the same meaning as defined in Section 62A-5b-102.

228 (b) "Search and rescue dog" means a dog:

229 (i) with documented training to locate persons who are:

230 (A) lost, missing, or injured; or

231 (B) trapped under debris as the result of a natural or man-made event; and

232 (ii) affiliated with an established search and rescue dog organization.

233 (c) "Service animal" means:

234 (i) a service animal as defined in Section 62A-5b-102;

235 (ii) a psychiatric therapy animal as defined in Section 62A-5b-102; or

236 (iii) a search and rescue dog.

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

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

242 (a) any substantial bodily injury or the death of ~~[an assistance]~~ a service animal; or

243 (b) the ~~[assistance]~~ service animal's subsequent inability to function as ~~[an assistance]~~ a
244 service animal as a result of the animal's attacking, chasing, or harassing the ~~[assistance]~~
245 service animal.

246 (4) It is a class B misdemeanor for a person to chase or harass ~~[an assistance]~~ a service
247 animal.

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

254 (6) (a) ~~[An assistance]~~ A service animal is exempt from quarantine or other animal
255 control ordinances if it bites any person while it is subject to an offense under Subsection (2),
256 (3), (4), or (5).

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

261 (7) In addition to any other penalty, a person convicted of any violation of this section
262 is liable for restitution to the owner of the ~~[assistance]~~ service animal or the person with
263 ~~[disabilities]~~ a disability whom the ~~[assistance]~~ service animal serves for the replacement,
264 training, and veterinary costs incurred as a result of the violation of this section.

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

268 Section 10. Section **78-20-101** is amended to read:

269 **78-20-101. Definitions.**

270 As used in this ~~[section]~~ chapter:

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

272 ~~[(a) lead or guide a person who is blind or has a visual disability;]~~

273 ~~[(b) assist a person who has a physical disability, including hearing impairment or~~
274 ~~deafness; or]~~

275 ~~[(c) assist a person who has a mental disability.]~~

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

278 (1) "Disability" has the same meaning as defined in Section 62A-5b-102.

279 (2) "Search and rescue dog" means a dog:

280 (a) with documented training to locate persons who are:

281 (i) lost, missing, or injured; or

282 (ii) trapped under debris as the result of a natural or man-made event; and

283 (b) affiliated with an established search and rescue dog organization.

284 (3) "Service animal" means:

285 (a) a service animal, as defined in Section 62A-5b-102;

286 (b) a psychiatric therapy animal, as defined in Section 62A-5b-102; or

287 (c) a search and rescue dog.

288 Section 11. Section **78-20-102** is amended to read:

289 **78-20-102. Damages recoverable for harm to or theft of service animal.**

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

293 (a) any person who steals or, without provocation, attacks the [~~assistance~~] service
294 animal; and

295 (b) the owner or keeper of any animal that without provocation attacks [~~an assistance~~] a
296 service animal due to the owner's or keeper's negligent failure to exercise sufficient control
297 over the animal to prevent the attack.

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

300 (3) The measure of economic damages in an action brought under Subsection (1)
301 regarding [~~an assistance~~] a service animal that is not returned or is killed or injured due to an
302 unprovoked attack so that the service animal is unable [~~again~~] to function again as a service
303 animal includes:

304 (a) the replacement value of an equally trained [~~assistance~~] service animal, without any
305 differentiation for the age or experience of the animal; and

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

307 (i) costs of temporary replacement assistance services, whether provided by another
308 [~~assistance~~] service animal or by a person;

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

- 310 (iii) court and attorney costs incurred in bringing an action under this section.
- 311 (4) If the unprovoked attack on a service animal results in injuries from which the
- 312 animal recovers so it is able to again function as a service animal for the person with a
- 313 disability, or if the theft of the service animal results in the recovery of the service animal and
- 314 the animal is again able to function as a service animal for the person with a disability, the
- 315 measure of economic damages is the costs and expenses incurred by the person with a
- 316 disability or the owner as a result of the theft of or injury to the service animal, and includes:
- 317 (a) veterinary medical expenses;
- 318 (b) costs of temporary replacement assistance services, whether provided by another
- 319 ~~[assistance]~~ service animal or a person;
- 320 (c) costs incurred in recovering the ~~[assistance]~~ service animal, such as a reward; and
- 321 (d) court and attorney costs incurred in bringing an action under this section.

322 Section 12. Section **78-20-103** is amended to read:

323 **78-20-103. Limitation on cause of action.**

324 A cause of action does not exist under this section if the person with a disability who

325 uses the service animal or the person having custody or supervision of the service animal was

326 committing a civil or criminal trespass at the time of the:

- 327 (1) theft of, or the chasing or harassment of the service animal by a person who owns
- 328 or exercises control over the property upon which the trespass is committed; or
- 329 (2) attack upon, or the chasing or harassment of ~~[an assistance]~~ a service animal by an
- 330 animal that is currently kept or maintained on the property where the trespass is committed.