

1 **EMOTIONAL SUPPORT ANIMALS AND**
2 **PSYCHIATRIC THERAPY ANIMALS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Margaret Dayton**

6 House Sponsor: Keith Grover

8 **LONG TITLE**

9 **General Description:**

10 This bill removes provisions of the Utah Code relating to emotional support animals
11 and psychiatric therapy animals.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ deletes definitions relating to emotional support animals and psychiatric therapy
15 animals;

16 ▶ removes emotional support animals and psychiatric therapy animals from the
17 definition of service animals;

18 ▶ removes provisions relating to a mental health therapist being accompanied by a
19 psychiatric therapy animal; and

20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **62A-5b-102**, as enacted by Laws of Utah 2007, Chapter 22

28 **62A-5b-104**, as renumbered and amended by Laws of Utah 2007, Chapter 22

29 **76-9-307**, as last amended by Laws of Utah 2007, Chapter 22

30 **78B-3-701**, as renumbered and amended by Laws of Utah 2008, Chapter 3



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **62A-5b-102** is amended to read:

34 **62A-5b-102. Definitions.**

35 As used in this chapter:

36 (1) "Disability" has the same meaning as defined in 42 U.S.C. 12102 of the Americans
37 With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. 36.104 of the
38 Code of Federal Regulations, as may be amended in the future.

39 [~~(2) "Emotional support animal":~~]

40 [~~(a) means an animal in the possession of a person:~~]

41 [~~(i) with a disability; and~~]

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

45 [~~(b) does not include an animal in the possession of a person with a disability in any~~
46 ~~other location than the particular location described in Subsection (2)(a)(ii):~~]

47 [~~(3) "Mental health therapist" has the same meaning as defined in Title 58, Chapter~~
48 ~~60, Mental Health Professional Practice Act.]~~

49 [~~(4) "Mental health therapy" has the same meaning as defined in Title 58, Chapter 60,~~
50 ~~Mental Health Professional Practice Act.]~~

51 [~~(5) "Psychiatric therapy animal" means an animal:~~]

52 [~~(a) specifically trained for use by a mental health therapist in the course of providing~~
53 ~~mental health therapy to a person with a disability; and]~~

54 [~~(b) in the possession of a mental health therapist.]~~

55 [~~(6)~~] (2) "Restaurant":

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

58 (b) does not include:
 59 (i) any retail establishment whose primary business or function is the sale of fuel or
 60 food items for off-premise, but not immediate, consumption; and
 61 (ii) except for a dinner theater, a theater that sells food items.

62 ~~[(7)]~~ (3) "Service animal" means:

63 (a) (i) a guide dog;
 64 (ii) a signal dog; or
 65 (iii) any other animal individually trained to do work or perform tasks for the benefit
 66 of a person with a disability, including:

- 67 (A) guiding a person with impaired vision;
- 68 (B) alerting a person with impaired hearing to intruders or sounds;
- 69 (C) providing minimal protection or rescue work;
- 70 (D) pulling a wheelchair; or
- 71 (E) fetching dropped items; or

72 ~~[(b) an emotional support animal; or]~~

73 ~~[(c)]~~ (b) an animal in training to become an animal described in Subsection ~~[(7)]~~
 74 (3)(a) ~~[or (b)]~~.

75 Section 2. Section **62A-5b-104** is amended to read:

76 **62A-5b-104. Right to be accompanied by service animal -- Security deposits --**
 77 **Discrimination -- Liability -- Identification.**

78 (1) (a) A person with a disability has the right to be accompanied by a service animal,
 79 unless the service animal is a danger or nuisance to others as interpreted under the Americans
 80 with Disabilities Act of 1990, 42 U.S.C. 12102:

- 81 (i) in any of the places specified in Section 62A-5b-103; and
- 82 (ii) without additional charge for the service animal.

83 (b) This section does not prohibit an owner or lessor of private housing
 84 accommodations from charging a person, including a person with a disability, a reasonable
 85 deposit as security for any damage or wear and tear that might be caused by a service animal if

86 the owner or lessor would charge a similar deposit to other persons for potential wear and tear.

87 (c) An owner or lessor of private housing accommodations may not, in any manner,
88 discriminate against a person with a disability on the basis of the person's possession of a
89 service animal.

90 (2) A person who is not a person with a disability has the right to be accompanied by
91 an animal that is in training to become a service animal:

92 (a) in any of the places specified in Section 62A-5b-103; and

93 (b) without additional charge for the animal.

94 (3) A person with a disability is liable for any loss or damage caused or inflicted to the
95 premises by the person's service animal.

96 (4) A person accompanied by a service animal is encouraged to identify the animal by
97 exhibiting one or more of the following:

98 (a) the animal's laminated identification card;

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

100 (c) another form of identification.

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

106 Section 3. Section **76-9-307** is amended to read:

107 **76-9-307. Injury to service animals -- Penalties.**

108 (1) As used in this section:

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

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

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

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

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

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

115 (c) "Service animal" means:

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

117 [~~(ii) a psychiatric therapy animal as defined in Section 62A-5b-102; or]~~

118 [~~(iii)~~] (ii) a search and rescue dog.

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

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

124 (a) any substantial bodily injury or the death of a service animal; or

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

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

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

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

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

138 (7) In addition to any other penalty, a person convicted of any violation of this section
139 is liable for restitution to the owner of the service animal or the person with a disability whom
140 the service animal serves for the replacement, training, and veterinary costs incurred as a result
141 of the violation of this section.

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

145 Section 4. Section **78B-3-701** is amended to read:

146 **78B-3-701. Definitions.**

147 As used in this part:

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

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

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

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

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

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

154 (3) "Service animal" means:

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

156 [~~(b) a psychiatric therapy animal, as defined in Section 62A-5b-102; or~~]

157 [~~(c)~~] (b) a search and rescue dog.