1	DAMAGES FOR HARM TO OR THEFT OF AN
2	ASSISTANCE ANIMAL
3	2000 GENERAL SESSION
4	STATE OF UTAH
5	Sponsor: D. Edgar Allen
6	AN ACT RELATING TO THE JUDICIAL CODE AND THE CRIMINAL CODE; PROVIDING
7	A CAUSE OF ACTION REGARDING INJURY, DEATH, OR THEFT OF A SERVICE
8	ANIMAL; AND CREATING A CRIMINAL OFFENSE AND PENALTY FOR HARASSING OR
9	CAUSING THE INJURY OR DEATH OF A SERVICE ANIMAL.
10	This act affects sections of Utah Code Annotated 1953 as follows:
11	AMENDS:
12	18-1-3, as last amended by Chapter 27, Laws of Utah 1973
13	ENACTS:
14	76-9-307 , Utah Code Annotated 1953
15	78-47-101 , Utah Code Annotated 1953
16	78-47-102 , Utah Code Annotated 1953
17	78-47-103 , Utah Code Annotated 1953
18	Be it enacted by the Legislature of the state of Utah:
19	Section 1. Section 18-1-3 is amended to read:
20	18-1-3. Dogs attacking domestic animals, assistance animals, hoofed protected
21	wildlife, or domestic fowls.
22	Any person may injure or kill a dog while it is attacking, chasing, or worrying any domestic
23	animal having a commercial value, any assistance animal as defined in Section 78-47-101, or any
24	species of hoofed protected wildlife, while attacking domestic fowls, or while [such] the dog is
25	being pursued thereafter.
26	Section 2. Section 76-9-307 is enacted to read:
27	76-9-307 Theft or injury to service animals Penalties

S.B. 70 01-27-00 4:12 PM

28	(1) As used in this section:
29	(a) "Assistance animal" means an animal that is trained or is in training to:
30	(i) lead or guide a person who is blind or has a visual disability;
31	(ii) assist a person who has hearing impairment or deafness; or
32	(iii) assist a person who has another physical disability.
33	(b) "Person with a disability" means a person who is blind, visually impaired, deaf, hearing
34	impaired, or otherwise has a physical disability.
35	(2) It is a class A misdemeanor for a person to intentionally:
36	(a) cause bodily injury or death to an assistance animal; or
37	(b) engage in conduct likely to cause bodily injury or death to an assistance animal.
38	(3) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control
39	over an animal to allow the animal to chase, harass, or worry an assistance animal while it is
40	carrying out its duties as an assistance animal.
41	(4) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises control
42	over an animal to allow the animal to cause:
43	(a) any injury or the death of an assistance animal; or
44	(b) the assistance animal's subsequent inability to function as an assistance animal as a
45	result of attacking, chasing, harassing, or worrying the assistance animal.
46	(5) (a) An assistance animal is exempt from quarantine or other animal control ordinances
47	if it bites any person while it is being subjected to an offense under Subsection (2), (3), or (4).
48	(b) The owner of the assistance animal under Subsection (5)(a) or the person with a
49	disability whom the assistance animal serves shall make the animal available for examination at
50	any reasonable time and shall notify the local health officer if the animal exhibits any abnormal
51	behavior.
52	(6) In addition to any other penalty, a person convicted of any violation of this section is
53	liable to the owner of the assistance animal or the person with disabilities whom the assistance
54	animal serves for the replacement, training, and veterinary costs incurred as a result of the violation
55	of this section.
56	Section 3. Section 78-47-101 is enacted to read:
57	CHAPTER 47. DAMAGES REGARDING INJURY TO OR THEFT
58	OF ASSISTANCE ANIMAL

01-27-00 4:12 PM S.B. 70

59	<u>78-47-101.</u> Definitions.
60	As used in this section:
61	(1) "Assistance animal" means an animal that is trained or is in training to:
62	(a) lead or guide a person who is blind or has a visual disability;
63	(b) assist a person who has hearing impairment or deafness; or
64	(c) assist a person who has another physical disability.
65	(2) "Person with a disability" means a person who is blind, visually impaired, deaf, hearing
66	impaired, or otherwise has a physical disability.
67	Section 4. Section 78-47-102 is enacted to read:
68	78-47-102. Damages recoverable for harm to or theft of assistance animal.
69	(1) A person with a disability who uses an assistance animal or the owner of an assistance
70	animal has a cause of action for economic and noneconomic damages against:
71	(a) any person who steals, or without provocation, attacks the assistance animal; and
72	(b) the owner or keeper of any animal that, without provocation, attacks an assistance
73	animal.
74	(2) The action authorized by this section may be brought by a person with a disability who
75	uses the assistance animal, or the owner of the animal.
76	(3) The measure of economic damages in an action brought under Subsection (1) regarding
77	an assistance animal that is not returned, or killed or injured due to an unprovoked attack so that
78	the animal is unable to return to service includes:
79	(a) the replacement value of an equally trained assistance animal, without any
80	differentiation for the age or experience of the animal; and
81	(b) costs and expenses incurred by the person with a disability or the owner, including:
82	(i) costs of temporary replacement assistance services, whether provided by another
83	assistance animal or by a person;
84	(ii) reasonable costs incurred in efforts to recover a stolen service animal; and
85	(iii) court and attorney costs incurred in bringing an action under this section.
86	(4) If the unprovoked attack on a service animal results in injuries from which the animal
87	recovers so it is able to again be a service animal for the person with a disability, or if the theft of
88	the service animal results in the recovery of the service animal and the animal is again able to carry
89	out its duties as a service animal for the person with a disability, the measure of economic damages

90 is the costs and expenses incurred by the person with a disability or the owner as a result of the 91 theft of or injury to the service animal, and includes: 92 (a) veterinary medical expenses; (b) costs of temporary replacement assistance services, whether provided by another 93 94 assistance animal or a person; 95 (c) costs incurred in recovering the assistance animal, such as a reward; and 96 (d) court and attorney costs incurred in bringing an action under this section. 97 Section 5. Section **78-47-103** is enacted to read: 98 78-47-103. Limitation on cause of action. 99 A cause of action does not exist under this section if the person with a disability who uses 100 the service animal or the person having custody or supervision of the service animal was

Legislative Review Note as of 1-24-00 4:33 PM

S.B. 70

101

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

committing a civil or criminal trespass at the time of the theft of or attack on the assistance animal.

Office of Legislative Research and General Counsel

01-27-00 4:12 PM