

SERVICE ANIMALS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Allen M. Christensen

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;
 - 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";
- ▶ amends portions of the Utah Judicial Code by:



- 28 • amending definitions; and
- 29 • replacing "assistance animal" with "service animal";
- 30 ▶ makes clarifying and conforming changes; and
- 31 ▶ makes technical corrections.

32 Monies Appropriated in this Bill:

33 None

34 Other Special Clauses:

35 None

36 Utah Code Sections Affected:**37 AMENDS:**

38 **18-1-3**, as last amended by Chapter 302, Laws of Utah 2000

39 **76-9-307**, as enacted by Chapter 302, Laws of Utah 2000

40 **78-20-101**, as enacted by Chapter 302, Laws of Utah 2000

41 **78-20-102**, as enacted by Chapter 302, Laws of Utah 2000

42 **78-20-103**, as enacted by Chapter 302, Laws of Utah 2000

43 RENUMBERS AND AMENDS:

44 **62A-5b-101**, (Renumbered from 26-30-1, as last amended by Chapter 73, Laws of Utah
45 2001)

46 **62A-5b-102**, (Renumbered from 26-30-2, as last amended by Chapter 73, Laws of Utah
47 2001)

48 **62A-5b-103**, (Renumbered from 26-30-3, as last amended by Chapter 73, Laws of Utah
49 2001)

50 **62A-5b-104**, (Renumbered from 26-30-4, as last amended by Chapter 34, Laws of Utah
51 1986)

52 **62A-5b-105**, (Renumbered from 26-30-5, as enacted by Chapter 126, Laws of Utah
53 1981)

54

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

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

57 **18-1-3. Dogs attacking domestic animals, service animals, hoofed protected**
58 **wildlife, or domestic fowls.**

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

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

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

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

(c) any species of hoofed protected wildlife[~~while~~];

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

(3) the dog is being pursued [~~thereafter~~] for committing an act described in Subsection (1) or (2).

Section 2. Section **62A-5b-101**, which is renumbered from Section 26-30-1 is renumbered and amended to read:

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

[26-30-1]. 62A-5b-101. Definition -- Rights and privileges of a person with a disability.

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

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

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

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

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

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

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

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

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

(b) This chapter does not require a person renting, leasing, or selling private housing or real property to modify the housing or property in order to accommodate a ~~[blind, visually impaired, hearing impaired, or otherwise physically disabled person,]~~ person with a disability or to provide a higher degree of care for that person than for ~~[a person]~~ someone who is not ~~[physically disabled]~~ a person with a disability.

(c) A person renting, leasing, or selling private housing or real property to a person ~~[who is blind, visually impaired, hearing impaired, or a person who is otherwise physically disabled,]~~ with a disability shall comply with the provisions of Section ~~[26-30-2]~~ 62A-5b-102, regarding the right of ~~[those persons]~~ the person to be accompanied by a ~~[guide or]~~ service animal specially trained for that purpose.

Section 3. Section **62A-5b-102**, which is renumbered from Section 26-30-2 is renumbered and amended to read:

[26-30-2]. 62A-5b-102. Right to be accompanied by guide or service animal -- Security deposits -- Discrimination -- Animals in training -- Liability -- Identification -- Psychiatric therapy animals.

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

(1) As used in this section:

(a) "Emotional support animal":

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

(A) with a disability; and

(B) with specific documentation from a mental health professional that the animal is needed in a particular location described in Section 62A-5b-101 by the person to address a mental health condition; and

(ii) does not include an animal in the possession of a person with a disability in any other location than the particular location described in Subsection (1)(a)(i)(B).

(b) "Mental health therapist" has the same meaning as defined in Title 58, Chapter 60,

Mental Health Professional Practice Act.

(c) "Mental health therapy" has the same meaning as defined in Title 58, Chapter 60,

Mental Health Professional Practice Act.

(d) "Psychiatric therapy animal" means an animal:

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

(ii) in the possession of a mental health therapist.

(e) "Service animal" means:

(i) (A) a guide dog;

(B) a signal dog; or

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

(I) guiding a person with impaired vision;

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

(III) providing minimal protection or rescue work;

(IV) pulling a wheelchair, or

(V) fetching dropped items;

(ii) an emotional support animal; or

(iii) an animal in training to become an animal described in Subsection (1)(e)(i) or (ii).

(2) (a) A person with a disability has the right to be accompanied by a ~~[guide or]~~
service animal~~[-, as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. 12102,~~
~~specially trained for that purpose;-];~~

(i) in any of the places specified in Section [26-30-1] 62A-5b-101; and

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

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

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

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

~~[(2)] (3)~~ A person~~[- whether or not the person is blind, visually impaired, hearing impaired, or otherwise physically disabled;]~~ who is not a person with a disability has the right to be accompanied by an animal that is in training to become a ~~[guide or]~~ service animal:

~~(a)~~ (a) in any of the places specified in Section ~~[26-30-1]~~ 62A-5b-101; and

~~(b)~~ (b) without additional charge for the animal.

~~[(3)] (4)~~ A ~~[blind, visually impaired, hearing impaired, or otherwise physically disabled person]~~ person with a disability is liable for any loss or damage caused or inflicted to the premises by the ~~[individual's guide or]~~ person's service animal.

~~[(4) Persons]~~ (5) A person accompanied by a ~~[specially trained guide or]~~ service animal~~[- or by an animal that is in training to become a guide or service animal, may first be required]~~ is encouraged to identify the animal by exhibiting one or more of the following:

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

(b) the animal's service vest; or

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

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

Section 4. Section **62A-5b-103**, which is renumbered from Section 26-30-3 is renumbered and amended to read:

~~[26-30-3].~~ **62A-5b-103. Policy of state to employ persons with a disability.**

It is the policy of this state that a person ~~[who is blind, visually impaired, and otherwise physically disabled]~~ with a disability shall be employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as ~~[the able-bodied]~~ a person who is not a person with a disability, unless it is shown that the particular disability prevents the performance of the work involved.

Section 5. Section **62A-5b-104**, which is renumbered from Section 26-30-4 is

renumbered and amended to read:

~~[26-30-4].~~ **62A-5b-104.** **Interference with rights provided in this chapter a class C misdemeanor.**

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

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

~~[26-30-5].~~ **62A-5b-105.** **Annual "White Cane Safety Day" proclaimed.**

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

Section 7. Section **76-9-307** is amended 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.]~~

(a) "Disability" has the same meaning as defined in Section 62A-5b-101.

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

(i) trained to locate persons who are:

(A) lost, missing, or injured; or

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

(ii) certified by the National Association for Search and Rescue or a similar nationally recognized organization.

(c) "Service animal" means:

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

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

(iii) a search and rescue dog.

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

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

(4) It is a class B misdemeanor for a person to chase or harass ~~[an assistance]~~ a service 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]~~ a service animal while it is carrying out its functions as ~~[an assistance]~~ a service animal, to the extent that the animal temporarily interferes with the ~~[assistance]~~ service animal's ability to carry out its functions.

(6) (a) ~~[An assistance]~~ A service 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]~~ service animal or the person with a disability whom the ~~[assistance]~~ service 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]~~ service animal or the person with ~~[disabilities]~~ a disability whom the ~~[assistance]~~ service 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 8. Section **78-20-101** is amended to read:

78-20-101. Definitions.

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

~~[(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.]~~

(1) "Disability" has the same meaning as defined in Section 62A-5b-101.

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

(a) trained to locate persons who are:

(i) lost, missing, or injured; or

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

(b) certified by the National Association for Search and Rescue or a similar nationally recognized organization.

(3) "Service animal" means:

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

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

(c) a search and rescue dog.

Section 9. Section **78-20-102** is amended to read:

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

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

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

(b) the owner or keeper of any animal that without provocation attacks ~~[an assistance]~~ a service 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]~~ service animal, or the owner of the service animal.

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

(a) the replacement value of an equally trained ~~[assistance]~~ service 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]~~ service 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]~~ service animal or a person;

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

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

Section 10. Section **78-20-103** is amended to read:

78-20-103. 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

307 (2) attack upon, or the chasing or harassment of [~~an assistance~~] a service animal by an
308 animal that is currently kept or maintained on the property where the trespass is committed.

Legislative Review Note
as of 1-25-06 11:44 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note**Bill Number HB0194****Service Animals***31-Jan-06**2:22 PM*

State Impact

No state or local government fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst