

**EMOTIONAL SUPPORT ANIMALS AND  
PSYCHIATRIC THERAPY ANIMALS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Keith Grover

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ deletes definitions relating to emotional support animals and psychiatric therapy animals;
- ▶ removes emotional support animals and psychiatric therapy animals from the definition of service animals;
- ▶ removes provisions relating to a mental health therapist being accompanied by a psychiatric therapy animal; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**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 the~~  
 44 ~~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 60,~~  
 48 ~~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 of  
66 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)~~] (3)(a)

74 [~~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.

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**Legislative Review Note**  
**as of 9-23-08 11:38 AM**

**Office of Legislative Research and General Counsel**

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**S.B. 173 - Emotional Support Animals and Psychiatric Therapy Animals**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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