

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on March 20, 2003 in Room 231-N of the Capitol.

All members were present except: Senator Susan Wagle

Committee staff present: Ms. Emalene Correll, Kansas Legislative Research Department
Mr. Norm Furse, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Representative Joann Freeborn
Ms. Kerri Bacon, Legislative Liason,
KS Commission on Disability Concerns, KDHE
Mr. Michael Byington, President
KS Association for the Blind and Visually Impaired, Inc.
Mr. Mark Coates, Legislative Chair,
Kansas Association of the Blind & Visually Impaired, Inc.
Ms. Shelly May, Grant Manager
Kansas Council on Developmental Disabilities
Ms. Marilyn Lined, Consumer

Others attending: See attached guest list

Action on SCR relating back to SB106 - an act relating to the public health and welfare of all Kansans identifying major health care issues and establishing objectives and priorities.

The Vice Chair Jim Barnett began the meeting by stating he wanted to make reference to a SCR that has been passed around and relates back to SB106 which healthy Kansas 2010. This passed 40-0 in the Senate and will not progress through the house. He stated, an email was sent to all regarding the above, and if this is in agreement with those Committee members in attendance, he would go ahead and run this resolution on the floor today. A copy of the SCR is (Attachment 1) attached hereto and incorporated into the Minutes as referenced.

Senator Barnett made a motion to run the above resolution on the Senate floor today. Senator Steineger seconded the motion and the motion carried.

Hearing on HB 2197 - an act concerning persons with disabilities; relating to assistance dogs and certain other dogs; prohibiting certain acts and providing penalties for violations

With the next order of business being a hearing on HB2197 as stated above, the Vice Chair asked Ms. Emalene Correll, Kansas Legislative Research Department, to give a brief overview of the bill. She said she wanted to briefly explain why this bill looks more complex than it really is. Ms Correll stated that the legislature currently has on the books, four different acts that deal with the use of dogs for assistance purposes: an act that has seven different statutes dating back to the sixties, a one statute act that relates to the use of hearing assistance dogs, a one statute act that relates to the assistance of service dogs (name given to the dogs used by persons with disabilities), and a 1992 act that deals with trainers of dogs. She also added that the substitute for the above bill is much less complex looking than the original bill.

Ms. Correll also stated, each of the three acts has a slightly different language in it in terms of what the act authorizes, what the individual and the dog has access to, and what this bill does to make this equal for all persons who use dogs for assistance purposes.

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She went on to state that:

1) New Section 1 creates a new definition of assistance dogs. By referring to guide dogs, hearing assistance dogs, or service dogs as "assistance dogs," it will make it much easier in these statutes, and throughout the rest of the bill, to refer to "assistance dogs" as opposed to relating to each different type of dog each time.

There is a new definition appearing in the subsection (d), professional therapy dogs, not currently covered by Kansas law.

The service dog, which is used now in the statutes relating to the physical disabled, had some changes in the definitions.

A new provision, appearing in lines 41 through 43 on page 1 and line 1 of page 2, that is not in our current law, states that the presence of a service dog for comfort, protection, or personal defense, does not qualify the dog as being trained to mitigate an individual's disability, therefore, does not qualify the dog as an assistance dog covered under the provisions of this act. She stated that this has become increasingly important as testimony was given in the Houses that people sometimes do attempt to take their own dogs on planes or such places by claiming their dogs are assistance dogs.

2) Section 2 amends one of the statutes, which is currently a part of the White Cane Act, which sets out the policy of the state and is also a reference for all of the other types of dogs. The real change here is "visually handicapped" changed to "visually disabled." Also, on line five, deleting the word "physically" prior to "disabled," so that it becomes applicable to all disabled.

3) Section 3 also amends one of the statutes that deals with guide dogs for persons who are blind or visually impaired. The change describes the person who has the right to be accompanied by a dog as a legally blind person. Also, on lines 20 and 21, language has been added to each of these acts which more clearly defines the dog (specifically selected, trained, and tested are the new parameters).

4) Section 4 is again, currently part of the White Cane Act and is made applicable to all of these acts and done by referring to K.S.A. 101 through 111-09. The House as a Whole struck all of the language beginning on line 37 through line 32 on page 3, dealing with second or third offenses of newly created crimes. The concern in the House was in regards to a felony penalty.

5) Section 5 is a hearing-impaired statute and conforms the definition.

6) Section 7 amends an existing statute that concerns those who train assistance dogs, changing the definition of a trainer to requiring the trainer be a "professional trainer" from a recognized training center.

7) New Section 8 relates to any person not covered in any of the existing acts. These persons are qualified handlers of professional therapy dogs.

8) New Section 9 on lines 28 through 35 on page 4, attempts to assist people who use assistance dogs who get into problems with proprietors who do not understand the law or do not grant them admittance. As written in the original bill, it would have required the handler to provide identification or a letter, if in question and with some concern. The compromise is to say the person who uses the assistance dog may present identification, then admittance must be granted. (Types of id's are provided on line 36, page 4, through line 12, page 5). In the following paragraph, (b), this same compromise exists with regards to a dog handler, an example being a professional trainer.

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9) Section 10 creates two new crimes, both deals with misrepresentation of the person with the assistance dog and both are class A nonperson misdemeanors.

As Ms. Correll stood before the Committee for questions, Senators Haley and Salmans asked a range of questions including: an instance on Wyandotte County, concerns with KDHE around food service establishments, clarification of New Section 9, is there any type of badge available to identify the assistance dog, damages in therapeutic settings, and, are establishments liable?

The Vice Chair then called upon the first proponent, Representative Joann Freeborn, who stated that she was submitting support for the bill because she feels the legislature should develop more access for persons with disabilities who utilize dogs and in reviewing interpretations of the Americans with Disabilities Act, she felt it had become evident that Kansas could greatly improve access. A copy of her testimony and testimony given in the House Environment Committee are ([Attachment 2](#)) attached hereto and incorporated into the Minutes as referenced.

The Vice Chair asked if there were questions from the Committee for Representative Freeborn. The only question came from Senator Haley who asked, in regards to Ms. Robin Pool and Ms. Dee Winter, two of the opponents listed on Representative Freeborn's sheet of conferees, were they concerned with the level of the penalty being a felony and not a misdemeanor?

The Vice Chairperson then called upon the second proponent to testify, Ms. Kerri Bacon, Legislative Liaison for the Kansas Commission on Disability Concerns (KCDC), Kansas Department on Human Resources, who stated that the KCDC is charged with providing information to the Governor, the Legislature, and to State agencies about issues of concern to Kansans with disabilities and to help the Committee understand the proposed changes. She also had attached a section-by-section recap. A copy of her testimony and attachment are ([Attachment 3](#)) attached hereto and incorporated into the Minutes as referenced.

The third proponent was Mr. Michael Byington, President, Association of the Blind and Visually Impaired, who stated the bill was the fourth piece of comprehensive legislation which has been introduced in recent years which attempts to update and upgrade the guide, service, and hearing assistance dog access statutes in Kansas. He also offered some specifics things the bill would not do. A copy of his testimony is ([Attachment 4](#)) attached hereto and incorporated into the Minutes as referenced.

The fourth proponent was Mr. Mark Coates, Legislative Chair, Kansas Association for the Blind and Visually Impaired, Inc. (KABVI) who gave a history of KABVI and stated that since there are so many types of assistance dogs, restaurant personnel, as an example, need to have a way to know who is a credible service or guide dog as opposed to someone's pet. A copy of his testimony is ([Attachment 5](#)) attached hereto and incorporated into the Minutes as referenced.

The fifth proponent was Ms. Shelly May, Grant Manager, Kansas Council on Developmental Disabilities, who gave a brief history of the Kansas Council and stated that passage of this bill not only recognizes the value and necessity of service animals, it reinforces Kansas' commitment to independence and inclusion for all citizens. A copy of her testimony is ([Attachment 6](#)) attached hereto and incorporated into the Minutes as referenced.

The final proponent to testify was Ms. Marilyn Lined, a consumer who has a therapy dog and a guide dog, who addressed two parts of the bill regarding the trained guard dogs (Guard Dogs for the Blind) and a certified therapy dog (Delta Society Pet Partner). A copy of her testimony is ([Attachment 7](#)) attached hereto and incorporated into the Minutes as referenced.

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As there was no opponent or neutral testimony, written testimony was offered from:

- 1.) Mrs. Ann Byington, President, Guide Dog Users of Kansas
- 2.) Ms. Robin Pool, service dog handler and founder of "Paws-Up"
- 3.) Mr. Sanford Alexander, guide dog user, currently serving on the Kansas Rehabilitation Services State Rehabilitation Council

Copies of the above are (Attachment 8) attached hereto and incorporated into the Minutes as referenced.

The Vice Chair then asked the Committee for questions or comments for the proponents. Senator Haley did ask Ms. Lind, stating first, if this bill passes it would allow you access of public transportation and then asked if she had ever been denied access.

Adjournment

As it was going on 2:30 p.m., Senate session start time, Senator Salmans made a motion to close the hearing and end discussion. Senator Steineger seconded the motion and the motion carried. The time was 2:30 p.m.

The next meeting is scheduled for March 24, 2003.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

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DATE: Thursday, March 20, 2003

NAME	REPRESENTING
Kerrie F. Bacon	KCDC
Joanna Lee Nelson	Log.
Michele Sabehart	KCDC
Mural Byington	KABVI
MARK COATES	KABVI
P.G. Nichols	DePover Service Dogs
Shelley May	KCDD

SENATE RESOLUTION NO. _____

A RESOLUTION relating to the public health of all Kansans; identifying major health care issues and establishing objectives and priorities.

WHEREAS, This resolution is intended to build on the efforts and activities of the many Kansans who were involved in the project Healthy Kansans 2000 and to work within the parameters of the national initiative, Healthy People 2010, to (1) establish a limited number of major health care issues which are most pertinent to the citizens of Kansas and (2) to establish objectives and priorities intended to ameliorate the adverse effects of such conditions and to develop action plans to accomplish such goals; and

WHEREAS, The state is concerned with the health of all Kansans, including issues relating to care and staffing (particularly in underserved areas of the state), financing, insurance (including the problems of the uninsured and underinsured), the role of the state and local government in the development and delivery of health services, and the role of education and technology in health care including mental health care; and

WHEREAS, The department of health and environment is complimented on its role in the planning and implementation of the project Healthy Kansans 2000, and there is a need to continue such efforts: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the department of health and environment is tasked to follow through with its earlier activities in light of the new national initiative, Healthy People 2010, to identify major health issues pertinent to this decade and to formulate needed objectives and priorities; and

Be it further resolved: That such efforts should be the collective actions of government agencies, professional and nonprofit health organizations and the rendering health care community, integrated with local communities, under the direction

Senate Public Health & Welfare Committee
Date: March 20, 2003
Attachment 1-1

of the secretary of health and environment; and

Be it further resolved: That these endeavors are to be undertaken subject to available appropriations; and

Be it further resolved: That the secretary of health and environment is encouraged to seek out alternative funding resources; and

Be it further resolved: That the secretary of health and environment is to report to the governor and legislature the actions taken pursuant to this resolution prior to the commencement of the 2007 legislative session; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to the governor of the state of Kansas and to the Kansas secretary of health and environment.

JOANN LEE FREEBORN
REPRESENTATIVE 107TH DISTRICT
CLOUD, OTTAWA COUNTIES
AND PART OF CLAY AND DICKINSON COUNTIES
1904 N 240TH RD.
CONCORDIA, KANSAS 66901-6825
785-446-3675



TOPEKA
—
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR: ENVIRONMENT
MEMBER: AGRICULTURE
FEDERAL AND STATE AFFAIRS

STATE CAPITOL, RM. 155-E
TOPEKA, KS 66612-1504
785-296-7645
1-800-432-3924

March 20, 2003

Senate Public Health and Welfare Committee

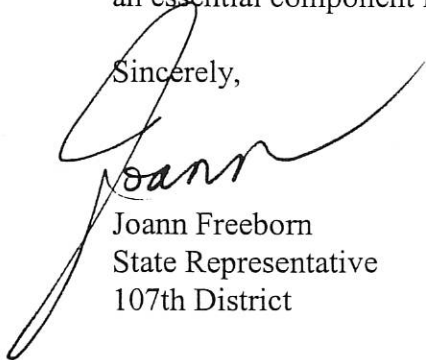
Senator James A. Barnett and committee members:

I am submitting this testimony in support of Substitute for HB2197 because I believe we should develop more access for persons with disabilities who utilize dogs. Reviewing interpretations of the Americans with Disabilities Act, it has become evident that Kansas can greatly improve access. I have given Senator Barnett the copies of testimony given in the House Environment Committee. For your information I have attached to my testimony a list of the conferees.

Due to questions raised during testimony a sub-committee was appointed. Issues of conflict were resolved in a spirit of compromise. As a result we drafted a Substitute for HB2197. On the House Floor this bill was amended changing the felonies to misdemeanors. Subsequently, the bill passed final action 118 votes yes to 3 no votes.

Please support Substitute for HB2197 as the access for dogs used by persons with disabilities is an essential component in making it possible to fulfill personal and daily work activities.

Sincerely,


Joann Freeborn
State Representative
107th District

Senate Public Health & Welfare Committee
Date: March 20, 2003
Attachment 2-1

FYI - Conferees for HB2197 in House Environment Committee

HB2197 - Assistance animals for handicapped and disabled persons.

Proponents:

Sarah Holbert - CARES (Canine Assistance, Rehabilitation, Education and Services) Concordia, KS

Michael Byington - KS Relay Service Inc., Topeka, KS

Mark Coates - KS Association for the Blind & Visually Impaired, Topeka, KS

Ann Byington - Guide Dog Users of Kansas, Topeka, KS

Sanford Alexander - Board of Directors Guide Dog Foundation, Smith Town, N.Y
Wichita, KS

Shelly May - KS Council on Developmental Disabilities, Topeka, KS

Martha Gabehart - KS Commission on Disability Concerns, Topeka, KS

Opponents:

Robin Pool - Derby, KS

Dee Winter - Winfield, KS

Written Only: Kirk W. Lowry, Attorney, Independent Living Resource Center
Sharon Thomas, Wichita, KS



Service for People with Disabilities

P.O. Box 314, 830 West 11th
Concordia, KS 66901
800-498-1077
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cares.ks@juno.com

Sarah Holbert, CEO
CARES, Inc.
PO Box 314
Concordia, KS 66901-0314
1-785-243-1077
1-785-243-1079 (fax)

March 19, 2003

Sen. Wagle and Members of the Committee:

I would like to thank you on behalf of the CARES staff, Board of Directors and over 350 graduates for hearing testimony on Substitute for House Bill 2197. I would like to sincerely thank Rep. Joann Freeborn for her support in furthering this bill as well as Sen. Wagle for accepting this bill into her committee.

CARES has been placing canine assistants with persons who have disabilities or who work with persons who have disabilities since 1994. Our graduates reside in 28 different states, Puerto Rico and Peru. 57% of our graduates work here in the state of Kansas.

The following persons who have participated in the preliminary construction of this bill represent a large coalition of agencies that provide services for persons who have disabilities or are consumers' groups:

Byington Advocacy Consultants of Kansas
CARES, Inc.
Guide Dog Users of Kansas
Guide Dog Federation
Kansas Advocacy & Protective Services (KAPS)
Kansas Association for the Blind and Visually Impaired, Inc. (KABVI)
Kansas Commission on Disability Concerns
Kansas Specialty Dog Service
Statewide Independent Living Council of Kansas (SILCK)
and the Topeka Independent Living Resource Center.

National organizations, as well as federal agencies, are very interested in the results brought about by the collaboration between the state of Kansas and the above organizations. These groups have diligently worked together with legislators to bring this sound and fundamental disability centered legislation to Kansas citizens. It combines several difference pieces of legislation into one specific bill.

One of the key elements to this legislation is bringing all classifications of assistance dogs to an equal level. Guide dogs, service dogs and hearing assistance dogs will all have the same access rights. The definition of "service dog" will include any person with a disability other than the blind or deaf. Therefore, persons who have a dog to alert or respond to seizures will fall into this definition as well as many others who previously were not recognized.

Another is a standard form of identification that will give business owners an opportunity to verify with a photo ID the validity of an assistance dog team. However, if the assistance dog owner chooses not to use a photo ID there will still be channels through which the denial of public access could be remedied.

Professional therapy dogs, a new category of assistance dog, are being widely used not only in the state of Kansas but throughout the United States and abroad. These dogs are NOT the same as pet visitation therapy dogs. They are held to a much higher standard of training and testing. These dogs are trained to work with persons who have disabilities vacillated by a professional. The professionals include doctors, nurses, counselors, teachers, principals, physical therapists, occupational therapists, recreational therapists and many more. The utilization of these dogs who have been trained to perform assistance dog skills for people other than their owners are very carefully selected for their ability to work for a wide variety of people with disabilities. Some of the professional therapy dogs who work with counselors or special education teachers work with persons who have severe behavior or mental disabilities, these dogs are also very carefully selected to be able to work under extremely stressful situations. These dogs need to be able to continue their training in public as well as accompany people other than who they have been certified with so they can perform their duties as an assistance dog for persons with disabilities.

Thank you so much, for considering this legislation and reviewing our testimony on HB 2197. To work within our system of democracy is truly an honor of which I feel privileged to be a part of.

Sincerely,

Sarah Holbert, CEO

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Sarah Holbert, CEO

Megan Lewellyn, Canine Assistance Director

**Amanda Blackwood, Administration
Director**

Carrie Pickett, Apprentice Trainer



**PO Box 314
830 West 11th
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February 13, 2003

Chairperson Freeborn and Members of the Environment Committee:

I would like to thank you on behalf of the CARES staff and it's Board of Directors for hearing testimony on HB 2197. I would also like to sincerely thank Rep. Joann Freeborn for her support by accepting our bill into her committee.

CARES began placing canine assistants with persons in 1994. Since that time we have placed over 330 assistance dogs in 26 different states, Puerto Rico and Peru. 57% of our placements work here in the state of Kansas.

While we are not the largest training facility, we have placed a large number of dogs in specific areas of disabilities that are not being addressed by other schools in the United States. Follow-up to the original team placement is a constant challenge. We do not find we have a significant increase of concerns regarding people with one type of disability to whom we have given a canine assistant over another at the time of our follow-up visit. In fact, professional therapy dogs, for instance, are used and maintained at a very high level of excellence, because the majority of their use is in school settings where it is imperative that they demonstrate outstanding manners. High standards of behavior are emphasized for all assistance dogs working in and with the public.

Because of the willingness of the following organizations to participate in the preliminary construction of this bill;

Byington Advocacy Consultants of Kansas,
CARES, Inc.,

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Guide Dog Users of Kansas,
Guide Dog Federation,
Kansas Advocacy & Protective Services (KAPS),
Kansas Association for the Blind & Visually Impaired, Inc. (KABVI),
Kansas Commission of Disability Concerns,
Kansas Specialty Dog Service,
Statewide Independent Living Council of Kansas (SILCK)
and the Topeka Independent Living Resource Center,

national organizations, as well as federal agencies, are very interested in the results brought about by the collaboration between the state of Kansas and the above organizations. These groups have worked together to bring the possibility of sound and fundamental disability centered legislation to the citizens. The passing of this bill will bring that hard work to fruition. It is quite possible that the precedent that Kansas sets with legislation will have an impact on what happens with future ADA and Dept. of Housing policies as well as interpretation of those policies by the Dept. of Justice. Groups have met on the national level to try to accomplish the very bill that you have in front of you.

Public access, protection under the law, as well as the ability to punish violators, will give Kansas citizens working with assistance dogs the assurance that the partnerships they have with their dogs will have been given every consideration by the people chosen to represent them in Topeka.

In the last six months we have received more complaints about canine assistance teams being denied public access than ever before. Many businesses are willing to "risk" telling a person they cannot bring their dog into their business, because there is not enough incentive for them to comply with the state law and the threat of federal involvement is almost non-existent. You may have read in the last year the struggle of the man and his service dog who were denied access to a restaurant in the Kansas City area, he continues to fight this issue that is still not resolved today. And in the audience are Dr. Lilianna Mayo, Lima, Peru and Dr. Judith LeBlanc, Professor Emeritus Kansas University, Lawrence, Kansas. Each have a canine assistant with them trained by CARES, Inc. Lilianna and Judith have traveled extensively in the United States as well as internationally. On one of their trips, a man very boldly told the story of how he had also flown with his "pet" dog. He had put a harness on him and masqueraded the dog as a "guide dog." Unfortunately, this story is growing only too common. We feel the identification requirement section of this bill addresses this issue by giving protection to both legitimate canine assistance owners and the businesses they enter.

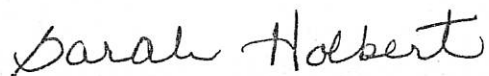
The ADA at this point has such a "gray area" regarding "service animals" that only through the court system will we finally know what is going to be

considered acceptable under that federal legislation. We support the exclusion of this definition, "service animal", from the bill.

A major step forward for canine assistance will be the passing of this bill. The next step will be the education of our prosecutors, law enforcement officers, our attorneys and the general public.

Thank you so much, for considering our proposals and hearing our testimony on the change in the current legislation. To work within our system of democracy is a right that I truly feel honored and privileged to be a part of.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Holbert".

Sarah Holbert, CEO



Kansas Relay Service, Inc.

700 SW Jackson Street, Suite 704
Topeka, Kansas 66603-3758

Voice 785-234-0307 • TDD 785-234-0207 • Fax 785-234-2304

February 13, 2003

TO: House Environment Committee

FROM: Michael Byington 

SUBJECT: Support for House Bill 2197

We have been working on this legislation so long, I have had something to do with it while in three different jobs. When a coalition of disabled and blind individuals and representatives of facilities which train guide and service dogs, first came to me, I was employed as an Advocate with Envision, a service provider for people who are blind and/or developmentally disabled. I then left Envision and opened Byington Advocacy Consulting of Kansas (BACK), and the same folks asked me to work with them again in my private capacity. I now am Director of Kansas Relay Service Inc. (KRSi). KRSi operates two programs which help people who have many types of disabilities meet their needs for telecommunications access. About 60% of the people KRSi serves are deaf or hearing impaired. Another roughly 15% to 20% of those served are blind or visually impaired. Needless to say, my current clientele continues to have a lot of interest in this legislation and they have made sure to tell me to finish what I started and keep working with the coalition backing it. KRSi normally does not work directly with legislation, but under these circumstances, I have received permission from my superiors to talk with you about the legislation even though the last time I checked, dogs do not constitute telecommunications devices. I also am here in the capacity of President of the Kansas Association for the Blind and Visually Impaired, Inc. (KABVI). This is a volunteer job I do outside of my employment, but working with KABVI, or some of the other blindness and disability groups over the past 20 years or so, I have done a lot of work on this body of law and have been at least somewhat involved with every set of adopted or proposed amendments to it.

I am thus here as a consultant today. I can tell you with considerable certainty what the bill would do, why the coalition of people who worked on it feel it is essential, and what some of the problems are with the current set of statutes on guide, service, and hearing assistance dog access.

The first thing which is added to the existing statutes is a definition section. This has been a deficit in the existing legislation. Although limited functional definitions of guide dogs, service dogs, and hearing assistance dogs have been present in the existing legislation, the definitions have not been clear or easy to find. There are particularly some deficits in the service dog explanations in current law. For example, a dog which helps a person who has epilepsy avoid seizures, or be aware of an onset of a seizure is not clearly included under current statutory definitions. The proposed legislation includes provisions for a type of service to be provided to be that of helping during, or preventing, a medical emergency. This would now more clearly cover seizure alert and seizure prevention functions of a dog.

The proposed legislation not only better defines the different types of assistance dogs, it defines what types of animals do NOT qualify as service animals. (See (f), line 39 on page one.) This is important, because with the lack of specificity in the current State law, and with extremely broad standards in the Americans with Disabilities Act concerning assistance animals, standards which are quite frankly generating some inconsistent and often very bad case law around the country, the current guide, service, and assistance dog access law in Kansas has been rendered less effective and less enforceable.

Current State statutes have different levels of access for each type of assistance animal. The statutes describing levels of access are slightly different in current statutes for guide dogs, service dogs, and hearing assistance dogs. I realize I just finished stating that very broad and general standards regarding assistance animal access in the Americans With Disabilities Act are generating some bad case law; nonetheless, one thing the ADA provisions make clear, and which has been upheld in almost all case law, is that a dog who meets the definition of a guide, service, or hearing assistance dog, and who is providing assistance to a person who has a disability, should have the same rights of public access regardless of the variety of disability the handler may have. This is because the access rights are in fact predicated on the civil rights of the PERSON WHO HAS THE DISABILITY. To state that a guide dog can go some places where, for example, a hearing assistance dog can not go, is to state that the blind PERSON using the one type of dog has more right of access than the deaf person who is using another type of dog. Obviously this does not provide for equal treatment. The legislation you have before you will bring the defined access standards into alignment regardless of the type of whether the dog meets the definition of a guide dog, service dog, or hearing assistance dog.

Also, currently to injure, harass, taunt, or even murder a guide, service, or hearing assistance dog, or to allow an uncontrolled pet to damage a guide, service, or hearing assistance dog, is only punishable as would be the case if such behaviors were to occur toward a farrel dog in an alley. The training of most guide, service, or hearing assistance dogs, however, especially when done

by a specializing school or training program, brings the monetary worth of the dog to anywhere from \$10,000.00 to \$25,000.00. Also, a disabled person whose dog is murdered, or rendered unable to perform its functions due to criminal actions of others may cause the person who has a disability to be unable to go to employment, travel in the community, or experience other medical dangers because of the loss of the dog. These losses can go on for several weeks or months while a new dog is being trained for the individual or the existing dog is being re-trained. Beginning on line 34 of page two, the proposed legislation includes penalties of a magnitude to fit the monetary value and impact of the crime of damaging a guide, service, or hearing assistance dog.

The proposed legislation defines, for the first time in statute, what constitutes a professional therapy dog. These are dogs who work with therapists who are also professional dog handlers, and these teams work with patients or clients in institutional settings or community based facilities and locations. The work of a professional therapy dogs and their handler, for example, may cause them to have to travel from facility to facility. A person who has a disability preventing them from driving may be qualified as a handler of a professional therapy dog, and such person may need to use public transportation in order for the professional therapy dog to accompany them to the places where they work together. New Section 8 in the legislation concerning the access of professional therapy dogs provides for access standards to allow this kind of access.

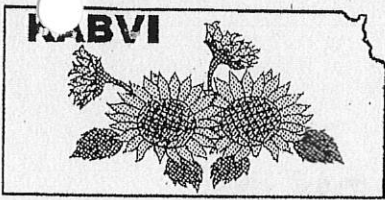
Existing statutes have, from their inception, placed responsibilities on the guide, service, or hearing assistance dog's disabled handler or trainer. If such a dog does any type of damage in a public accommodation, the disabled handler or trainer is liable for paying for the damage. These standards remain in the proposed legislation, but they will be more enforceable because the categories of dogs are better defined.

This brings us to one of the most important additions contained in the proposed legislation. That is provisions for identification. As I explained, the coalition of disability interests and service and guide dog training facilities in Kansas have been working on changes in the guide, service, and hearing assistance dog access statutes of our State for some time. We have floated earlier versions of legislation to amend these statutes in recent previous sessions of the Kansas Legislature. The last time we had legislation before a committee, many members objected to a lack of specific identification requirements in the bill. This time we have added a quite specific identification section. This is a little controversial as it relates to the ADA, but a few other States, including California, have taken similar postures. During the Clinton Administration, the Department of Justice under Attorney General Reno released an guidance circular suggesting that under the provisions of the ADA, personnel in charge of public accommodations may not request identification of a person with a disability who is accompanied by a dog to determine if the dog is a guide,

service, or hearing assistance dog. I must emphasize, however, that this is only an opinion of a former attorney general. It is not tested with case law, and the very limited case law which has been generated on the issue has been broad ranging. As identification provisions were one thing, however, which many Legislators have told us they want to see, and as the members of the coalition working on the legislation felt strongly that identification would be helpful in resolving questions, we have added the section. The question then has arisen about guide, service, and hearing assistance dogs who may have been user trained, or trained by private, professional trainers not affiliated with school or facility based training programs. The manner in which the identification section is written is very specific, but it does not prevent whoever trained the dog from producing the required identification. Does this mean that there may still from time to time be questions which arise about whether a particular dog falls within one of the categories within the proposed legislation? Yes, such questions could still arise, but the proposed amendments offer a great many more tools to use in resolving the questions than are featured in existing law.

Each time we have introduced comprehensive legislation to update the guide, service, and hearing assistance statutes over the past several years, there have been a few people who have shown up to oppose the legislation. I understand that there are some opponents to this bill as well. It would seem that no matter how careful the coalition has been to garner a broad spectrum of input into the process, people emerge with concerns. That is certainly the manner in which the democratic system can work, and people have a right to oppose legislation no matter how many have worked on it and feel it is a good idea. The last several opponents to the bills, however, have expressed objections to the legislation which were inaccurate. They have suggested that the legislation would create problems that are in fact more prevalent under existing statutes, and which the proposed legislation moves a long way toward resolving.

Are the proposed statutes perfect? Probably not. If you think about it, few PERFECT statutes have ever been crafted. Will some issues have to be resolved through case law? Probably. That is the way much legislation is refined and the reason our system of laws and justice in the United States have executive, legislative, and judicial branches. The legislation before you, however, is the process of several years of hard work and evolution. In light of federal law, and in light of the differing types of training processes available for guide, service, hearing assistance, and professional therapy dogs, this is probably the best researched and most comprehensive set of statute reforms among many which have been introduced in various states. We would ask you to look at how much better these proposed statutes are than current law, and we would ask you to adopt this legislation.



**Kansas Association for the Blind
and Visually Impaired, Inc.**

**TESTIMONY BEFORE THE
HOUSE ENVIRONMENT
COMMITTEE: HOUSE BILL 2197**

**Presented by: MARK COATES,
LEGISLATIVE CHAIR**

February 13, 2002

**This is my first year to work on
Legislation for the Kansas
Association for the Blind and
Visually Impaired (KABVI). I only
became legally blind two years
ago. I only got appointed to this
job because they kicked Michael**

Byington up to the Presidency of the organization.

I may be new at this, but KABVI certainly is not. We have been an advocacy organization working on access issues for blind and visually impaired Kansans for over 80 years. KABVI was the organization that first asked the Kansas Legislature for access laws for guide dogs nearly 70 years ago. The organization has kept track of the progress of these statutes ever since we first got them passed, and we have been involved throughout the process of working with the other disability groups, who are

**now also using assistance dogs,
in putting this legislation
together.**

**I am not the expert here today.
That, I will leave up to
assistance dog trainers,
handlers, and users. I am not
going to act like I know more
than I do, but I have worked with
the guide dog interests within
KABVI. I believe in the positive
impact of the organization, and
of the guide dog teams working
in our Kansas communities.**

**KABVI carried the amendments
before this Legislature in the
1980s which clearly added**

restaurants and eating places to the list of public accommodations where guide dogs and their blind handlers can enter. This same access was also extended to service dogs working with other disability groups. Now, however, there are so many types of assistance dogs, restaurant personnel, as an example, need to have a way to know who is a credible service or guide dog as opposed to someone's pet. This legislation goes a long way toward better definitions and identification.

Responsible guide dog users, and later service and hearing dog users also joined in these responsibilities, have always, from when the statutes were first written, been legally liable for any damage to public accommodations done by the dog. The changes we are now proposing in the law do not change this. The law will continue to contain protection for both the access of the assistance dog user, and for the protection of the public accommodation owner or manager to be assured that dogs admitted are in fact covered

**under the mutual protections of
the law.**

Environment Committee

Ann Byington, President, Guide Dog Users of Kansas

I represent Guide Dog Users of Kansas, an affiliate organization of Guide Dog Users Inc., a nationwide consumer group of blind persons who attain independence by traveling with guide dogs. I am a proponent of HB 2197 because this bill not only addresses issues hitherto not included in access legislation, but more importantly, because the crafting of this legislation marks a positive compromise and coalition effort of diverse groups--guide, hearing and service dog users, dog trainers and professional therapeutic dog handlers.

When I received my first guide dog in 1970, each state had its own access laws. The Americans with Disabilities Act had not been dreamed of, let alone passed, there were no national or state consumer groups advocating for access rights of guide dog users and the whole arena of hearing,, service and therapeutic dog training did not exist. There was little or no recourse for a person/dog team if they were either injured by a reckless driver or attacked by a loose, uncontrolled dog. The current legislation evolved through the efforts of blind consumers who were refused admittance to rental housing, restaurants, grocery stores, public transportation, hotels, motels and places of recreation when accompanied by their guides, and as a result of forward-thinking Kansans whose aim is to better the lives of the disabled community. Kansas now boasts at least two training schools, upward of 150 appropriately selected, trained and tested dog/person teams, and what may prove to be the most comprehensive piece of access legislation in the country.

Please also note that this legislation is not only concerned with the access of dog/person teams and their protection; but also addresses the business owner's right to verify the training and validity of the dog/person team's need to seek access. It has long been the custom of guide dog training schools to provide picture identification and the relevant statutory citations for owners to present to businesses when this right is questioned.

As the Delta Society will attest, the human-animal bond is a powerful one. Unfortunately, it has lead to the abuse of access rights here in Topeka by persons utilizing untrained, out of control dogs. Though current legislation makes the disabled person liable for damage his dog causes, the business owner often fears adverse press and, even though he can refuse service to the dog/person team in question, is reluctant to do so. Additionally, untrained dogs with access to the public facilities, transportation and recreational venues frequented by properly selected, trained and tested dogs pose a significant threat to these dogs and their handlers. And finally, there is the real problem of persons claiming to have a disability in order to bring their pets into

places of public access, not because the dog performs a task to mitigate a disability, but simply because the human-animal bond overrides any compunction to obey the law.

H.B. 2197 reflects hours of frank, thoughtful, honest compromise of a wide range of stakeholder. Guide Dog Users of Kansas urges you to pass HB 2197 out of committee and to support its passage into law. HB 2197 provides a "win-win" access law for the disability community, dog trainers and handlers invested in the betterment of that community as well as the business, transportation, housing and recreation communities of Kansas.

February 11, 2003

Madame Chair, members of the Environment Committee:

My name is Sanford Alexander and I have been a guide dog user for over 34 years. Born in Wichita, I spent a majority of my childhood in New York and later lived in Pennsylvania and New Jersey prior to being able to successfully return to Kansas. I have travel many thousands of miles a year for over 30 years on business and pleasure and have used every form of public transportation except oceanliner. I present this background to demonstrate that I have worked a guide dog in a variety of settings.

I have also been active in advocacy efforts for many years. I currently serve on the Kansas Rehabilitation Services State Rehabilitation Council and have just been appointed as a member of the Services for the Blind advisory committee upon which I have served for a number of years in a different capacity. Earlier in my career, I worked for the National Accreditation Council on Agencies Serving the Blind and Visually Impaired and I have been active in Guide Dog Users, Inc. a national membership organization of over 1100 guide dog users. I have worked with a project undertaken by GDUI to bring the major entities in the service and guide dog spheres together and attended the Coalition of Assistance Dog Organizations (CADO) meeting held in San Antonio last month.

Today I am speaking to you as a guide dog user and as a member of the board of directors of the Guide Dog Foundation, located in Smithtown, New York, a school deeply committed to providing all possible assistance to graduates in all areas including public access.

HB2197 is the product of several years of work by a growing coalition of groups in Kansas interested in seeing that guide, service and hearing dogs are afforded the rights and protection they deserve that will ensure their human partners full enjoyment of the independence they are intended to help provide. It has grown in strength through hard work, to resolve sincere differences between the various components making up the coalition. It has also benefited from the several years of effort by CADO which has been wrestling with the same issues on a national level.

In the final analysis, the Bill is simple. Its major aim is to eliminate some of the worst problems encountered by disabled persons using assistance dogs. Bill, my sixth guide, is not simply a tool; nor, is he merely a good friend. He is a partner who has devoted his life to providing me safe, convenient travel for the price of a pat on the head and a heart-felt hug. He has not yet had occasion to save my life (that I am aware of) but his five predecessors each had several such commendations on their records. What Bill means to me cannot easily be put into words that fairly reflect how I feel about him or explain how much is owed to him.

It also took a substantial amount of time out of my busy schedule to train with Bill. A sum of resources estimated at

between \$25,000 and \$50,000 are expended by the Foundation and other schools across the country to provide a partner such as Bill. The vast majority of these funds are received from a generous public dedicated to underwriting the noble goal of assisting disabled individuals in achieving a higher degree of independence and freedom.

As much of an increase as the penalties contained in HB2197 for someone harassing Bill and me while working on the street, or hurting Bill through an act of selfishness beyond understanding, or replacing him because he was killed by a thoughtless person, represents, it cannot begin to fill the sorrowful void such acts create.

The embarrassment, humiliation and inconvenience resulting from an ignorant hotel clerk or restaurant manager when they refuse public access to a guide dog, can only be repaid in the proposed penalties if such behavior becomes extinguished.

There is another aspect of the Bill to which I would like to draw your attention. We have taken great care in crafting definitions that describe guide, hearing, service and professional therapy dogs. The first three categories are working directly with a disabled individual, providing service through the execution of a trained task that mitigates the individual's disability. This is a definition that makes a clear distinction between an assistance dog and a pet. Many people have pets and derive an immense amount of pleasure from their company. Many will spend untold sums of money to provide medical care and dote on their pets in ways that would be seen as indulgent were they human children. This, however, does not qualify such dogs as service or assistance dogs. The CADO, working with the U.S. Department of Justice in trying to clarify and strengthen definitions of service animals used in Federal legislation, has stressed that a dog must be trained to provide a specific task that mitigates the person's disability in order to qualify as an assistance dog. Simply put, guide dogs help people who are blind, hearing dogs help people who are deaf and service dogs assist people with disabilities other than blindness or deafness. Put another way, if the dog does not fall into one of these categories, it is a pet and does not enjoy public access rights or the other protection we are seeking under HB2197.

We also feel it is important for the protection of our rights and for the rights of those members in the public obliged to afford us access with our working dogs, to be able to demonstrate that we are disabled and that our dog has been trained. There is, therefore, provision in HB2197 for identification mechanisms. We believe our proposals protect both the public providing access and the privacy rights of the disabled individual seeking to enjoy these rights.

The fourth category of working dog in HB2197 is the "professional therapy dog". This dog may not necessarily be working with a disabled individual but is trained in recognized tasks performed by dogs providing the type of support helpful in educational and therapy settings. They will meet most of the remaining criteria for any assistance dog but not enjoy unfettered public access.

HB2197 opens doors that have been closed to many disabled people, it provides assurances for public representatives opening their doors to such dogs that their property and business rights are protected and it offers a level of protection against intentional harassment or harming of a working dog. It accomplishes all of these laudable goals without any cost to the State or the public; while, at the same time, ensuring that violators of the law will, indeed, pay a fair price for their ill-intentioned deeds. I urge your support for this important Bill.

Sanford J. Alexander, III
5321 Plaza Lane
Wichita KS 67208
316-652-0852



Kansas Council on Developmental Disabilities

KATHLEEN SEBELIUS, Governor
DAVE HEDERSTEDT, Chairperson
JANE RHYS, Ph. D., Executive Director
kcdd@alltel.net

Docking State Off. Bldg., Room 141, 915 SW Harrison
Topeka, KS 66612-1570
Phone (785) 296-2608, FAX (785) 296-2861
<http://nekesc.org/kcdd>

"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

COMMITTEE ON ENVIRONMENT

2/13/03

Testimony in Regard to H.B. 2197. AN ACT concerning persons with disabilities; relating to assistance dogs and other assistance animals; amending K.S.A. 39-1001, 39-1102, 39-1103, 39-1107, 39-1108 and 39-1109 and repealing the existing sections.

Madame Chairperson, Members of the Committee, I am appearing today on behalf of the Kansas Council on Developmental Disabilities in support of H.B. 2197 concerning persons with disabilities and relating to assistance dogs and other assistance animals.

The Kansas Council is federally mandated and federally funded under the Developmental Disabilities Assistance and Bill of Rights Act of 2000. We receive no state funds. The Council is composed of individuals who are appointed by the Governor, including representatives of the major agencies who provide services for individuals with developmental disabilities. At least 60% of our membership are people who experience a developmental disability or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities to receive adequate supports to make choices about where they live, work, and learn.

The Council supports H.B. 2197 as the bill includes definitions and protections for animals that promote the independence, health and safety, and inclusion of people with disabilities. The Council also supports the identification requirements for service animals and their handlers and penalties for interference, injury or destruction of such animals. Passage of this legislation not only recognizes the value and necessity of service animals, it reinforces Kansas' commitment to independence and inclusion for all citizens.

Thank you for the opportunity to speak with you today.

Shelly May, Grants Manager
Kansas Council on Developmental Disabilities
915 SW Harrison, Room 141
Topeka, KS 66612-1570
785 296-2608

**Testimony before the House Environment Committee
by Martha K. Gabehart, Executive Director
Kansas Commission on Disability Concerns
February 13, 2003
3:30 – 5:30 p.m. – Room 231-N**

Thank you, Madam Chairwoman, and members of the Committee. I appreciate this opportunity to testify in support of House Bill 2197.

The Kansas Commission on Disability Concerns (KCDC) is a unit within the Kansas Department of Human Resources charged with providing information to the Governor, the Legislature, and to State agencies about issues of concern to Kansans with disabilities. Guide and assistance dogs are important means of mobility and assistance to a significant segment of people with disabilities. With their help, these animals make it possible for people to live independently and work. The proposed changes to the current statutes regarding guide and assistance dogs institute punishment for hurting, intimidating or killing a guide or assistance animal. These changes are necessary because current law does not have any special penalty for these actions. In several cases around the country, guide and assistance dogs have been hurt, intimidated or killed – leaving the person with a disability without means of mobility or assistance. Most states, including Kansas, regard these animals as pets and do not punish offenders in proportion to the damage that is caused by the loss of the use of these dogs. Also, acquisition of these animals costs \$10,000 or more, in addition to the time required for training and orientation with its new owner.

The Kansas Commission on Disability Concerns supports House Bill 2197 and encourages you to pass it favorably.

February 13, 2003

Dear Committee Members;

I am writing today as a qualified individual with a disability who also is a handler of an owner-trained service dog. I have been a resident of Kansas my entire life, I hold a bachelors degree in Business Management, a degree in medical assisting, and I have been a service dog handler for the past 11 years. I am the Founder/Executive Director and lead-trainer at Paws-Up, Inc. a non-profit organization founded in 1998 that provides training, education, and support to individual with disabilities who wish to enhance their lives through the partnership of an assistance dog. As you can tell, helping others achieve the level of independence that I have through the partnership of an assistance dog is my life's goal.

I am very concerned about the use of language within HB 2197 as it does nothing but violate the civil rights of people with disabilities. The ADA was designed to protect the rights of individuals with disabilities by not requiring those who are accompanied by an assistance dog to carry or produce documentation or identification as a condition of equal access.

The ADA created a right to public access to the person with the disability, not the assistance dog. Some are confused by this fact, and the fact that the ADA is set in place to create equality within our society for individuals with disabilities. Again, this bill does nothing but strip away at this equality and constitutional right.

HB 2197 only creates segregation by allowing someone with no qualifications within the disability and/or assistance dog community to stop someone like myself at the front door of a business and detain me for as long as they need to view my documentation/identification prior to entering the establishment.

Within this bill, an individual like myself would be required to "list" the various tasks my assistance dog does for me. This is a violation of privacy, as by the very act of listing what my dog does to mitigate my disability will in fact force me to tell a perfect stranger with again, no qualifications, the private details of my personal disability. This is unconstitutional!

To give a generic example of how this required "listing," can in fact expose a medical condition is to list such task like; (alerts to seizures, alerts to panic attacks, alerts to name being called). Taking this violation one step further within the example, "an individual who is hearing impaired has to tell the teenage store clerk that her dog alerts her to a variety of sounds, and one of the sounds is her name being called. This kid now has her name that is listed on her documentation, and the tasks her hearing dog performs for her. As a teenage joke, this young clerk decides to follow her around the store and call out her name. She cannot hear this kid, but the dog does and responds as he was trained by cueing his disabled handler over and over, while this young clerk is having a good time watching this dog do his "trick!" This bill's requirements to "list" the dog's trained tasks is not only a violation in our right to privacy, but gives uneducated, irresponsible strangers enough personal information to cause harm to the person with a disability and their assistance dog without the person with a disability even knowing what is happening.

The section of this bill that refers to "Professional" therapy dog handlers being given the same public access that a person with a disability has when accompanied by their assistance dog only opens up an arena for even more confusion within the general public. Lumping therapy dog issues within the same bill as assistance dog issues is like comparing apples to oranges, and each issue would be best served by keeping them separated by two different bills.

As a professional within both the assistance dog and therapy dog community, I can tell you that the general public is often very confused when it comes to therapy dogs and what role they actually play within our society. If this bill was allowed to pass, and gave public access for therapy dog handlers, the assistance dog user who needs their dog to be with them in every public establishment, might begin being hassled by store owners/employees trying to determine the difference between those who are true assistance dog users, those who are really "Professional" therapy dog handlers, and those who now would have easier means to "pretend" they have a real working dog.

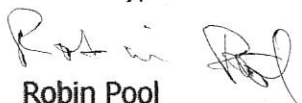
How are landlords going to have the ability to say, "No pets allowed" when anyone who takes a few obedience classes, slaps a cape on their dog, creates a fake ID, and then tells the landlord that they are a "Professional" therapy dog handler and their dog is allowed public access and cannot be treated as a pet. This really could be a big problem!

As a professional assistance and therapy dog trainer, I agree that therapy dogs have their benefits within society, and at times are needed to work in public. However, the way this bill is worded, it allows therapy dog handlers public access at anytime, rather than when they are just working. An assistance dog cannot be in public while not working (i.e. a non-disabled person cannot take a trained assistance dog into a public place and be granted public access), likewise a "professional" therapy dog handler should not be allowed to take their therapy dog in a public place if it is not working as well.

Again, to remove confusion, a separate bill should be created to outline the working boundaries of a therapy dog and it's "professional" handler. The bill would not be lumped with the rights given to people with disabilities by ADA and their needs to be accompanied by an assistance dog.

I would be happy to work with members of this committee to draft a bill(s) that protects businesses from those who might falsely claim that their pet is an assistance dog, or the untrained person claiming that they are a "professional" therapy dog handler, yet still ensure the rights of individuals with disabilities and their assistance dogs. Working together will, in the end, give the state of Kansas a law that will benefit both individuals with disabilities, those who wish to work as a "professional" therapy dog handler, and the business community.

Sincerely,


Robin Pool

7901 E. 87th St. South
Derby, Kansas 67037
PH: (316)-789-0372

February 13, 2003

Good Afternoon Ladies and Gentlemen:

My name is Dee Winter of Winfield, KS. I have lived in Kansas for over fifty years. I have a Bachelor's Degree from Wichita State University and am currently working on my Masters Degree in Business Management. While I am a qualified person with disabilities this is fairly new to me considering I have only been disabled for a little over two years. I have trained dogs for over 30 years and have achieved many AKC obedience titles on over 150 dogs during that time span. I currently am involved with Paws-Up, Inc located in Mulvane as lead-trainer. We provide training and support to persons with disabilities by teaching them how a service dog can provide them with the independence they deserve.

I have made it a point to study the laws of our land and upon reading HB 2197 proposal I am really concerned about several issues proposed. First of all, this bill should NOT include BOTH service dogs AND therapy dogs in one bill. They are completely different issues as issues pertaining to bicycles and motorcycles. While both issues should be addressed they should be handled as separate bills.

The Americans with Disabilities Act of 1990 was created to protect the disabled person not the service dog. This bill clearly violates my civil rights to privacy under the Constitution of the United States. This bill will require me to have to list what my service dog does for me to any McDonald's teenage employee that wants to know why I am in a wheelchair. It is my right to keep my disability private as it is your right to keep private whether or not you have had a vasectomy or not, or whether or not you practice safe sex.

While I am thrilled that there is an attempt to make interference &/or damage to a service dog a felony, who is going to enforce this law? There are already so many laws on the books that cannot be enforced or have any teeth in them. Why bother with another one. What I can see happening and am predicting will happen, is the State of Kansas will be subjected to law suits for discrimination because of what you all are allowing to happen with the passage of this bill.

Does the State plan on hiring someone to "test" service/assistance dogs? What are going to be their qualifications? Are they going to be disabled or able bodied? Where will their offices be located? Most disabled people live on fixed incomes and will not be able to travel to other parts of the state to be tested. How often will the dogs have to be tested? How will the tester be able to know what I need my service dog to do for me? Am I going to have to provide them with all of my medical records? I surely hope not. While I would not have any trouble getting the certifications needed if this bill were to pass as written, there are many owner-trained dogs in the state that might. People with disabilities have been and will continue to train their own service/assistance dogs. Just because they are disabled does not mean that they are incompetent. The way this bill

reads it does nothing but segregate and discriminate against the sector of the disabled community. By requiring the documentation/identification to list the trainer's name, phone number, and any other pertinent information will only add confusion to the business owners when the owner is the actual trainer. This fact alone will allow the public sector to be able to deny the disabled access to their businesses if they so choose.

Walker, my service dog here, could put any center trained dog to shame. I have only had him eight months and look how well behaved he is. He would put many parents to shame with his behavior because he is better behaved than a lot of kids today are. He was picked up on the streets of Wichita and was rescued from the city dog pound before I got him. When it first was decided a service dog could help me, I contacted one of the state's service dog programs. I was told I would have to wait two to four years before I would even be considered to receive a service dog and then would have to be willing to pay several thousands of dollars. I am 61 years old and frankly I don't want to wait two to four years to be able to gain my independence again. So, I trained my own service dog. Being allowed to train my own service dog has allowed me the freedom of independence I want, need and deserve. However, the passage of this bill will open doors to the public sector to discriminate against me and my owner-trained assistance dog, regardless of the fact that he mitigates my disabilities, as the ADA requires.

In conclusion, I am willing to put my money where my mouth is and offer to assist the members of this committee to draft a bill or bills if necessary to protect not only all service/assistance dogs including owner-trained service dogs but also the business owners and local governments. If we can work together, Kansas can end up with a law that benefits both people with disabilities and the business community. I would hope that Kansas would become one of the states that other states want to model after.

Thank you for your time,



Dee Winter

TOPEKA INDEPENDENT LIVING RESOURCE CENTER

Kirk W. Lowry

Attorney

501 S.W. Jackson Street

Topeka, Kansas 66603-3300

(785) 233-4572, TDD (785) 233-1815, Fax (785) 233-7196

February 13, 2003

The Honorable Joann Freeborn
Chair, House Environment Committee

Re: HB 2197

Dear Chairperson Freeborn and Members of the Committee:

The Topeka Independent Living Resource Center is a private non-profit charitable organization that advocates for the civil and human rights of people with disabilities. We have opposed 2001 HB 2211 and 2002 HB 2715 on service animals. We support the general purpose of Kan. Stat. Ann. §§ 39-1101 to 39-1109 to codify and support the right to a service animal and to provide for criminal penalties for violations. Of course, the State may define "service animal" in any way it wants to for the purpose of criminal responsibility. This definition may be narrower than the definition used for purposes of the Kansas Act Against Discrimination or the Americans with Disabilities Act. This discrepancy may cause confusion and conflict. A uniform standard would benefit all parties involved. In the alternative, we request an amendment that would make it clear that this statutory definition is not applicable to the Kansas Act Against Discrimination, the Americans with Disabilities Act, or the Rehabilitation Act.

We are opposed to the limited definition of a service animal and the distinction between a service animal and guide dog, service dog, hearing assistance dog, assistance animal, professional therapy dog, and an animal for comfort, protection, or personal defense.

The bill is in conflict with the Americans with Disabilities Act. Title III of the ADA, 42 U.S.C. § 12182(b)(2)(A)(ii), makes it illegal for a public accommodation to discriminate against a person with a disability. Discrimination includes failure to make reasonable modifications in policies,

Page two

practices, or procedures, unless it would result in a fundamental alteration in the nature of the public accommodation. The Department of Justice issued regulations to enforce Title III. 28 C.F.R. § 36.302(c) provides that, "Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability." 28 C.F.R. § 36.104 defines "service animal" as "any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items."

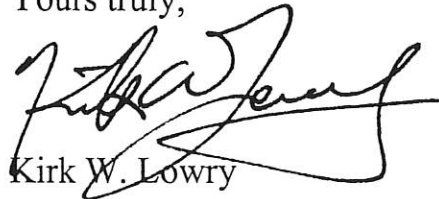
The Department of Justice issued an ADA Business Brief in October 2001 and updated it in April of 2002. I have attached this for the committee. The DOJ says:

"Businesses may ask if an animal is a service animal or ask what tasks the animal has been trained to perform, but cannot require special ID cards for the animal or ask about the person's disability."

The bills restrictive definition of service animal will cause confusion and conflict regarding civil and criminal enforcement of the rights of people with disabilities to use a service animal.

Discrimination against people with disabilities in the use of service animals is a substantial problem. Criminal conduct against a service animal is not a substantial problem. This bill does more harm than good. We oppose HB 2197.

Yours truly,

A handwritten signature in black ink, appearing to read "Kirk W. Lowry", written over a horizontal line.

Kirk W. Lowry

Attachment: April 2002 DOJ Business Brief: Service Animals



Americans with Disabilities Act

ADA Business BRIEF:

Service Animals

Service animals are animals that are individually trained to perform tasks for people with disabilities – such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks. Service animals are working animals, not pets.

Under the Americans with Disabilities Act (ADA), businesses and organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where customers are normally allowed to go. This federal law applies to all businesses open to the public, including restaurants, hotels, taxis and shuttles, grocery and department stores, hospitals and medical offices, theaters, health clubs, parks, and zoos.



Businesses that serve the public must allow people with disabilities to enter with their service animal

- Businesses may ask if an animal is a service animal or ask what tasks the animal has been trained to perform, but cannot require special ID cards for the animal or ask about the person's disability.
- People with disabilities who use service animals cannot be charged extra fees, isolated from other patrons, or treated less favorably than other patrons. However, if a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may be charged for damage caused by his or her service animal.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the animal is out of control and the animal's owner does not take effective action to control it (for example, a dog that barks repeatedly during a movie) or (2) the animal poses a direct threat to the health or safety of others.
- In these cases, the business should give the person with the disability the option to obtain goods and services without having the animal on the premises.

- Businesses that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- A business is not required to provide care or food for a service animal or provide a special location for it to relieve itself.
- Allergies and fear of animals are generally not valid reasons for denying access or refusing service to people with service animals.
- Violators of the ADA can be required to pay money damages and penalties.



Service animals are individually trained to perform tasks for people with disabilities

If you have additional questions concerning the ADA and service animals, please call the Department's ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TTY) or visit the **ADA Business Connection** at www.ada.gov

Duplication is encouraged. April 2002

From: "Sharon Thomas" <mnsajt@gbronline.com>
To: <freeborn@house.state.ks.us>
Date: Mon, Feb 10, 2003 6:40 PM
Subject: House Bill 2197 -completed email

To Whom It May Concern;
c/o Mary Ann Graham

I just found out about House Bill 2197 today. Unfortunately my husband is having two surgeries this week and I am unable to speak in person at the upcoming hearing for House Bill 2197.

I have been assisted by Service Dogs for many years. I have been a resident of Idaho, Oklahoma and Kansas while being assisted by Service Dogs. In 1998 I helped bring about the original Service and Therapy Dog Day in Alaska, Connecticut, Georgia, Idaho, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, New Jersey and Utah. I have the original proclamations with their envelopes as well as the Kansas State flag that flew over Topeka (capitol) for Kansas Service & Therapy Dog Day (12/18/1998) as well as the United States flag that flew over Washington DC (capitol) on the same day.

I have been a Kansas registered voter since 1998. I own my own home. One of my children owns a home & works in Wichita and the other goes to college in Wichita. My husband is one of the aircraft workers that has received his layoff notice. I am proud to have lived in Kansas since 1998 and wanted to spend the rest of my life here -- until I read the wording of House Bill 2197! My birthday is February 13, but rather than celebrating or spending it with my husband following his surgeries -- I would prefer to be in front of you describing my dismay at what is in House Bill 2197.

My disabilities are not usually obvious or outwardly apparent. I have been to multiple doctors and through continuing ssi reviews in Idaho, Oklahoma and Kansas over the past decade. If you are not disabled then you may not understand all that this physically & mentally requires! It has been proven over and over again through multiple doctors, three different state agencies and US Government agencies that I am disabled AND my Service Dog assists me with those disabilities. Yet with House Bill 2197 you want me to PROVE that I am DISABLED & WHY as well as HOW my SERVICE DOG ASSISTS me over and over again - EVERY day at ANY place I go!

I do not wish to share my personal medical information with one more person. Especially someone who in turn may use it against me or share it with whomever they know. If I were to have to share what my medical conditions are then so should the Therapy Dog handlers/trainers -- but wait they wouldn't necessarily have any medical information to disclose because Therapy Dogs aren't trained to help that specific individual. So again I would be the only one possibly putting my health and life in peril or at the very least changing my quality of life by giving out information to whomever should ask for it! I am not even going to go into the identity fraud issue because I think it is blatantly obvious.

As far as how my Service Dog assists me? What is to keep the 'door greeter' from telling everyone what service dog tasks my service dog is trained to do for me or that same 'door greeter' actually wanting to 'test' my Service Dog. If they were to know what my Service Dog does for me then they could possibly jeopardize my health or my life by saying a command that would cause my Service Dog to shift attention to the person using the command.

I know this is a time in our country when we are to be more vigilant and alert, but I didn't think I needed to worry about being at risk of being ridiculed and harassed in my every day tasks just for being 'medically challenged'. I thought we were supposed to live our life as normally as possible, but how is that possible for Disabled Kansans if House Bill 2197 passes? It appalls me that Kansas is trying to actually make it easier for someone to devalue my life by putting my medical history as well as what I use to assist in the problems therein; up for public scrutiny and judgment by whomever happens to cross my path outside of my own home. I cannot imagine the stigmas that I and other Disabled Kansans will have to accept as part of our life if this action is passed.

I try to stay active in the Service Dog community as much as my health will allow. I will be posting the action taken on this bill to all that I can as I believe it will adversely affect Service Dog users nationwide if passed. Please advise me of the final action:

I would hope that you would be able to read this at the hearing before the Environment Committee in my absence.

Please consider NOT passing House Bill 2197!

Thank you for hearing me.

Sharon Thomas
1441 Haskell Street
Wichita, Kansas 67213
316-303-1441

CC: "M & S Thomas" <Mnsajt@gbronline.com>



KANSAS

DEPARTMENT OF HUMAN RESOURCES
Jim Gamer, Acting Secretary

KATHLEEN SEBELIUS, Governor

Testimony

Public Health and Welfare Committee
Thursday, March 20, 2003
Hearing on Sub HB 2197

Respectfully submitted by:
Kerrie J. Bacon, Legislative Liaison
Kansas Commission on Disability Concerns
Kansas Department of Human Resources

Thank you, Chairman Wagle and members of the committee. I appreciate the opportunity to testify today in support of Sub HB 2197. The Kansas Commission on Disability Concerns (KCDC) is charged with providing information to the Governor, the Legislature, and to State agencies about issues of concern to Kansans with disabilities (K.S.A. 74-6706). This bill supports the independence of people with disabilities. To help you understand the proposed changes, we have attached a section by section recap.

The recap will show you that this bill is doing several things:

1. Updates and clarifies several statutes that were written between 1969 and 1992.
 - Updates disability language.
 - Defines the types of assistance dogs covered under the bill.
 - Defines the professional therapy dog.
 - Clarifies that people with disabilities using assistance dogs have the same right of access to public facilities and housing as people without disabilities.
 - Clarifies that professional therapy dogs and their handlers have rights to public facilities.
2. It expands the misdemeanor offense for interfering with those rights to include people with disabilities using the different types of assistance dogs covered under this bill.
3. It clarifies the actions to take if there is a question of whether a dog accompanying a person into a public facility is an assistance dog. It gives the business owner the opportunity to verify assistance dog qualifications (i.e., the person with the disability may show an identification card or letter and then the card or letter will be returned.)
4. It states that it is a class A non-person misdemeanor for any person to falsely represent themselves for the purpose of:
 - Purchasing an assistance dog.
 - Entering or using public facilities with a dog.
5. It clarifies penalties for inflicting harm to, disability or death of an assistance dog.

The Commission on Disability Concerns supports this legislation and encourages you to pass the bill favorably. Thank you again for this opportunity to testify. I'd be happy to answer any questions.

Sub HB 2197 - Assistance dogs for persons with disabilities.

Section 1 (new) – Defines assistance dogs.

Section 2 – Updates verbiage on K.S.A. 39-1101. Changes “handicapped” to “disabled” and changes “people with physical disabilities” to “people with disabilities.” States that people with disabilities shall have the same right of access to public facilities.

Section 3 – Updates verbiage on K.S.A. 39-1102. Changes “totally or partially blind” to “legally blind,” changes “especially trained and certified” to “specially selected, trained and tested.” The proposed section now reads:

“Every legally blind person shall have the right to be accompanied by a guide dog, specially selected, trained and tested for the purpose, in or upon any of the places listed in K.S.A. 39-1101, and amendments thereto, in the acquisition and use of rental, residential housing without being required to pay an extra charge for the guide dog, except that such person shall be liable for any damage done to the premises or facilities by such dog.”

Section 4 – Updates K.S.A. 39-1103.

Expands misdemeanor to cover all rights for people legally blind, hearing impaired or otherwise disabled. (K.S.A. 1101, 1102, 1107, 1108, 1109 and amendments.)

Section 5 – Updates K.S.A. 39-1107 (people with hearing impairments) to be consistent with Sect. 3.

Section 6 – Updates K.S.A. 39-1108 (people with disabilities) to be consistent with Sect. 3.

Section 7 – Updates K.S.A. 39-1109 (trainers of assistance dogs) to be consistent with Sect. 3.

Section 8 – (new) – Creates some protections for professional therapy dogs and trainers when using public transportation, temporary lodging, and food establishments.

Section 9 – (new) – If someone questions dog qualifications, allows for assistance dog identification card or letter to be proof of dog ownership and training as an assistance dog.

Section 10 – (new) - Establishing that it shall be a class A non-person misdemeanor to falsely represent that one is entitled to be accompanied by an assistance dog or that one has a disability for the purpose of acquiring an assistance dog.

Section 11 – (new) - Includes and amends K.S.A. 2002 Supp. 21-4318 to include assistance dog along with police dog, arson dog, and search and rescue dog. Inflicting harm, disability, or death intentionally is a Class A non-person misdemeanor.



Ron Thornburgh
Secretary of State

First Floor, Memorial Hall
120 SW 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS

March 18, 2003

Kerrie J. Bacon
Kansas Commission on Disability Concerns
1430 SW Topeka Blvd.
Topeka, KS 66612-1819

Dear Kerrie:

It is my pleasure to lend my support to Sub HB 2197.

As you know, in the past, my wife Annette and I raised puppies to be Seeing Eye dogs. Therefore, I have always believed in the value and strength of service dogs.

I absolutely believe that disabled individuals with service dogs should be allowed the same access as able-bodied individuals. The passage of Sub HB 2197 will fully ensure these rights.

I support of Sub HB 2197. Let me know how I can help.

Sincerely,



RON THORNBURGH
Secretary of State

**TESTIMONY OF MICHAEL BYINGTON
SUBSTITUTE FOR HOUSE BILL 2197
BEFORE THE SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
March 20, 2003**

I am here as a consultant today, a pro-bono one, who is taking vacation from my current employment to talk about this legislation. This is because a coalition of disabled people, many of whom are guide or service dog users, started working on this legislation quite a number of years ago. This is in fact the fourth piece of comprehensive legislation which has been introduced in recent years which attempts to update and upgrade the guide, service, and hearing assistance dog access statutes in Kansas. This is the best of the four, and it has made it to this point through a great deal of hard work and compromise among assistance dog users and trainers who did not always agree or even like each other at the first. The updates and upgrades to the assistance dog access statutes in Kansas are needed in light of expansions in the types of things well trained dogs are doing now for a much more broad spectrum of people having various types of physical, developmental, and other disabilities. Updates of our specific State statutes are also needed because of some extremely broad and general language about service dog access contained in Title III of the Americans With Disabilities Act (ADA). Although this language is certainly well meaning, it has caused a lot of confusion and is beginning to generate case law all over the spectrum.

*Senate Public Health & Welfare Committee
Date: March 20, 2003
Attachment 4-1*

In fact, my work on this issue started so long ago, it was three jobs ago for me, and I do not change jobs all that often. At the time I was first asked to work on this legislative issue, I was the Director of Governmental Affairs for an organization called Envision, which serves people who are blind and who are developmentally disabled. A group of assistance dog users and trainers asked me to help with research, drafting, and to help them understand how the legislative process works in Kansas. (If I ever figure that last one out, I will be sure to let them know.) I later left Envision and operated Byington Advocacy Consulting of Kansas, a small advocacy and lobbying firm, and then, in 2001, I became Director of Kansas Relay Service, Inc., a not-for-profit which provides telecommunications services for people who have disabilities. Although I do not usually work at the Capitol any more, I am still nonetheless in the business of working with programs serving people who experience a broad spectrum of disabilities, so I know there continues to be a lot of interest in this legislative issue. Also, because I did a lot of the research, and a good bit of the drafting on the legislation, I can tell you with considerable certainty what the bill would do, why the coalition of people who worked on it feel it is essential, and what some of the problems are with the current set of Kansas statutes on guide, service, and hearing assistance dog access. What is equally important, I can tell you some of the things the bill would NOT do.

The bill did experience some opposition in the House Committee. A House sub-Committee worked with all

parties diligently, and the result was a few minor amendments. The thing which astonished me the most as it went through the House, however, is that those who started out in opposition thought the bill was going to restrict all sorts of access or choices in dog training. They thought it would do all sorts of things that it was never intended to do, and that Legislative Research and the Reviser's office did not feel it would do. As I write this, I do not know if there will be opposition on the Senate side, but if there is, I would urge you to listen to the concerns, but really check out whether the bill actually would have the negative consequences which some seem to want to attribute to it.

Public access for disabled persons who are assisted by specially trained dogs is a very complicated issue. The legislation we have in Kansas has been amended many times, but guide dog access laws for the blind started working their ways through State Legislatures, including in Kansas, nearly 80 years ago. There is a lot of history involved, and there are a lot of reasons which are now lost in obscurity as to why the statutes were structured as they are. Now I am not quite old enough to say that I was here when it all started 80 years ago, but I do serve, in a volunteer capacity, as President of the Kansas Association for the Blind and Visually Impaired, (KABVI), and that organization was around and working on these issues from their very beginning. Call me an old geezer if you want, but trust me when I say that there are no quick and perfect fixes for assistance dog access laws, and no easy answers. What you have before you in 2197 is Legislation which

represents a lot of give and take, a lot of compromise, and a lot of research.

SOME SPECIFIC THINGS THE BILL WOULD DO:

DEFINITIONS: The first thing which is added to the existing statutes is a definition section. This has been a deficit in the existing legislation. Although limited functional definitions of guide dogs, service dogs, and hearing assistance dogs have been present in the existing legislation, the definitions have not been clear or easy to find. There are particularly some deficits in the service dog explanations in current law. For example, a dog which helps a person who has epilepsy avoid seizures, or be aware of an onset of a seizure is not clearly included under current statutory definitions. The proposed legislation includes provisions for a type of service to be provided to be that of helping during, or preventing, a medical emergency. This would now more clearly cover seizure alert and seizure prevention functions of a dog.

The proposed legislation not only better defines the different types of assistance dogs, it defines what types of animals do NOT qualify as service animals. Dogs used essentially for comfort or guarding functions simply do not qualify. This is important, because with the lack of specificity in the current State law, and with extremely broad standards in the Americans with Disabilities Act concerning assistance animals, standards which are quite frankly generating some inconsistent and often very bad case law around the

country, the current guide, service, and assistance dog access law in Kansas has been rendered less effective and less enforceable.

MAKES ACCESS CONSISTENT FOR ALL TYPES OF SERVICE DOGS: Current State statutes have different levels of access for each type of assistance animal. The statutes describing levels of access are slightly different in current statutes for guide dogs, service dogs, and hearing assistance dogs. I realize I just finished stating that very broad and general standards regarding assistance animal access in the Americans With Disabilities Act are generating some bad case law; nonetheless, one thing the ADA provisions make clear, and which has been upheld in almost all case law, is that a dog who meets the definition of a guide, service, or hearing assistance dog, and who is providing assistance to a person who has a disability, should have the same rights of public access regardless of the variety of disability the handler may have. This is because the access rights are in fact predicated on the civil rights of the **PERSON WHO HAS THE DISABILITY, NOT ON THE TYPE OF ASSISTANCE THEY ARE GETTING FROM THEIR DOG.** To state that a guide dog can go some places where, for example, a hearing assistance dog can not go, is to state that the blind **PERSON** using the one type of dog has more right of access than the deaf person who is using another type of dog. Obviously this does not provide for equal treatment. The legislation you have before you will bring the defined access standards into alignment regardless of whether the assistance dog meets the

definition of a guide dog, service dog, or hearing assistance dog.

PROTECTION FOR THE DISABLED SERVICE DOG USER AND THE DOG IF A CRIME IS COMMITTED AGAINST THE DOG: Also, currently to injure, harass, taunt, or even murder a guide, service, or hearing assistance dog, or to allow an uncontrolled pet to damage a guide, service, or hearing assistance dog, is only punishable as would be the case if such behaviors were to occur toward a ferrule dog in an alley. The training of most guide, service, or hearing assistance dogs, however, especially when done by a specializing school or training program, brings the monetary worth of the dog to anywhere from \$10,000.00 to \$25,000.00. Also, a disabled person whose dog is murdered, or rendered unable to perform its functions due to criminal actions of others may cause the person who has a disability to be unable to go to employment, travel in the community, or experience other medical dangers because of the loss of the dog. These losses can go on for several weeks or months while a new dog is being trained for the individual or the existing dog is being re-trained. The proposed legislation includes penalties to fit the monetary value and impact of the crime. This part of the legislation has been adopted in several States, and statutes adopted in Missouri and Washington State were reviewed in drafting this section.

DEFINITION OF PROFESSIONAL THERAPY DOG: The proposed legislation defines, for the first time in

statute, what constitutes a professional therapy dog. These are dogs who work with therapists who are also professional dog handlers, and these teams work with patients or clients in institutional settings or community based facilities and locations. The work of a professional therapy dog and their handler, for example, may cause them to have to travel from facility to facility. A person who has a disability preventing them from driving may be qualified as a handler of a professional therapy dog, and such person may need to use public transportation in order for the professional therapy dog to accompany them to the places where they work together. The legislation provides for this type of access. This by the way is not a hypothetical issue. One of our KABVI members, whom I believe is planning to be here today, is a highly trained special educator who worked for many years as a full time professional at Kansas Neurological Institute. She retired from that position, but has extensive training as a dog handler as well because she blind, and is a guide dog user. She also, however, owns a second dog who is trained as a professional therapy dog who works with her in nursing home, institutional and special education settings. Needless to say, this highly qualified professional can not drive and must use public transportation to get to the places where she and the therapy dog work. They have been denied public transportation access in the past. This kind of thing really does happen

PROTECTION FOR OWNERS AND MANAGERS OF PUBLIC ACCOMMODATIONS: Existing statutes have,

from their inception, placed responsibilities on the guide, service, or hearing assistance dog's disabled handler or trainer. If such a dog does any type of damage in a public accommodation, the disabled handler or trainer is liable for paying for the damage. These standards remain in the proposed legislation, but they will be more enforceable because the categories of dogs are better defined.

ADDRESS FRAUD: The bill would for the first time make it illegal for a person to represent himself/herself as having a disability in order to acquire an assistance dog, or gain access for a non-qualified dog. Several documented cases of this happening were brought to the coalition's attention.

IDENTIFICATION: This brings us to one of the most important additions contained in the proposed legislation. That is provisions for identification. As I explained, the coalition of disability interests and service and guide dog training facilities in Kansas have been working on changes in the guide, service, and hearing assistance dog access statutes of our State for some time. We have floated earlier versions of legislation to amend these statutes in recent previous sessions of the Kansas Legislature. The last time we had legislation before a committee, many members objected to a lack of specific identification requirements in the bill. This time we added a quite specific identification section.

This raised some controversy as it relates to the ADA, but a few other States, including California, have taken similar postures. During the Clinton Administration, the Department of Justice under Attorney General Reno released a guidance circular suggesting that under the provisions of the ADA, personnel in charge of public accommodations may not request identification of a person with a disability who is accompanied by a dog to determine if the dog is a guide, service, or hearing assistance dog. I must emphasize, however, that this is only an opinion of a former attorney general. It is not tested with case law, and the very limited case law which has been generated on the issue has been broad ranging. As identification provisions were one thing, however, which many Legislators have told us they want to see, and as the members of the coalition working on the legislation felt strongly that identification would be helpful in resolving questions, we have added the section. We did amend the identification section slightly in the house so it would not absolutely require the assistance dog user to carry identification, but it makes it clear that, if identification is produced as set forth in the law, it must be accepted as documentation for access.

A related question has arisen about guide, service, and hearing assistance dogs who may have been user trained, or trained by private, professional trainers not affiliated with school or facility based training programs. The intent of the coalition of guide and service dog users who put together the legislation was never to prevent access rights for user trained dogs or

dogs not trained by training schools. In fact some of the people who worked on the legislation had used self-trained dogs in the past. Nonetheless, to be certain that there were no misconceptions, the identification section was also amended in the House to make sure that it is understood that self-trained dogs who meet the definitional section are included in the access provisions.

SOME SPECIFIC THINGS THE BILL WOULD *NOT* DO:

The bill would not force a person with a disability to disclose information about their disability.

The bill does not exclude self-trained dogs or privately trained dogs provided that they qualify as assistance dogs.

The bill does not allow for guard dog or pet access even if the owner of the guard dog or pet happens to be a person who has a disability.

The bill does not call for or require any new state certification boards nor does it require a State certification for assistance dogs.

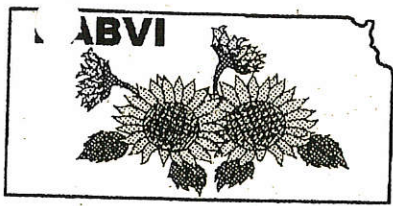
WHY THE BILL IS NECESSARY:

ENFORCEMENT: The ADA, even if its statutes on assistance animals were sufficiently clear and well defined, provides for enforcement only through the United States Department of Justice or, in certain

instances, through private legal action. If one is a service dog user, it is not always practical to call in the United States Department of Justice if one is an assistance dog user, and the immediate goal is to eat lunch at a restaurant, shop at a grocery store, go to a concert, etc. A workable State statute does not remove the potential of ADA complaints or related actions by the Department of Justice, but it does open up other options for enforcement.

PUBLIC EDUCATION: In the past 30 years, only two prosecutions have actually been brought under the existing guide dog, service dog, and hearing assistance dog access statutes. The law has served instead as a negotiating tool and a means to ward off the need for prosecutions and other adversarial legal actions. To continue in this role, the law needs to keep up with changes in the science of training and using assistance dogs, and it needs to do so in an environment which also includes attention to the ADA. This is not to say that the very general ADA provisions get the job done, but when Kansas, for example, offers different access rights and opportunities for a guide dog than it offers, for example, for a seizure assistance dog, there is indeed a problem.

I want to thank you for taking the time to consider this legislation. I also want to thank your colleagues in the House for doing a great deal of work on the bill, and with the people who brought it forward, to create the product you have before you today.



**Kansas Association for the Blind
and Visually Impaired, Inc.**

**TESTIMONY BEFORE THE
SENATE COMMITTEE ON PUBLIC
HEALTH AND WELFARE:
SUBSTITUTE FOR HOUSE
BILL 2197**

**Presented by: MARK COATES,
LEGISLATIVE CHAIR**

March 20, 2003

**This is my first year to work on
Legislation for the Kansas
Association for the Blind and
Visually Impaired (KABVI). I only
became legally blind two years**

*Senate Public Health & Welfare Committee
Date: March 20, 2003
Attachment 5-1*

ago. I only got appointed to this job because they kicked Michael Byington up to the Presidency of the organization.

I may be new at this, but KABVI certainly is not. We have been an advocacy organization working on access issues for blind and visually impaired Kansans for over 80 years. KABVI was the organization that first asked the Kansas Legislature for access laws for guide dogs nearly 70 years ago. The organization has kept track of the progress of these statutes ever since we first got them passed, and we have been involved throughout

the process of working with the other disability groups, who are now also using assistance dogs, in putting this legislation together.

I am not the expert here today. That, I will leave up to assistance dog trainers, handlers, and users. I am not going to act like I know more than I do, but I have worked with the guide dog interests within KABVI. I believe in the positive impact of the organization, and of the guide dog teams working in our Kansas communities.

KABVI carried the amendments before this Legislature in the 1980s which clearly added restaurants and eating places to the list of public accommodations where guide dogs and their blind handlers can enter. This same access was also extended to service dogs working with other disability groups. Now, however, there are so many types of assistance dogs, restaurant personnel, as an example, need to have a way to know who is a credible service or guide dog as opposed to someone's pet. This legislation goes a long way

toward better definitions and identification.

Responsible guide dog users, and later service and hearing dog users also joined in these responsibilities, have always, from when the statutes were first written, been legally liable for any damage to public accommodations done by the dog. The changes we are now proposing in the law do not change this. The law will continue to contain protection for both the access of the assistance dog user, and for the protection of the public accommodation owner or

manager to be assured that dogs admitted are in fact covered under the mutual protections of the law.

This Act was slightly amended on the House side, but it remains a considerable improvement and updating of current Kansas access laws concerning guide, hearing assistance, and service dogs.



Kansas Council on Developmental Disabilities

KATHLEEN SEBELIUS, Governor
DAVE HEDERSTEDT, Chairperson
JANE RHYS, Ph. D., Executive Director
kcdd@alltel.net

Docking State Off. Bldg., Room 141, 915 SW Harrison
Topeka, KS 66612-1570
Phone (785) 296-2608, FAX (785) 296-2861
<http://nekesc.org/kcdd>

"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

COMMITTEE ON PUBLIC HEALTH AND WELFARE

3/20/03

Testimony in Regard to H.B. 2197. AN ACT concerning persons with disabilities; relating to assistance dogs and other assistance animals; amending K.S.A. 39-1001, 39-1102, 39-1103, 39-1107, 39-1108 and 39-1109 and repealing the existing sections.

Madame Chairperson, Members of the Committee, I am appearing today on behalf of the Kansas Council on Developmental Disabilities in support of H.B. 2197 concerning persons with disabilities and relating to assistance dogs and other assistance animals.

The Kansas Council is federally mandated and federally funded under the Developmental Disabilities Assistance and Bill of Rights Act of 2000. We receive no state funds. The Council is composed of individuals who are appointed by the Governor, including representatives of the major agencies who provide services for individuals with developmental disabilities. At least 60% of our membership are people who experience a developmental disability or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities to receive adequate supports to make choices about where they live, work, and learn.

The Council supports H.B. 2197 as the bill includes definitions and protections for animals that promote the independence, health and safety, and inclusion of people with disabilities. The Council also supports the identification requirements for service animals and their handlers and penalties for interference, injury or destruction of such animals. Passage of this legislation not only recognizes the value and necessity of service animals, it reinforces Kansas' commitment to independence and inclusion for all citizens.

Thank you for the opportunity to speak with you today.

Shelly May, Grants Manager

Kansas Council on Developmental Disabilities

915 SW Harrison, Room 141

Topeka, KS 66612-1570

785 296-2608

*Senate Public Health & Welfare Committee
Date: March 20, 2003
Attachment 6-1*

Dear *Commette* Member:

I will discuss two parts of the bill before you. The first part is that pertaining to persons using dog guides for assistance in their daily lives. The other part pertains to persons having assistive therapy dogs and using these in providing therapy to individuals in a care facility.

Part One; Being a person who is visually impaired I use a trained dog guide from Guide Dogs for the Blind. Jaguar is my current guide. He happened to my third guide. Having a guide dog is like having a second leg. The two of us work together as a team. Jaguar, goes everywhere I go. He enjoys going on a plane. One or more of my guides has prevented me from getting hit by a car.

One of my pet peves is that my dog can be attacked by other animals. Last fall while at a local store my guide was suddenly attacking a dog. My aunt told me later he was getting nipped by a dog who was wearing a harness. The owner of the dog had stopped us to discuss Jaguar. She exclaimed that she had kept her harness from an accredited school and trained her own dog. If this law would have been in use I would have had a legal avenue to stop this team.

Part Two: I am an individual who has a guide dog and a certified assistive therapy animal. Jake has been visiting since he was nine weeks old. I took him to work with me at KNI, where I was a special education teacher for 21 years. I hold teaching certificate in elementary education, educatable and children and adult with severe multiple handicapped. I am now retired from KNI, thus we visit nursing homes and Saint Francis Hospital. Jake is certified by Delta Society.

Delta Society Pet Partner is an organization that certifies human and animal teams. The teams both have to pass tests and the animal is retested every two years, Jake has liability insurance protecting those he visits and if he gets harmed on the job. It is hoped that this bill will allow me to ride public transportation so I can continue my volunteer work.

I hope that I have pointed out a few of the persons that I am for this bill.

Cordially,

Marilyn Lind

Senate Public Health & Welfare Committee
Date: March 20, 2003
Attachment 7-1

Substitute House Bill 2197

Senate Committee on
Public Health and Welfare

March 20, 2003

Submitted by Ann Byington, President, Guide Dog Users of Kansas

I respectfully submit this written testimony on behalf of Guide Dog Users of Kansas, an affiliate organization of Guide Dog Users Inc., a nationwide consumer group of blind persons who attain independence by traveling with guide dogs. I am a proponent of Substitute HB 2197 because this bill not only addresses issues hitherto not included in access legislation, but more importantly, because the crafting of this legislation marks a positive compromise and coalition effort of diverse groups--guide, hearing and service dog users, dog trainers and professional therapy dog handlers.

When I received my first guide dog in 1970, each state had its own access laws. The Americans with Disabilities Act had not been dreamed of, let alone passed, The national consumer group, Guide Dog Users, Inc., was a mere two years old; there were no state organizations comprised solely of guide dog users advocating for access rights of guide dog users and the whole arena of hearing,, service and therapeutic dog training did not exist. There was little or no recourse for a person/dog team if they were either injured by a reckless driver or attacked by a loose, uncontrolled dog. The current legislation evolved through the efforts of blind consumers who were refused admittance to rental housing, restaurants, grocery stores, public transportation, hotels, motels and places of recreation when accompanied by their guides, and as a result of forward-thinking Kansans whose aim is to better the lives of the disabled community. Kansas now boasts at least two training schools, upward of 150 appropriately selected, trained and tested dog/person teams, and what may prove to be the most comprehensive piece of access legislation in the country.

Please also note that this legislation is not only concerned with the access of dog/person teams and their protection; but also addresses the business owner's right to verify the training and validity of the dog/person team's need to seek access. It has long been the custom of guide dog training schools to provide picture identification and the relevant statutory citations for owners to present to businesses when this right is questioned.

As the Delta Society will attest, the human-animal bond is a powerful one. Unfortunately, it has led to the abuse of access rights here in Topeka by persons utilizing untrained, out of control dogs. Though current legislation makes the disabled person liable for damage his dog causes, the business owner often fears adverse press or negative publicity and, even though he can refuse

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service to the dog/person team in question, is reluctant to do so. Additionally, untrained dogs with access to the public facilities, transportation and recreational venues frequented by properly selected, trained and tested dogs pose a significant threat to these dogs and their handlers. And finally, there is the real problem of persons claiming to have a disability in order to bring their pets into places of public access, not because the dog performs a task to mitigate a disability, but simply because the human-animal bond overrides any compunction to obey the law.

Substitute H.B. 2197 reflects hours of frank, thoughtful, honest compromise of a wide range of stakeholders. Guide Dog Users of Kansas urges you to pass Substitute HB 2197 out of committee and to support its passage into law. Substitute HB 2197 provides a "win-win" access law for the disability community, dog trainers and handlers invested in the betterment of that community as well as the business, transportation, housing and recreation communities of Kansas.

From: "Paws-Up, Inc." <pawsup@cox.net>
To: <wagle@senate.state.ks.us>
Date: Wed, Mar 19, 2003 4:44 PM
Subject: Sub HB 2197

Dear Senator Wagle and Members of the Health & Welfare Committee:

I am writing today as I am unable to provide my testimony in person at tomorrow's Sub HB 2197 hearing due to a conflicting appointment.

My name is Robin Pool, and I am a Service Dog handler myself, and the founder of Paws-Up, Inc. a non-profit 501c3 organization devoted to providing training, education, and support to individuals with physical disabilities who wish to enhance their independence through the partnership with an Assistance Dog. I has worked with Assistance Dogs both personally and professionally for a total of 12 years and holds a Bachelors degree in Business Management and a diploma in Medical Assisting.

I am giving testimony today as an Assistance Dog user, and as a professional trainer of Assistance Dogs within the state of Kansas.

I feel that Sub HB 2197 needs more work and is not perfect, but there areas that do provide the needed language to help enhance Assistance Dog users civil rights of public access with their Assistance Dog.

- a.. I agree with the removing of the wording "physically disabled" and the change to just DISABLED.
- b.. I agree with the generalized terminology, "ASSISTANCE DOG(S)" added to encompass all types of working dogs (i.e. guide, hearing, & service dogs.) This will help remove confusion.
- c.. I agree with the added language regarding interference of an Assistance Dog team.
- d.. And, I agree with the added language that recognizes trained owner/self-trained Assistance Dog.

a.. I am concerned about given Professional Therapy Handlers/Dogs public access, while current Assistance Dog users are still struggling with maintaining their public access which is their civil right. Adding a new type of working dogs in public may add to the public's confusion and add more public access problems for actual Assistance Dog users.

b.. I am concerned that the Professional Therapy Handler/Dog language does not mandate that the dog MUST be actively engaging in work to obtain public access. Meaning the non-disabled Professional Therapy Handler could take their Professional Therapy Dog out to dinner with them AFTER their work day has ended, and yet an Assistance Dog can not legally enter an establishment with a non-disabled handler as the dog is not "working."

c.. And, I am concerned that the "trainer public access" language says nothing in regards to the owner/self-trained Assistance Dog. These self-trainers needs equal public access while their dogs are "in-training" as do "recognized training facility" trainers have to ensure the self-trained Assistance Dog has an equal opportunity to be properly educated and trained in various public situations.

My position for this bill is very much on the fence. I would like to see it pass for all the reasons I mention above, however, I am concerned that the bill is not perfect and there are areas, as mentioned above, that very much deserve a second look to the potential issues that could come about.

Sincerely;

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Dear Senator Wagle and Members of the Health & Welfare Committee::

I regret that scheduling conflicts make it impossible for me to present my testimony on Sub 2197 in person. I have worked with the group since the beginning in trying to make the improvements it represents and feel strongly that it is a good step in the right direction in providing clearer definitions of guide, hearing and service dogs, and in affording working teams better protection from maleficent individuals and actions.

My name is Sanford Alexander and I have been a guide dog user for over 34 years. Born in Wichita, I spent a majority of my childhood in New York and later lived in Pennsylvania and New Jersey prior to being able to return to Kansas. I have travel many thousands of miles a year for over 30 years on business and pleasure and have used every form of public transportation except oceanliner. I present this background to demonstrate that I have worked a guide dog in a variety of settings.

I have also been active in advocacy efforts for many years. I currently serve on the Kansas Rehabilitation Services State Rehabilitation Council and have just been appointed as a member and elected chair of the Services for the Blind advisory committee upon which I have served for a number of years in a different capacity. Earlier in my career, I worked for the National Accreditation Council on Agencies Serving the Blind and Visually Impaired and I have been active in Guide Dog Users, Inc. (GDUI), a national membership organization of over 1100 guide dog users. I am also a member of the International Association of Assistance Dog Partners (IAADP), a membership organization largely comprised of members who have disabilities other than blindness and who use service dogs for a variety of physical tasks. I have worked with a project undertaken by GDUI to bring the major entities in the service and guide dog spheres together and attended the Coalition of Assistance Dog Organizations (CADO) meeting held in San Antonio in January.

Today I am speaking to you as a guide dog user and as a member of the board of directors of the Guide Dog Foundation, located in Smithtown, New York, a school deeply committed to providing all possible assistance to graduates in all areas including public access.

Substitute (Sub) HB2197 is the product of several years of work by a growing coalition of groups in Kansas interested in seeing that guide, service and hearing dogs are afforded the rights and protection they need to ensure their human partners full enjoyment of the independence they are intended to help provide. It has grown in strength through hard work, to resolve sincere differences between the various components making up the coalition. It has also benefited from the several years of effort by CADO which has been wrestling with the same issues on a national level.

Sub 2197 was able to pass the House after close scrutiny, detailed questions and significant modification. If asked, I would have to say it is not a perfect Bill. It is, however, a major improvement over current legislation and has fairly addressed many of the most significant areas. I would point out that after having distributed the Bill to the various national organizations mentioned above, I have yet to receive one negative comment on the Bill, it being universally recognized that the positive advances outweigh the negative elements.

In the final analysis, the Bill is simple. Its major aim is to eliminate some of the worst problems encountered by disabled persons using assistance dogs. Bill, my sixth guide, is not simply a tool; nor, is he merely a good friend. He is a partner who has devoted his life to providing me safe, convenient travel for the price of a pat on the head and a heart-felt hug. He has not yet had occasion to save my life (that I am aware of) but his five predecessors each had several such commendations on

their records. What Bill means to me cannot easily be put into words which fairly reflect how I feel about him or explain how much is owed to him.

It took a substantial amount of time out of my hectic schedule to train with Bill. A sum of resources estimated at between \$25,000 and \$50,000 are expended by the Foundation and other schools across the country to provide a partner such as Bill. Individuals who engage private trainers or self-train their assistance dogs likewise invest a significant amount of time and energy into their dog's education.

We have taken great care in crafting definitions that describe guide, hearing, service and professional therapy dogs. The first three categories of dogs work directly with a disabled individual, providing service through the execution of a physical task that mitigates the individual's disability. This is a definition that makes a clear distinction between an assistance dog and a pet. Many people have pets and derive an immense amount of pleasure from their company. Many will spend large sums of money to provide medical care for these animals they deeply cherish. This, however, does not qualify such dogs as service or assistance dogs. The CADO, working with the U.S. Department of Justice in trying to clarify and strengthen definitions of service animals used in Federal legislation, has stressed that a dog must be trained to perform a physical task that mitigates the person's disability in order to qualify as an assistance dog. Simply put, guide dogs help people who are blind, hearing dogs help people who are deaf and service dogs assist people with disabilities other than blindness or deafness. Put another way, if the dog does not fall into one of these categories, it is a pet and does not enjoy public access rights or the other protection we are seeking under Sub HB2197.

We also feel it is important for the protection of our rights and for the rights of those members in the public obliged to afford us access with our working dogs, to be able to demonstrate that we are disabled and that our dog has been trained. There is, therefore, provision in Sub 2197 for identification mechanisms. We believe our proposals protect both the public providing access and the privacy rights of the disabled individual seeking to enjoy these rights.

The fourth category of working dog in Sub HB2197 is the "professional therapy dog". This dog may not necessarily be teamed with a disabled individual but is trained in recognized tasks performed by dogs providing the type of support helpful in educational and therapy settings. They will provide important service to individuals having disabilities and are distinctly different from dogs that are used for emotional support or visitation.

Sub HB2197 opens doors that have been closed to many disabled people, it provides assurances for public representatives opening their doors to such dogs that their property and business rights are protected and it offers a level of protection against intentional harassment or harming of a working dog. It accomplishes all of these laudable goals without any cost to the State or the public; while, at the same time, ensuring that violators of the law will, indeed, pay a fair price for their ill-intentioned deeds. I urge your support for this important Bill.

Sanford J. Alexander, III
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