

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 Liaison,
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.