

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Third Session
April 27, 2005**

The Committee on Health and Human Services was called to order at 1:33 p.m., on Wednesday, April 27, 2005. Chairwoman Sheila Leslie presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4406 of the Grant Sawyer State Office Building, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Sheila Leslie, Chairwoman
Mrs. Sharron Angle
Ms. Susan Gerhardt
Mr. Joe Hardy
Mr. William Horne
Mrs. Ellen Koivisto
Mr. Garn Mabey
Ms. Bonnie Parnell
Ms. Peggy Pierce
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

Ms. Kathy McClain, Vice Chairwoman (excused)

GUEST LEGISLATORS PRESENT:

Senator Dina Titus, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Barbara Dimmitt, Committee Policy Analyst
Jo Bushek, Committee Attaché

OTHERS PRESENT:

Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center, Las Vegas, Nevada

Robert Desruisseaux, Community Advocate, Northern Nevada Center for Independent Living, Sparks, Nevada

Tom Allman, Project Coordinator, Nevada Disability Advocacy and Law Center, Las Vegas, Nevada

Todd Butterworth, Chief, Office of Disability Services, Department of Human Resources, State of Nevada

Rose McKinney-James, Legislative Advocate, representing Clark County School District

Terry Johnson, Deputy Director, Nevada Department of Employment, Training, and Rehabilitation

Jim Nadeau, Government Affairs Director, Nevada Association of Realtors, Reno, Nevada

Mary Yoshisato, Private Citizen, Carson City, Nevada

Neena Laxalt, Legislative Advocate, representing Nevada State Board of Veterinary Medical Examiners

Warren Wish, Raiser/Trainer, representing Carson City Guide Dog Club, Carson City, Nevada

Chairwoman Leslie:

[Meeting called to order. Roll called.] We will open the hearing on our first bill, S.B. 23.

Senate Bill 23 (1st Reprint): Authorizes certain persons with physical disabilities to use signature stamps under certain circumstances. (BDR 38-690)

Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center, Las Vegas, Nevada:

Last year, while encouraging people to vote and educating them on their rights in the voting process, along with educating them on the new technology, it came to our attention that Ms. Santa Perez, who is in the audience in Las Vegas, had difficulty when she went to vote. There is a requirement that you must sign your signature at the polling location. However, Ms. Perez has cerebral palsy, which makes it difficult for her to sign her name; therefore, she uses a signature stamp to conduct her business.

After some research, we discovered that signature stamps are not recognized within Nevada statutes as being valid for your signature. We brought this to the

Interim Committee on Disabilities, chaired by Senator Titus, who brought this matter forward, and that's how this bill came about.

[Jack Mayes, continued.] The bill has already been heard in the Senate. There was concern from the banking industry; however, that was addressed by adopting their amendment. We are in full support of S.B. 23.

Assemblyman Horne:

I thought signature stamps were allowed under federal election laws?

Jack Mayes:

I believe voting is controlled on the state level. I am not aware that there is a federal issue related to that.

Assemblyman Horne:

I may be wrong, but I know the states have to comply with certain federal laws.

Jack Mayes:

That is correct. Our outreach is funded through the Help America Vote Act of 2002. There is a committee that looks at voting issues, but the Act itself did not address signature stamps. It addressed broad civil rights and access issues.

Assemblyman Horne:

On page 2, lines 5 through 9, the bill talks about persons with physical disabilities. Would this encompass people who have temporary physical disabilities who would require a signature stamp?

Jack Mayes:

I have not seen anyone with a temporary disability use a signature stamp. These are usually individuals with longstanding disabilities. They are quite popular among persons with cerebral palsy and individuals who are visually impaired.

Assemblywoman Gerhardt:

I have no problem with S.B. 23; however, from a practical standpoint, I worry about signature stamps going astray or being used inappropriately. Is there some other identification required, such as by banking institutions? How is that handled? I want to be sure that someone who is disabled and using this vehicle to give their signature is not victimized in any way.

Jack Mayes:

That was the issue that came up in the Senate hearings. There was a concern from the banking industry, and that is why the bill was amended. Whenever you open an account you have to go in and get your signature registered. At that

point, your signature stamp is registered with the bank. Their question concerned a signature stamp getting stolen. It is the same as a credit card getting stolen. In that sense, we can all be victimized. In talking with persons with disabilities, they guard their signature stamp very closely because it is very important to them.

Acting Chairwoman Koivisto:

Did you say that during the election, people were able to use the signature stamps or were not able to?

Jack Mayes:

They were not allowed to. The NRS [*Nevada Revised Statutes*] specifically says that you must sign your signature at the polling location.

Robert Desruisseaux, Community Advocate, Northern Nevada Center for Independent Living, Sparks, Nevada:

We are also in support of this legislation.

Tom Allman, Project Coordinator, Nevada Disability Advocacy and Law Center, Las Vegas, Nevada:

We would be happy to answer any questions; but we don't have anything to add to what Mr. Mayes and Mr. Desruisseaux have said. Santa Perez is here and supports the bill, but has nothing to add at this point.

Senator Dina Titus, Clark County Senatorial District No. 7:

Over the past two interims, I have had the pleasure and privilege of chairing the legislative committee to study state programs for the disabled. In that role, I worked with Susan Scholley, and also with Assemblywoman Valerie Weber and Assemblyman Mark Manendo. We did an inventory of State programs and tried to come up with recommendations. These four bills before you today are recommendations of that committee.

We were assisted in our efforts by Mike Willden [Director, Department of Human Resources], Todd Butterworth [Chief, Office of Disability Services, Department of Human Resources], Tom Allman, Robert Desruisseaux, and numerous members of the disabled community, both in terms of public agencies working with the disabled and private advocacy groups. The committee concluded its work with a report that was distributed to you at the start of this session. It comes with the conclusions that we reached and some of the bill drafts we proposed.

Briefly, the committee attempted to facilitate efforts to complete a plan in response to the Olmstead decision [*Olmstead v. LC*, 138 F. 3d 893 (1999)]

handed down by the U.S. Supreme Court in 1999. That decision said that people with disabilities should live in the least restrictive environment, because within that environment, they can live more meaningful, integrated lives in schools, jobs, communities, and in government. They can have better participation, and it is up to the State to try to facilitate the movement of people with disabilities from institutions into a more normal environment.

[Senator Titus, continued.] Our other primary goal, in addition to complying with the Olmstead decision requirements, was to move toward one-stop shopping or, as it is sometimes called, "no wrong door." If you are disabled, it can be maddening to try and get services, when everywhere you go you are referred to somewhere else. You have to travel, find out where to go, and go from one agency to another. We wanted to consolidate and streamline that as much as possible.

The results of those two efforts are the bills before you. We have experts here to testify on the specifics. If you don't have a copy of this report, I will be sure that everybody gets one. I also want to pass out a tribute that was written by Mary Yoshisato, who is here with her guide dog, along with some other people with their guide dogs, to testify on one of the bills.

All four bills are related. The first bill, S.B. 23, allows certain persons with physical disabilities to use a signature stamp. This was brought to us by someone who needed this service. Writing our name is something we take for granted. We don't realize what a problem it can be if you are unable to do that. We worked with the banking institutions to make sure that the person who uses the stamp is protected, as well as the people who accept the stamps.

The second bill, S.B. 24, increases the validity of expedited service permits. You can get a certain kind of disabled parking permit that lasts a certain amount of time. The expedited service permit allows you to cut into the line if you have a disability and can't stand in a line. That permit is what was due at a different time. Why not simplify the process so you can get one permit that lasts the same amount of time for all situations?

The third bill, S.B. 36, makes various changes regarding animals trained to assist or accommodate persons with disabilities. We had a subcommittee that worked on this with people who trained service animals and with the users of service animals. We wanted to accommodate the needs of service animals in the public, so their rights could be respected, and also that people would understand what a service animal is really for, that it is not just a pet. We found that people ordered service animal sweaters, et cetera, off the Internet to put on

their pets so they can take them into restaurants. We don't want to see that happening, and that was part of this bill.

[Senator Titus, continued.] The final bill, S.C.R. 3, was symbolic, but it is important because it helps with public outreach. It would recognize Service Animal Day, which is a national effort to get this word out about service animals.

Chairwoman Leslie:

Thank you, Senator, for covering those bills. We can certainly make a copy of that report available to any Committee member who would like one.

Assemblyman Horne:

Didn't we do a similar bill last session that addressed people with fraudulent dogs? What happened to that?

Senator Titus:

Over the years, we have had a number of bills dealing with service animals in terms of abuse of service animals and animals in training. The purpose of this committee was to try to consolidate all of those bills into something that would work. This bill is a result of that effort, to clean up all those various statutes.

Assemblyman Horne:

Regarding service animals, most people think of dogs. Are we also talking about birds, monkeys, and other various types of animals?

Senator Titus:

You do typically think of what they used to call "seeing-eye" dogs. Those are service animals, but all kinds of animals can help. They now help people who can't hear; they can notify somebody when a doorbell rings. You may have seen programs on television with little monkeys that can do helpful things around the house. Service animals can be a broad variety of animals.

Chairwoman Leslie:

These bills cover the broad gamut?

Senator Titus:

They do.

Chairwoman Leslie:

Is that defined in statute?

Senator Titus:

It is. "Service animal in training" was added to the statute, because until you're certified, you are "an animal in training." We have a trainer here to talk about that.

Assemblywoman Koivisto:

What is the fiscal note on S.B. 23?

Senator Titus:

I can't imagine. Is this new?

Assemblywoman Koivisto:

I don't know.

Senator Titus:

Here is the culprit right here.

Todd Butterworth, Chief, Office of Disability Services, Department of Human Resources, State of Nevada:

Thanks for that introduction. There is a \$5,500 fiscal note on S.B. 23 to promulgate the regulations that will be necessary for the bill.

Chairwoman Leslie:

Apparently the Senate let that go right by. Thank you for explaining that. Are there other questions for Senator Titus? Thank you for bringing these bills to us today.

We will go back to S.B. 23. Is there anyone else who is in favor of S.B. 23 and would like to testify?

Rose McKinney-James, Legislative Advocate, representing Clark County School District:

I have a statement from Scott Reynolds, Executive Director of Student Support Services for the Clark County School District. He indicates that the District is in support of the bill, as it will enhance access for individuals with disabilities and provide reasonable accommodations that enhance the lives of these individuals. He also indicated that he did not think the bill would have any fiscal impact on the school district.

Assemblywoman Parnell:

Do we have many service dogs in our schools? Are we okay as far as the law goes if a student does need one?

Rose McKinney-James:

I cannot speak specifically to whether or not we have service dogs within the school district. I'm aware that Mr. Reynolds reviewed this bill and the other bills before you today, and as a result, I believe we are probably in compliance.

Chairwoman Leslie:

We'll close the hearing on S.B. 23 and open the hearing on S.B. 24.

Senate Bill 24: Increases period of validity of expedited service permits for certain persons with disabilities. (BDR 38-691)

Chairwoman Leslie:

This is the bill which increases the period of validity of the expedited service permits. I notice in the bill, on page 1, the permit used to be valid for two years, and we are changing that to ten. Can somebody address the big jump? What's the rationale? Isn't this the bill Senator Titus was talking about that would consolidate the service permits?

Robert Desruisseaux, Community Advocate, Northern Nevada Center for Independent Living, Sparks, Nevada:

Parking placards are valid for ten years. These expedited service permits are valid for only two years, so individuals, if they wanted to maintain that card, had to come in every two years to renew it. You are there once a year if you don't register by mail or by email and only every six years to renew your driver's license. It was an extra trip to the DMV [Nevada Department of Motor Vehicles] in order to get this expedited service permit. This was a way of pairing it with the parking placard.

Chairwoman Leslie:

With an expedited permit, you don't have to stand in line? Do I have that right?

Robert Desruisseaux:

That is correct.

Chairwoman Leslie:

Would somebody get a permit like that for a temporary condition?

Robert Desruisseaux:

I don't believe so. This is for permanent disability.

Chairwoman Leslie:

Is there somebody from DMV to talk to us about that? We would like to know the rationale.

Assemblywoman Koivisto:

Assemblyman Claborn has had both his knees replaced. He has one of the cards because he can't stand for very long.

Chairwoman Leslie:

It makes sense for people like that, but what if the condition goes away? If it is for the permanently disabled, then the jump from two years to ten years is appropriate. I would like more information on why they picked that number.

Jack Mayes, Executive Director, Nevada Advocacy and Law Center, Las Vegas, Nevada:

When you get a temporary parking placard, it is a different color and only good for six months. This expedited service permit is primarily used in southern Nevada. We don't have the same issues with the DMV in the north, so we're not very familiar with it. That's why you are not getting a lot of feedback. It is my understanding that most of the temporary things are good for six months.

Chairwoman Leslie:

Our staff pointed out that in Section 1, subsection 1, it says, "A person with a permanent disability may apply for the expedited service permit." That answers my question. It is for a permanent—not a temporary—disability.

Assemblywoman Koivisto:

Subsection 4(a) also says it can be reviewed.

Assemblywoman Parnell:

What defines "permanent" and who makes that qualification? Is that from a doctor? [An aside is heard.] Oh, a physician certifies it. I still would like a definition of what "permanent" is.

Chairwoman Leslie:

We will get that clarified when we take up this bill in work session. We will close the hearing on S.B. 24 and move on to S.B. 36.

Senate Bill 36 (1st Reprint): Makes various changes concerning animals trained to assist or accommodate persons with disabilities. (BDR 38-694)

Robert Desruisseaux, Community Advocate, Northern Nevada Center for Independent Living, Sparks, Nevada:

I was involved with the subcommittee that looked at service animal issues. What we were attempting to do was look at all currently existing statutes that address service animals and try to get them all in line. Some of them were in conflict with federal law with regard to how restrictive they were. For example, the law currently requires for a dog to be certified or trained by a licensed or certified school for training these dogs. There was some language in the law that required the Department of Employment, Training and Rehabilitation to create guidelines for certification of these schools. It also provided that places of reasonable accommodation could request proof that the animal is a service animal. In addition, it made mention of a certificate that would be issued by the school, which one would present as proof of the service animal.

There were a couple of issues. The Americans with Disabilities Act of 1990 (ADA) defines a "service animal" as an animal specifically trained to perform a function for the individual with a disability which that individual would normally perform for themselves if it weren't for their disability. It does not require any specific certification. It does not call for certified schooling of these dogs, so technically, you could train your own dog. That dog just has to perform a function that he was trained to do. If you can do that, that is legitimately a service animal. It doesn't require any certification. The dog doesn't have to be wearing the little jacket or anything like that. The law also referenced specific types of service animals, such as hearing dogs, helper dogs, and seeing-eye dogs. These all fall under the same definition of "service animal." We were trying to tighten that up and eliminate some of the more specific definitions and references, and focus just on the service animal themselves.

Senate Bill 36 addresses service animals in two separate areas. One is "public accommodations," which are places where the public generally goes, such as grocery stores, restaurants, and places of business. The Americans with Disabilities Act does not address the rights of individuals with disabilities with regard to service animals in places of public accommodation. Senate Bill 36 also addresses the rights of individuals with disabilities with regards to service animals in housing. The Nevada Equal Rights Commission is attempting to enter into an agreement with HUD [U.S. Department of Housing and Urban Development] to conduct fair housing investigation enforcement here in the state. HUD is unraveling a bit and looking to the states to take this role. We want to be sure that does happen. It's something Nevada needs.

Page 7, Section 12 of S.B. 36 makes reference to guide dogs, hearing dogs, helper dogs, and defines some of the tasks they perform. It refers to schools for guide dogs. In Section 12, subsection 2, it says, "A landlord may require proof

that an animal is a service animal. This requirement may be satisfied, without limitation, by exhibition of the identification card normally presented to a person with a disability upon his graduation from a school for guide dogs..." Because this is referring to schools, it is referring to identification cards. You should have the CFRs [Code of Federal Regulations] ([Exhibit B](#)) that were passed out to you. I highlighted, in pink, every reference to service animals. You won't see any pink highlights because there is no reference. Fair housing law refers to "reasonable accommodation." If you look at page 638 of the handout, I highlighted a section that says, "...such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas." A "reasonable accommodation" would be something that would ameliorate the effects of a person's disability and allow them to enjoy their housing fully. If we start identifying types of service animals and refer to service animals within S.B. 36 under Section 12, we are going to limit the scope of what could be considered a "service animal" and what could be considered a "reasonable accommodation" in a housing request.

[Robert Desruisseaux, continued.] I spoke briefly with representatives from the Nevada Equal Rights Commission. We could amend this to something a little closer to what it originally looked like. I brought with me the first print of this bill. We had eliminated much of this language just for that purpose, because we wanted to streamline this. We didn't want it to conflict with fair housing laws. If we were to refer to "animal" rather than "service animal" in Section 12, it would still meet the need of what we are looking for, without creating additional confusion in the community.

If we add additional types of reasonable accommodations, and we get too specific with regard to that—for instance, a companion animal or a therapy animal would be an animal which wasn't necessarily specifically trained to perform any function, although an individual with severe mental illness could certainly benefit from the use of a therapy dog or a companion animal; however, we don't want to allow or recognize those animals in public accommodations—you would have snakes and every pet in the world allowed in a restaurant. "Service animal" is specific to the Americans with Disabilities Act and specifically in reference to "public accommodations," and not housing. The Americans with Disabilities Act does not address housing anywhere. That is what the Fair Housing Act [of 1968] is for. If we could tweak this to eliminate some of those specific definitions of types of "service animals" under Section 12 and eliminate the need for the reference to schools and certification for these animals, we would have a pretty good-looking bill.

Chairwoman Leslie:

We may end up putting this in subcommittee. There are some other issues also. One concern is making sure we are not eliminating the person who may train his own dog under the ADA to help them perform a certain function, but the dog never went to the school. It doesn't need to go to the school. I have had some feedback from people who don't like S.B. 36, because they are very concerned that we are moving only to school-certified dogs.

Robert Desruisseaux:

In the original bill, that was eliminated.

Chairwoman Leslie:

In the amendment, we still have it. Let's go back to the beginning. Maybe my concern isn't valid once I understand what you have done.

Robert Desruisseaux:

Section 1 of the bill was my contribution as an advocate working for the Center for Independent Living. I provide a great deal of technical assistance on rights and responsibilities under the ADA. One of the frustrations I have is with individuals who have pets that they want to pass off as service animals. I can't always make that judgment, and it is really not my place to decide what is a service animal and what is not. Through that process of providing technical assistance to individuals, it was, more often than not, very apparent that they were trying to find a loophole to take Fido and be able to bring their pet with them wherever.

There are certain advantages to a real service animal because they are generally trained in various phases. One of the things they receive is what is called socialization. Socialization starts from the time that they are pups and gets them familiar with natural surroundings such as restaurants, noises, traffic, other dogs, and things of that nature. It basically gets them comfortable in those types of atmospheres so they behave as a service animal. A service animal is generally invisible, and that's the idea behind socialization training. Then there is basic obedience training, and ultimately, they receive specific training for the particular individual who is going to be using the dog. That type of training is varied across the board and is not only for dogs.

This was a real frustration for all who were involved in that subcommittee and provide this type of information to the public at large, as well as individuals with disabilities. There really wasn't any incentive or disincentive for an individual to pass off their pet as a service animal. Section 1 would make it a misdemeanor for the first offense and a felony for any subsequent offenses. I don't believe that it could ever be enforced or that anybody would ever really do time,

because there is no certification and no criteria for a service animal. I don't believe you could ever prove this. However, as an advocate and someone who provides technical assistance, if I can tell a person, "If you're trying to play this system, you will do time," I think it would cause them to think. I think that's important, because a lot of the difficulties that individuals who use service animals face—such as barriers in the community regarding discrimination or individuals not allowing them in—is only perpetuated by individuals who do not have legitimate service animals and are passing them off as such. This was a way to reel them in, because they were doing more harm to the individuals with legitimate animals than they probably knew or realized.

Chairwoman Leslie:

We won't comment on these provisions; we will just try and understand what they are at this point. In Section 2, it looks like you took out the leash requirement?

Robert Desruisseaux:

Correct. Basically, the "blaze orange leash" is identification for these animals but it is not required under the Americans with Disabilities Act. Requiring a "blaze orange leash" would be more restrictive, and that was the reason for it being eliminated. The references to "guide dogs" have been eliminated as well, because when we say "service animal," we are capturing "guide dogs" in that definition. Section 3 has the same changes with regard to hearing dogs.

In Section 4, those changes are just with regard to the word "blind." Rather than "condition of the blind," we are referring to "blind persons."

Chairwoman Leslie:

This is where you are talking about the Bureau of Services to the Blind?

Robert Desruisseaux:

That is correct.

Chairwoman Leslie:

Section 5 looks like the same thing.

Robert Desruisseaux:

Yes. There is one more thing in Section 5; subsection 3 was stricken. That called for the Division to provide regulation for the approval of schools. We want to eliminate that and all reference to schools, since they are not required under the ADA.

Chairwoman Leslie:

Section 6 is "blind persons" again.

Robert Desruisseaux:

Correct.

Chairwoman Leslie:

Section 7 is the same thing. In Section 8, we are taking out the "guide dog" reference. Section 9 looks like it is something different. Why don't you explain that.

Robert Desruisseaux:

We heard a lot of testimony from individuals who were training service animals. Since the ADA currently does not recognize the rights of "service animals in training"—it only recognizes "service animals" themselves—this is a problem. How do you get these dogs the training they need in order to graduate and become an actual service animal? How do you get them that socialization training so they become "service animals?" We had added language to cover "service animals in training," giving them the same rights as a fully trained "service animal" would have.

Section 9 addresses penalties for interfering with, or allowing your animal to interfere with or harm, a "service animal" or "service animal in training."

Chairwoman Leslie:

That was one of the things we addressed last session, an animal that interferes with another animal.

Robert Desruisseaux:

We did. Senate Bill 36 is a way of bringing all this together into one bill and cleaning it all up. This also addresses "service animals in training," which the other law did not.

Section 10 refers to a dog or other animal harming those "service animals" we just referred to. In Section 11, there are additions to paragraphs A, B, and C that refer back to the misdemeanor and felony for misrepresentation, because that is a new part of the bill. Section 12 is the section that addresses housing, and this is where I believe it gets a little sticky for us.

Chairwoman Leslie:

This one needs some work then. We'll skip over that one. We have identified that as the section that we need to do more work on.

Robert Desruisseaux:

In Section 13, the only change there is "blind persons." Section 14 eliminates "guide dog" and refers just to "service animals," because they are captured within that definition.

Chairwoman Leslie:

It looks like the same thing in Section 15.

Robert Desruisseaux:

Correct, and Section 16 as well.

Chairwoman Leslie:

In Section 16, we are also changing the disability language there on page 10, subsection 5.

Robert Desruisseaux:

Correct. Subsection 5 originally referred to physical, aural, or visual disabilities. We are changing that to "disability" because it captures all those, as well as others which may not have been listed. It was just a means of trying to create legislation that was less restrictive. That is what most of these changes are for.

Chairwoman Leslie:

In Section 17 it looks like just a minor language change on page 11, at the top of the page in (c).

Robert Desruisseaux:

Correct. I am not really sure why that was done, but I can speculate.

Chairwoman Leslie:

That's okay. Go ahead to Section 18.

Robert Desruisseaux:

In Section 18 we are striking some of those more specific references to types of disabilities, since they are all captured within the definition of disability itself. Subsection (e) of Section 18 says that you cannot charge an additional fee or deposit for a service animal, service animal in training, or a police dog as a condition of access to a place of public accommodation. That is consistent with the Americans with Disabilities Act, which does not allow a surcharge for the admittance of a service animal accompanied by an individual with a disability.

Requiring proof that an animal is a service animal or service animal in training is consistent with the Americans with Disabilities Act, which allows for an individual to require proof. What is "proof" is a gray area and a little vague. The

Americans with Disabilities Act says that you can ask for a demonstration of what that animal does, and you can see that language further down. Also, they could ask the individual to remove that animal if the animal was not under control, which is consistent with ADA.

Chairwoman Leslie:

On page 12 of Section 18, it looks like there is new language about damages. Is that also consistent with ADA?

Robert Desruisseaux:

In Section 18, the language refers back to the new Section 1 of S.B. 36, which refers to the penalties or crime for misrepresenting this animal. That portion of this bill goes above and beyond what ADA calls for. That's why this is being referenced again. We are referring back to that language in the beginning of this bill. This basically limits damages, calls for reasonable attorney's fees, and things of that nature, with regard to that.

Subsection 9 again refers to service animals in training. We are including a definition of that and covering service animals in training with the same rights that a service animal would have.

Chairwoman Leslie:

Section 19 has something to do with transportation. Would this be like a bus or something? It starts at the bottom of page 12. I am talking about the language on page 13, subsection 4.

Robert Desruisseaux:

This is addressing taxicabs, buses, et cetera. There has been a lot of discussion over previous legislative sessions with regard to taxicabs, with a lot of hair in the taxicabs, and that sort of thing.

Chairwoman Leslie:

There are taxicab drivers who don't like dogs in their cabs. There have been several incidents in Reno over this.

Robert Desruisseaux:

This was plugged in just to eliminate any confusion with regard to what their responsibilities would be under the ADA, because they are covered under the ADA. They are considered a public accommodation.

Chairwoman Leslie:

It looks like Section 20 talks about that as well.

Robert Desruisseaux:
Correct.

Chairwoman Leslie:

This looks like it covers the issue of a person whose dog did not go to school but who is really a service animal. It would be treated the same? I didn't see anything in the bill that distinguished between a dog that went to school and a dog that didn't go to school.

Robert Desruisseaux:

That is correct. I see this in two parts. Section 1 through Section 11 of S.B. 36 focuses mostly on public accommodation, and there is no reference to certification, schools, or anything of that nature for the definition of a service animal. That is the way I believe it should remain, because that would be more restrictive.

Section 12, the housing portion of this, does become a little more restrictive with the amendments that have been submitted and are in the first reprint. If I look back at the original print of this legislation, it eliminated the reference to all of these schools and also eliminated the reference to the Bureau's responsibility for certifying these schools.

Chairwoman Leslie:

Section 12 is an issue we need to work on. We should also discuss whether Section 1 is appropriate or not. Do we want to put a law on the books that we are not going to enforce? I understand what you are saying, but I'm not sure that's a great idea, though. Maybe we will hear some more testimony.

Robert Desruisseaux:

I don't know that it's impossible to enforce. I know of instances that were blatant, where individuals were given two weeks to have the dog perform a task or a demonstration, and the dog would not.

Chairwoman Leslie:

I don't know if it rises to the level of a felony, though. That will be something we can discuss some more. We will get some more testimony and maybe we will hear more on that.

Terry Johnson, Deputy Director, Department of Employment, Training and Rehabilitation (DETR), State of Nevada:

I wanted to speak about two things that I think might provide some clarity with regard to the testimony you just heard, especially on Section 12.

[Terry Johnson, continued.] There is another bill pertaining to the Equal Rights Commission that is seeking to enter into a contract with the federal Department of Housing and Urban Development [HUD]. It would be a work share agreement, where they would pay us to do the housing enforcement component. We were trying to make NRS Chapter 118 substantially equivalent to the federal Fair Housing Act for purposes of entering into that agreement.

This amendment you heard references to is actually one I drafted and submitted to Senator Titus. Your staff called me about this, and we had a discussion about it. There was a bit of a mix-up in terms of the amendment. The amendment probably did some things it wasn't intended to do. The parts that Mr. Desruisseaux said were originally taken out were, in fact, intended to be taken out. I don't think that made it to the bill drafting part. For example, with regard to schools for guide dogs, you will see in other parts of this bill, as in Section 5, they are actually scheduled for deletion as a result of this bill, but this amendment puts it back in. It was just a bill drafting error with regard to the amendment that was submitted.

As to the other parts of Section 12 Mr. Desruisseaux mentioned, we are happy to work with and meet the objectives he has. I think we can satisfy our aims to ensure that the Equal Rights Commission has the tools and resources it needs to ensure that persons who are disabled can go and secure public accommodations, housing, employment, and so on, without regard to their disabilities. We are more than happy to work with him on that. We chatted a little before the start of the hearing, and there is some common ground that can readily be reached to satisfy both sets of interests.

Chairwoman Leslie:

Do you think you two can work it out and come back with an amendment?

Terry Johnson:

With regard to Section 12, I am convinced that we can do that.

Chairwoman Leslie:

Any thoughts on Section 1 about making it a felony for a subsequent offense?

Terry Johnson:

I would have to clarify where the enforcement jurisdiction rests. Would the Rehabilitation Division—which is one of our agencies—as the administrative agency, have to do the investigation, make the finding, and refer it to the Attorney General? If that is so, would the Committee be more open to an administrative penalty or administrative hearing followed by an administrative sanction of some kind, as opposed to criminally prosecuting? Unfortunately, I

was still Labor Commissioner when these discussions were taking place and did not take part in them, but it depends on where the jurisdiction rests. If the Committee is interested in pursuing an administrative remedy; that is something we would be happy to discuss.

Chairwoman Leslie:

I recognize the problem you're speaking of and I am sympathetic, but I don't know if we want to make criminals out of these people.

Terry Johnson:

I think you would be surprised how many people there really are. The severity of these penalties is in direct relation to the severity of the impact it has on people with disabilities. You will hear testimony from some people with regard to their limited access to goods and services throughout the community. Much of that, and much of the testimony we heard through the subcommittee, was with regard to some casinos, in particular, who had been duped and allowed non-service animals in. They didn't act like real service animals, but like a dog would. They created messes and things of that nature. Then, the next time an individual with a legitimate service animal shows up, they are not allowed in. They are being denied goods and services.

Chairwoman Leslie:

I recognize that. I don't mean to minimize that. Practically speaking, with that situation you mentioned, would this penalty require you to call the police and have them arrested for a misdemeanor? Are the police really going to do that?

Terry Johnson:

No.

Chairwoman Leslie:

That's my point.

Terry Johnson:

I had a conversation with Michelle Youngs with the Washoe Sheriff's Department. They couldn't see how they really could enforce this, because they are in no position to make that determination whether or not this is a service animal. I recognize this is where the real problem lies. I am not willing to tell someone if their animal is a service animal or not. Even though I am very knowledgeable in the ADA and know what it is, I have no authority to make that determination.

Chairwoman Leslie:

What have other states done? It can't just be a problem in Nevada. Has any state come up with a creative way to address this?

Terry Johnson:

Some have, with regard to registries and things of that nature. That can be more restrictive. If you have to register your dog, what criteria are you going to use to determine whether that's a legitimate service animal? These problems do exist.

Chairwoman Leslie:

If you had something like that, the people you are talking about who are doing it improperly would not likely come before a registration board, right? It might be a way of weeding out those kinds of people.

Terry Johnson:

There was discussion with regard to that in the subcommittee, but ultimately, the end result was that this was an additional burden. Right now, if you want to get your dog through a certified school, you have a four- to six-year wait.

Chairwoman Leslie:

I don't think all dogs should have to go to school. This is a tough problem.

Terry Johnson:

There were a lot of caveats to this that make it difficult to tighten these reins. The amount of damage that was being done by non-legitimate service animals and the testimony we heard was so compelling, we felt we had to do something.

Chairwoman Leslie:

It doesn't seem proper to put something on the books that we know the police are not going to enforce as an empty threat. I would like to take you up on your offer to think about what other penalties we could put in to S.B. 36, or at least consider. I would like to invite anyone up who would like to speak and offer suggestions on S.B. 36.

Jim Nadeau, Government Affairs Director, Nevada Association of Realtors, Reno, Nevada:

We had come forth on the original bill with an amendment dealing specifically with Section 12. If you look at the original bill on page 7, line 11, there was additional language that indicates "demand a fee or deposit," et cetera. We didn't have any concern with that other than the fact that we did want the legal ability—which is located in other portions of statute—to go back and recover

fees for damages and things like that. For instance, if you look in the existing bill on page 13, line 3, there is language that says, "This section does not relieve the person with disabilities who is accompanied by a service animal from liability for damage which may be caused." We are asking for the ability to recover and seek damages.

[Jim Nadeau, continued.] If you put S.B. 36 in a subcommittee, we would be happy to work with the subcommittee on some language.

Chairwoman Leslie:

You think it needs a little adjustment; is that what you are saying?

Jim Nadeau:

We are comfortable with the language now, but I know they're not. We would be happy to work with them to try to deal with that.

Chairwoman Leslie:

You like it the way it is now?

Jim Nadeau:

The way the language is now meets our needs. It is the original language. It is language that's in statute, and we don't have any issues with that.

Chairwoman Leslie:

I haven't heard anybody object yet. Maybe we just haven't gotten to that side.

Mary Yoshisato, Private Citizen, Carson City, Nevada:

I'm here with my guide dog, Flora. I have several questions on the bill. Number one, you say you can't enforce it if someone calls the police, because these untrained pets that are being passed off as service animals are tearing up a business. I have been asked to leave stores because I have a dog. "Tie your dog outside, and then you can come in the store." I have shown ID, as well as state and federal laws to the person, and they evidently couldn't comprehend it or read it. I called the sheriff and was told, "This is a civil offense; we can't arrest or ticket them." If they can't explain to people that I have a service animal and am allowed in the business, how do you expect them to ticket a dog that is not trained or recognized as a service animal because the person has an invisible disability and this dog keeps their feet on the ground? It can be a white rat, snake, or Chihuahua, and it has destroyed the hotel room. You can't expect the police to ticket the people for that.

If I go to board an aircraft and am told, "We already have several service animals on board; we can put your dog in cargo if you want to get on this

flight," and it turns out that two of the people onboard with service animals have Chihuahuas tucked in their shirts because they are afraid to fly and that keeps them level with the rest of the earth, my dog, which is trained and certified from a school, will be accommodated in cargo because these two Chihuahua service animals were allowed onboard because they are home trained. Granted, it is an invisible disability. You say, "Tell me what your dog does for you," or "Have your dog perform." The little thing just sits there and shakes, but it keeps its owner's feet on the ground. The owner is claiming it as a service animal, because the public knows as a service animal, their dogs are allowed anywhere.

[Mary Yoshisato, continued.] We have white rats, snakes, and everything else being called "service animals." Those of us with certified service animals that have graduated from a school are denied access or service because there are too many of you folks here with service animals. These service animals have to be recognized some way.

Federal law always supersedes state law. The state can say they have to have a certification or some type of ID from an accredited school. If the people want to question that, federal law always supersedes if it is stricter. Then you would look for the federal law and say, "Oh, we misunderstood. The federal law supersedes the state law." Nine times out of ten, if you ask for that ID or certification, the people that don't have it will say, "Oh, I self-trained my dog." Well, then, that's a pet.

Chairwoman Leslie:

I understand your frustration. It is a real problem.

Mary Yoshisato:

You can get harnesses and other equipment on the Internet. They put it on their Boxer or Rottweiler and say, "Oh, this is my service animal" or "I have been attacked once or raped, so I have this Great Dane, and he is my service dog." "What school did he come from?" "He went to civil defense school and is an attack dog, and I don't want to be bothered again." That's not a service animal. That dog doesn't have the social manners to be in a crowded room or casino, because he is an attack dog.

Chairwoman Leslie:

It sure seems as though there ought to be a way. She raises really good points.

Mary Yoshisato:

There has to be some way for people with true "service animals" from an accredited school—be it hearing dogs for the deaf, canine companions, or guide dogs—to be able to use them.

Chairwoman Leslie:

Mr. Desruisseaux, can you respond to that? I know you spent two years talking about this, and we won't solve it in one afternoon, but what would be your response to that?

Robert Desruisseaux:

This is my least favorite topic when it comes to ADA. If we wanted to try to get more specific or try to create some sort of certification, it would have to be done at the federal level with regard to the ADA. Currently, the ADA is so broad and so wide open, anything we could do on the state level to rein this in is going to be more restrictive and, therefore, null and void. The answer to your question is the feds. We need to fix it at that end so we can do more from our end. In the meantime, we need to do what we can and work with what we have.

Chairwoman Leslie:

We are going to put this in subcommittee; it needs some work. I will appoint Ms. Gerhardt to chair the subcommittee. Ms. Weber, would you also serve? I would also like to appoint Mr. Horne, our lawyer on this Committee. Ms. Gerhardt, could you also let Senator Titus know what we are doing, in case she would like to testify and bring more expertise to this issue?

I would ask the subcommittee to take a look at the penalties in Section 1. Maybe you can come back and say that is the best way to go, or Mr. Johnson will come up with some creative ideas for Section 12. You can look at the entire bill. I especially want you to focus on the penalty for people who are improperly using their animals and claiming they are service animals. Then, look at the housing issues in Section 12. Those were the main items. If you see something else you would like to come back and suggest, please do so.

[Received letter of support for S.B. 36 from Gloria Dopf, Deputy Superintendent of Public Instruction, Department of Education, State of Nevada ([Exhibit C](#)).]

With that, we'll close the hearing on S.B. 36 and let the subcommittee do its work. We will open the hearing on S.C.R. 3.

Senate Concurrent Resolution 3 (1st Reprint): Designates the second Wednesday in April as "Service Animal Recognition Day." (BDR R-693)

Chairwoman Leslie:

This designates the second Wednesday in April as Service Animal Recognition Day. What is unusual about this is the date. There was an amendment. On line 19, page 2, the name "Northern Nevada Council for Independent Living" was changed to the "Northern Nevada Center for Independent Living."

Does this mean every April 13 is Service Animal Day, or just the one that we already had? We usually don't pass resolutions to honor something every year, although I don't know why we can't start now.

Neena Laxalt, Legislative Advocate, representing the Nevada State Board of Veterinary Medical Examiners:

We are in support of this bill.

Warren Wish, Raiser/Trainer, representing the Carson City Guide Dog Club, Carson City, Nevada:

I am a leader of Carson City Guide Dog Group, and with me are two guide dogs, Brian and Gossett. I was also a member of the subcommittee that dealt with this issue. One of the issues that came before the subcommittee was that it was important to bring this forward for two specific reasons. The first was for public education. This kind of recognition day, held every year, will give us the ability to explain to the public and make them aware of the important service that guide dogs and service dogs give to people with disabilities. The second is the issue of access. Just discussing and talking about the importance of these service dogs allows us to bring attention to what access is all about.

Brian, a guide dog in training who is ready to go on to guide dog college in June, is going to represent to a person who is blind the ability to not only have safe mobility but to have a very precious form of independence. Having a day each year will give the entire community of those who have service animals the opportunity to stand up and talk about the importance that these animals have in their lives. That is the reason for the recognition day.

Robert Desruisseaux, Community Advocate, Northern Nevada Center for Independent Living, Sparks, Nevada:

I couldn't say it any better than Mr. Wish. We are also in support of S.C.R. 3.

Chairwoman Leslie:

Thank you. Any questions? Anyone else who would like to testify on S.C.R. 3, either for or against? I don't see any. We will close the hearing on S.C.R. 3. Is there any other business to come before the Committee? Seeing none, we are adjourned [at 2:52 p.m.].

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblywoman Sheila Leslie, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: April 27, 2005

Time of Meeting: 1:33 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
S.B. 36	B	Robert Desruisseaux, Northern Nevada Center for Independent Living	Copy of sections of the Fair Housing Act
S.B. 36	C	Gloria Dopf, Deputy Superintendent of Public Instruction, Nevada Department of Education	Letter in support of the amended S.B. 36