

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, February 22, 2018

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Souza, Senators Lee, Agenbroad, Foreman, Potts, and Jordan

**ABSENT/ EXCUSED:** Senators Martin and Harris

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Heider** called the meeting of the Health and Welfare Committee (Committee) to order at 3:01 p.m.

**HCR 038** **Eating Disorder Awareness Week.** **Representative McCrostie** explained this resolution would establish February 26 through March 4, 2018 as Eating Disorder Awareness Week. Around 30 million Americans struggle with eating disorders, but many insurance companies do not cover eating disorder care. Eating disorder research receives a disproportionately low amount of funding. Roughly 58,000 Idahoans suffer from eating disorders, but Idaho has no residential eating disorder treatment center.

**DISCUSSION:** **Chairman Heider** asked how Eating Disorders Awareness Week would be observed, given that it would occur so soon. **Representative McCrostie** explained various events were already planned to raise awareness about eating disorders.

**Senator Lee** expressed her support of this resolution. She asked why the resolution was limited to only one week in one year. **Representative McCrostie** noted different legislation could be developed in the future. **Senator Lee** suggested expanding the resolution to establish an annual Eating Disorder Awareness Week.

**Vice Chairman Souza** asked how this resolution will help raise awareness about eating disorders. **Representative McCrostie** mentioned there is a media campaign that would accompany the passage of this resolution. He explained this resolution attempts to bring more attention to eating disorders as a local issue.

**Senator Jordan** noted this resolution could be a catalyst for further efforts to combat eating disorders.

**MOTION:** There being no more questions or testimony, **Senator Jordan** moved to send **HCR 038** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**. Senator Jordan will carry the resolution on the floor of the Senate.

**S 1312**

**Individuals with Disabilities.** **Cheryl Bloom** explained Idaho Code does not grant individuals training their own service dogs the same public access rights as professional service dog trainers. She noted the section of Idaho Code regarding service animals fails to recognize invisible disabilities. This bill would: align Idaho Code with the Americans with Disabilities Act of 1990 (ADA) by recognizing visible and invisible disabilities; provide a clearer definition of service dog; grant public access rights to individuals training their own service dogs; clarify the reasons for which a service dog may be removed from a business; and replace inconsistent terminology with "service dog." This bill would not modify fines or punishments related to service animals.

**Ms. Bloom** explained the importance of allowing individuals to train their own service dog. Service dogs can be costly, and the shortage of trainers in Idaho has caused individuals to wait up to seven years before receiving a trained dog. This bill would also clarify the difference between a service dog, a comfort animal, and personal protection animal. **Ms. Bloom** noted 28 states currently grant public access rights to individuals training their own service dog. This bill would clarify the rights and responsibilities of businesses in regards to service dogs.

**DISCUSSION:**

**Senator Jordan** noted the bill would allow for denial of access if a handler cannot maintain control of a service dog or if a dog is a direct threat to others. She asked how this determination would be made. **Ms. Bloom** explained this bill's wording is derived from statute and case law. **Jim Baugh** introduced himself as the Executive Director of DisAbility Rights Idaho. He asserted the language in this bill is derived from federal ADA regulations. The language is thus interpreted by the United States Department of Justice.

**Senator Jordan** noted this bill holds dog handlers liable for damage caused by their dog. The dog handler would then be required to pay for the damages if the facility typically charges individuals for damage caused. She asked how it would be determined that a facility typically charges individuals for damage. **Mr. Baugh** explained that this section of the bill is meant to ensure equal protection.

**Vice Chairman Souza** noted the Committee previously heard a different bill (**S 1296**) regarding service dogs. She asked if **Mr. Baugh** was aware of **S 1296** and how it would interact with **S 1312**. **Mr. Baugh** explained **S 1296** does nothing more than allow individuals with mental disabilities to have service dogs. **S 1312** addresses a wider range of issues regarding service animals.

**Senator Agenbroad** asked why the bill eliminates part of a section title regarding battery of disabled persons. **Ms. Bloom** asserted this was a technical error. **Mr. Baugh** stated part of the title was eliminated because the bill section does not refer to battery against individuals with disabilities.

**Senator Agenbroad** noted the bill states no entity may ask an individual with a disability to pay a surcharge for being accompanied by a service dog, even if the entity asks others to pay a pet surcharge. He asked how this fits within the requirement of equal treatment. **Mr. Baugh** stated this aligns with the ADA. He asserted individuals who own pets can choose whether or not to bring their pet to a business. Individuals with service dogs do not have that choice, as they need the dog to perform tasks for them. The law therefore prohibits surcharges for service dogs.

**Senator Potts** asked why the term "intentionally" was changed to "knowingly" throughout the bill. **Ms. Bloom** explained the legal term "knowingly" implies a lesser standard of proof than the legal term "intentionally." She noted other states use "knowingly" in their service animal statutes. **Mr. Baugh** explained the legal

difference between "knowingly" and "intentionally."

**Senator Potts** asked who would have the burden of proof in demonstrating that a facility typically charges individuals for damages they cause. **Mr. Baugh** explained the burden of proof is borne by the plaintiff.

**Senator Potts** noted business owners can request that a service dog leave the premises in certain circumstances. The service dog must leave the facility, but the service dog handler can stay. He asked what would happen to the dog in this scenario. **Ms. Bloom** stated the service dog handler must remove the dog from the premises, but has complete discretion regarding what happens to the dog once it has been removed.

**Senator Potts** asked how to protect businesses from the growing trend of service dog fraudulence, given that this bill prohibits business owners from requesting documentation to prove that a dog is a legitimate service dog. **Ms. Bloom** noted anyone can purchase a service dog registration card online; therefore, requesting documentation is an unreliable way to determine whether a dog is a service dog. Individuals can try to determine whether an animal is a legitimate service dog by asking the handler what tasks the dog was trained to do. **Ms. Bloom** stated this bill provides clear and concise language regarding proper service dog behavior so that businesses understand their rights. **Mr. Baugh** clarified that businesses can ask if an animal is a service dog and what tasks the dog performs. If the dog is an emotional support or comfort animal, the business has the right to refuse entrance. **Mr. Baugh** noted it is illegal for an individual without a disability to pretend their dog is a service dog.

**Senator Foreman** asked if this bill can be amended or if it is constrained by federal regulations. **Mr. Baugh** noted some parts of this bill cannot be changed, as they are meant to bring Idaho Code into compliance with federal regulations. The State has discretion over the sections relating to criminal penalties and public access rights for service dogs in training.

**Senator Potts** asked how to guarantee that a service dog being trained off-leash will respond to voice commands as it is supposed to do. **Ms. Bloom** stated there is no way to guarantee that a dog will respond appropriately to voice commands. She noted if a dog is behaving improperly, the handler should remove the dog from the business.

**Senator Potts** inquired about new language relating to right-of-way for disabled pedestrians. **Ms. Bloom** indicated the language in that section of the bill was updated for the purpose of consistency.

**Senator Jordan** asked how this bill could address the issue of individuals without disabilities pretending to have service dogs. **Ms. Bloom** asserted the definitions of "service dog," "comfort animal," and "protection dog" can help mitigate the issue of illegitimate service dogs. She stated several other sections in this bill will help alleviate the issue as well.

**TESTIMONY:** **Cheyulah Volkens** introduced herself as a puppy raiser at Genesis Service Dogs. She shared her personal experience as a puppy raiser and spoke in support of this bill.

**Andrea Scott** shared her personal experience with post-traumatic stress disorder (PTSD) and spoke in support of this bill. She explained the importance of allowing individuals with PTSD to have service dogs.

**Lincea Ruth** shared her personal experience as a dog trainer and spoke in support of this bill. She noted untrained dogs in businesses can distract legitimate service dogs from their tasks.

**DISCUSSION:** **Vice Chairman Souza** asked if an individual would be guilty of a misdemeanor if his or her non-service dog causes injury to a service dog handler by distracting a service dog. **Ms. Ruth** explained people are uneducated about service dogs. Many individuals who bring untrained dogs into businesses are unaware they could cause harm.

**TESTIMONY:** **Deborah Allen** introduced herself as a past puppy raiser and a service dog handler. She voiced support for the section of this bill relating to working service dogs; however, she expressed concern about the section pertaining to service dogs in training. **Ms. Allen** noted the bill's definitions of "dog trainer" and "puppy raiser" are inadequate. She also asserted the definition of "legal blindness" should not be struck from the bill. **Ms. Allen** expressed concern that the bill's ambiguity would allow for abuse.

**Kevin Settles** introduced himself as the owner of Bardenay Restaurants. He explained he has experienced problems with untrained emotional support animals in his restaurants. He stressed the need for legislation that addresses the issue of emotional support animals. He expressed support for this bill.

**Nick DeMarco** voiced concern about this bill's definition of "dog trainer" and "puppy raiser." He suggested having a discussion with stakeholders in order to improve this bill.

**Ms. Bloom** stated she was open to sending the bill to the Fourteenth Order for amendment in order to fix a technical mistake.

**MOTION:** There being no more testimony or questions, **Senator Foreman** moved to hold **S 1312** in Committee. **Senator Potts** seconded the motion.

**DISCUSSION:** **Vice Chairman Souza** stated she would support the motion and suggested that stakeholders meet to redesign this bill.

**Senator Potts** reiterated the importance of engaging stakeholders in development of a bill. He commended Ms. Bloom for her efforts.

**Senator Lee** suggested Ms. Bloom collaborate with stakeholders and Committee members during the interim period to revise this bill. **Senator Lee** stated she would speak with the Attorney General's Office in order to provide clarification to businesses regarding their rights and responsibilities relative to service dogs.

**Chairman Heider** encouraged Ms. Bloom to work with stakeholders to improve this bill.

**Vice Chairman Souza** noted the Committee previously heard a different bill pertaining to service dogs. She stated Ms. Bloom should reconcile the two bills.

**VOICE VOTE:** The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman Heider** adjourned the meeting at 4:46 p.m.

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Senator Heider  
Chair

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Rachel Goodman  
Secretary