

SUMMARY—Revises provisions relating to criminal procedure. (BDR 4-489)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.

Effect on the State: No.

AN ACT relating to criminal procedure; requiring a court to allow a witness to use a facility dog to provide support while the witness is testifying under certain circumstances; requiring a place of public accommodation or common carrier to admit a person accompanied by a facility dog or facility dog in training; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a minor who is a witness in certain criminal cases to designate an attendant who must be allowed to attend the preliminary hearing and the trial during the witness’s testimony to provide support. (NRS 178.571) **Section 1** of this bill requires the court in a criminal proceeding or proceeding relating to abuse or neglect to allow a witness who is a minor or vulnerable person to use a facility dog, if available, to provide support during the witness’s testimony, unless the court finds that doing so will unduly prejudice the defendant or interfere with a constitutional right of the defendant. **Section 1** also prescribes certain requirements relating to facility dogs.



In general, existing law requires a place of public accommodation, common carrier or other means of public conveyance or transportation to admit a person accompanied by a service animal or service animal in training. (NRS 651.075, 704.145, 706.366) **Sections 2-4** of this bill likewise generally require a place of public accommodation, common carrier or other means of public conveyance or transportation to admit a person accompanied by a facility dog or facility dog in training.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 50 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a criminal proceeding or proceeding relating to abuse or neglect, the court shall allow a witness who is a minor or vulnerable person to use a facility dog, if available, to provide support during the witness's testimony, unless the court finds that doing so will unduly prejudice the defendant or interfere with a constitutional right of the defendant.

2. If a court authorizes the use of a facility dog pursuant to subsection 1, the court:

(a) Shall, if the witness requests, allow the facility dog to sit next to the witness while the witness is testifying; or



(b) May, if the witness requests that the facility dog be in another location in the courtroom while the witness is testifying, allow the facility dog to be in that location while the witness is testifying.

3. A facility dog must be certified by an organization that is a member of Assistance Dogs International or its successor organization or any other internationally recognized organization, the primary purpose of which is to accredit organizations that certify dogs for the uses described in subsection 1.

4. As used in this section:

(a) "Criminal proceeding" means:

(1) A trial or hearing before a court in a prosecution of a person charged with violating a criminal law of this State; or

(2) A delinquency proceeding which is conducted pursuant to title 5 of NRS.

(b) "Facility dog" means a dog that:

(1) Is trained to assist a witness by providing emotional support during a legal proceeding; and

(2) Meets the qualifications prescribed by subsection 3.

(c) "Proceeding relating to abuse or neglect" means a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive.

(d) "Vulnerable person" means a person whose ability to testify in a legal proceeding would be significantly affected without the support of a facility dog for various reasons, including,



without limitation, the age of the person or the fact that the person has one or more physical or mental limitations that restrict the ability of the person to testify in a legal proceeding.

Sec. 2. NRS 651.075 is hereby amended to read as follows:

651.075 1. Except as otherwise provided in subsection 5 and NRS 644A.940, it is unlawful for a place of public accommodation to:

(a) Refuse admittance or service to a person with a disability because the person is accompanied by a service animal.

(b) Refuse admittance or service to a person who is training a service animal *or facility dog* because the person is accompanied by a service animal in training ~~[]~~ *or facility dog in training.*

(c) Refuse to permit an employee of the place of public accommodation who is training a service animal *or facility dog* to bring the service animal in training *or facility dog in training* into:

(1) The place of public accommodation; or

(2) Any area within the place of public accommodation to which employees of the place of public accommodation have access, regardless of whether the area is open to the public.

(d) Refuse admittance or service to a person because the person is accompanied by a *facility dog or* police dog.

(e) Charge an additional fee or deposit for a service animal, service animal in training, *facility dog, facility dog in training* or ~~[a]~~ police dog as a condition of access to the place of public accommodation.



(f) Require proof that an animal is a service animal, ~~or~~ service animal in training ~~or~~, *facility dog or facility dog in training*.

2. A place of public accommodation may:

(a) Ask a person accompanied by an animal:

(1) If the animal is a service animal, ~~or~~ service animal in training ~~or~~, *facility dog or facility dog in training*; and

(2) What tasks the animal is trained to perform or is being trained to perform.

(b) Ask a person to remove a service animal, ~~or~~ service animal in training, *facility dog or facility dog in training* if the animal:

(1) Is out of control and the person accompanying the animal fails to take effective action to control it; or

(2) Poses a direct threat to the health or safety of others.

3. A service animal *or facility dog* may not be presumed dangerous by reason of the fact it is not muzzled.

4. This section does not relieve:

(a) A person with a disability who is accompanied by a service animal or a person who is accompanied by a service animal in training, *facility dog or facility dog in training* from liability for damage caused by the service animal, ~~or~~ service animal in training ~~or~~, *facility dog or facility dog in training*.

(b) A person who is accompanied by a police dog from liability for damage caused by the police dog.



5. A place of public accommodation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if the place of public accommodation determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.

6. Persons with disabilities who are accompanied by service animals are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied.

7. Persons who are accompanied by *facility dogs or* police dogs are subject to the same conditions and limitations that apply to persons who are not so accompanied.

8. A person who violates paragraph (e) of subsection 1 is civilly liable to the person against whom the violation was committed for:

(a) Actual damages;

(b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and

(c) Reasonable attorney's fees as determined by the court.

9. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable relief available to the aggrieved person or brought in the name of the people of this State or the United States.

10. As used in this section:

(a) *“Facility dog” has the meaning ascribed to it in section 1 of this act.*



(b) “Facility dog in training” means a dog that is being trained as a facility dog.

(c) “Police dog” means a dog which is owned by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

~~***(b)***~~ ***(d)*** “Service animal” has the meaning ascribed to it in NRS 426.097.

~~***(e)***~~ ***(e)*** “Service animal in training” has the meaning ascribed to it in NRS 426.099.

Sec. 3. NRS 704.145 is hereby amended to read as follows:

704.145 1. Except as otherwise provided in subsection 2, it is unlawful for a common carrier or other means of public conveyance or transportation operating in this State to:

(a) Refuse service to a person with a disability because the person is accompanied by a service animal;

(b) Refuse service to a person because the person is accompanied by a facility dog;

(c) Refuse service to a person who is training a service animal ***or facility dog*** because the person is accompanied by the service animal in training ~~***or***~~ ***or facility dog in training;*** or

~~***(e)***~~ ***(d)*** Charge an additional fee or a deposit for a service animal , ~~***or***~~ service animal in training ~~***or***~~ ***facility dog or facility dog in training.***

2. A common carrier or other means of public conveyance or transportation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if it determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.

3. This section does not relieve a person with a disability who is accompanied by a service animal or a person who is accompanied by a service animal in training , ***facility dog or facility dog***



in training from liability for damage which may be caused by the service animal , ~~[or]~~ service animal in training ~~[,]~~ , *facility dog or facility dog in training*.

4. Persons with disabilities accompanied by service animals on common carriers or other means of public conveyance or transportation operating in this State are subject to the same conditions and limitations that apply to persons without disabilities who are not so accompanied.

5. *Persons who are accompanied by facility dogs or facility dogs in training on common carriers or other means of public conveyance or transportation operating in this State are subject to the same conditions and limitations that apply to persons who are not so accompanied.*

6. A common carrier or other means of public conveyance or transportation operating in this State that violates any of the provisions of subsection 1 is civilly liable to the person against whom the violation was committed for:

(a) Actual damages;

(b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and

(c) Reasonable attorney's fees as determined by the court.

~~[6.]~~ 7. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable relief available to the aggrieved person or brought in the name of the people of this State or the United States.

~~[7.]~~ 8. As used in this section:



(a) *“Facility dog” has the meaning ascribed to it in section 1 of this act.*

(b) *“Facility dog in training” means a dog that is being trained as a facility dog.*

(c) “Service animal” has the meaning ascribed to it in NRS 426.097.

~~[(b)]~~ (d) “Service animal in training” has the meaning ascribed to it in NRS 426.099.

Sec. 4. NRS 706.366 is hereby amended to read as follows:

706.366 1. Except as otherwise provided in subsection 2, it is unlawful for a common motor carrier of passengers or other means of public conveyance or transportation operating in this State to:

(a) Refuse service to a person with a disability because the person is accompanied by a service animal;

(b) *Refuse service to a person because the person is accompanied by a facility dog;*

(c) Refuse service to a person who is training a service animal *or facility dog* because the person is accompanied by the service animal in training ~~[(c)]~~ *or facility dog in training;* or

~~[(e)]~~ (d) Charge an additional fee or a deposit for a service animal , ~~[(d)]~~ service animal in training ~~[(d)]~~ , *facility dog or facility dog in training.*

2. A common motor carrier of passengers or other means of public conveyance or transportation is not required to comply with the provisions of subsection 1 with regard to a service animal or service animal in training that is a miniature horse if it determines that it is not reasonable to comply, using the assessment factors set forth in 28 C.F.R. § 36.302.

3. This section does not relieve a person with a disability who is accompanied by a service animal or a person who is accompanied by a service animal in training , *facility dog or facility dog*



in training from liability for damage which may be caused by the service animal , ~~for~~ service animal in training ~~for~~ , *facility dog or facility dog in training*.

4. Persons with disabilities accompanied by service animals on common motor carriers of passengers or other means of public conveyance or transportation operating in this State are subject to the same conditions and limitations that apply to persons without disabilities who are not so accompanied.

5. *Persons who are accompanied by facility dogs or facility dogs in training on common motor carriers of passengers or other means of public conveyance or transportation operating in this State are subject to the same conditions and limitations that apply to persons who are not so accompanied.*

6. A common motor carrier of passengers or other means of public conveyance or transportation operating in this State that violates any of the provisions of subsection 1 is civilly liable to the person against whom the violation was committed for:

(a) Actual damages;

(b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and

(c) Reasonable attorney's fees as determined by the court.

~~for~~ 7. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable



relief available to the aggrieved person or brought in the name of the people of this State or the United States.

~~{7.}~~ 8. As used in this section:

(a) *“Facility dog” has the meaning ascribed to it in section 1 of this act.*

(b) *“Facility dog in training” means a dog that is being trained as a facility dog.*

(c) “Service animal” has the meaning ascribed to it in NRS 426.097.

~~{b)}~~ (d) “Service animal in training” has the meaning ascribed to it in NRS 426.099.

