

2022 Regulatory Update Part 3: What We Are Watching In Pet Ownership

Relating to the Ownership of Pets

Service Animals and Emotional Support Animals

Along with continuing to consider how to define service animals and emotional support animals, states also are proposing legislation to guard against the misrepresentation of a service or emotional support animal. Oklahoma Senate Bill 1223 would create a misdemeanor for improper use of a service animal.

On June 27 of this year, Hawaii enacted Act 154, which defines "assistance animal" in the context of Hawaii law prohibiting discrimination in real property transactions and codifies the administrative process in verifying that a person requesting a reasonable accommodation that includes the use of an assistance animal has a disability and the assistance animal is needed to alleviate one or more symptoms of the person's disability. The law takes effect on November 1, 2022. Iowa is also considering legislation (HB 2486) that would establish penalties for the misrepresentation of service animals with regard to housing accommodations. California Senate Bill 971 seeks to encourage housing developers, owners, and operators to increase pet-inclusive affordable housing in California by removing restrictions and fees. The bill passed in the Senate in May and currently is in the Assembly.

Legislation pending in Connecticut (HB 5232) would align state law with federal law concerning service animals and raise public awareness regarding rights and responsibilities of owners of service, emotional support and therapy animals. Indiana House Bill 1102 (passed House and is currently in Senate) sets forth certain requirements when permitting or not permitting a person with a disability to bring a service animal on the premises of a public accommodation.

Pets For Vets

We are tracking a number of efforts by both the federal and state governments to provide service dogs to military veterans. The "Puppies Assisting Wounded Servicemembers Act of 2021" (PAWS Act) (United States House Bill 1022 and related Senate Bill 951) was introduced into Congress early this year and currently remains in committee. The bill directs the Secretary of Veterans Affairs to carry out a grant program under which the Secretary shall make grants to private entities for the provision of service dogs to eligible veterans with post-traumatic stress disorder, and for other purposes.

Another emerging legislative trend helps to make it easier and less costly for veterans to adopt pets. Last fall, Maryland enacted the "Pets for Vets Act of 2021" requiring an animal control facility operated by a county or municipality to waive the adoption fee for a dog or cat for a

veteran who presents a valid driver's license or identification card that includes a notation of veteran status. The law took effect on October 1, 2021.

Pets and Divorce

While previously treated as property in divorce settlements, legislative efforts are trending in the direction of the best interests of pets instead. Alaska, California, Illinois, New Hampshire, New York and Maine have enacted laws giving judges leeway to consider the best interests of pets, similar to what is considered for children. Rhode Island is considering legislation (HB 7087) that would create a custody procedure for pets in divorce and separation proceedings based on the best interests of the animal. The bill passed the House in March of this year and is now in the Senate.

Non-Economic Damages

For the past few years we have seen a few states introduce bills that would allow a pet owner to recover damages for the loss of reasonably expected society, companionship and comfort and protection or other services distinct from direct economic loss where a pet is injured or killed because of willful, reckless or even negligent action. In Massachusetts, Senate Bills 1131 and 1341 would provide for damages for the loss of comfort, protection, services of the deceased animal to its owner; reasonable afterlife expenses of the deceased animal; court costs and attorney's fees; and other reasonable damages, with a cap on non-economic damages of \$30,000.00. The bills would impose a three-year statute of limitations. Delaware Senate Bill 258, which has passed both houses, would not change the status of pets as property in Delaware but would provide new causes of action to address tortious injury to a pet.

New York Senate Bill 6027 (identical to Assembly Bill 5779) currently is pending, and would establish a tort cause of action for the wrongful injury or death of a companion animal and provide for compensatory and punitive damages and injunctive relief. Although they died in committee, Maryland House Bill 1375 would have established that a person who tortiously causes an injury to or death of a pet may be liable to the owner of the pet for noneconomic damages; and would have established an exception to the cap on compensatory and noneconomic damages.