

## Memorandum Urging **APPROVAL**

NYSBA #22-GOV

December 17, 2014

A. 5788  
S. 4317

By: M or A Benedetto  
By: Senator Marcellino

Assembly Committee: Governmental Operations  
Senate Committee: Governmental Operations  
Effective Date: Immediately

AN ACT to amend the executive law, the civil rights law, the agriculture and markets law, the transportation law and the public housing law, in relation to service animals, guide dogs, hearing dogs or service dogs; and to repeal certain provisions of the executive law relating thereto

### **THE NEW YORK STATE BAR ASSOCIATION SUPPORTS THIS LEGISLATION AND URGES ITS APPROVAL**

The New York State Bar Association **SUPPORTS** the passage of A.5788/S.4317 and urges its **APPROVAL**. The Bill would clarify and harmonize New York law with respect to the use of guide, hearing and service dogs, by repealing certain provisions of the Executive Law that are inconsistent with requirements under the Americans with Disabilities Act (ADA) and by harmonizing definitions across other existing laws. The ultimate goal of the Bill is to clarify the rights of individuals with disabilities who rely on service animals.

This legislation amends various chapters of New York State Law to amend the definition of “service animals” to be consistent with the definition used in the Americans with Disabilities Act (ADA) and other applicable Federal statutes.

Under the ADA, all that is required is that a “service animal” be individually trained to do work or perform tasks for the benefit of an individual with a disability (28 C.F.R. §35.104 and §36.104). A “private entity . . . may not insist on proof of State certification before permitting the entry of a service animal to a place of public accommodation.” (Department of Justice Technical Assistance manual for Title III of the ADA, III – 4.2300).

Many provisions of New York law are inconsistent with the ADA. For example, the State Human Rights Law defines the terms, “guide dog,” “hearing dog,” and “service dog,” as dogs that have been trained by a recognized training center or professional trainer, which, as discussed, is inconsistent with the ADA.

Based on the foregoing, the State Bar Association supports the enactment of this legislation and urges the Governor’s **APPROVAL**.