

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1077 Service Animals

**SPONSOR(S):** Health & Human Services Access Subcommittee; Kriseman

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	15 Y, 0 N, As CS	Batchelor	Schoolfield
2) Civil Justice Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

HB 1077 amends s. 413.08, F.S. relating to the rights of an individual with a disability and the use of a service animal. The bill does the following:

- Cites the act as the “Dawson and David Caras Act.”
- Amends the definition of “individual with a disability” to include an individual who has a psychological or neurological disability.
- Amends the definition of “physically disabled” to include an individual who has a psychological or neurological disability.
- Creates a definition for “owner” to mean a person who owns a service animal or who is authorized by the owner to use a service animal.
- Expands the definition of “service animal” to include that a service animal may help an individual who has low vision or who is suffering with a psychiatric or neurological disability by helping interrupt impulsive and destructive behaviors.
- Specifies that an individual with a disability or a person who trains service animals and is a student at a public or private school in this state has the right to be accompanied by a service animal.
- Clarifies that if federal law, rule or agency requires a public accommodation to provide care, food, or a special location for an animal to relieve itself, they must do so.
- Provides that a public accommodation may remove any animal from the premises if the animal fails to remain under the control of the handler or if the animal’s behavior is inappropriate.
- Provides that a person, firm or corporation, may not deny or interfere with the renting, leasing, or purchasing of housing accommodations for a person with a disability or a service animal trainer. Current law provides misdemeanor penalties for violations of this law.
- Clarifies that an individual with a service animal is entitled to full and equal advantages, facilities and privileges in all housing accommodations.
- Provides that a trainer of a service animal is also entitled to full and equal access to all housing accommodations and may not be required to pay extra compensation for the service animal.
- Provides that any person who trains a service animal has the same rights and access to housing accommodations as an individual with a disability, as long as the trainer is training the animal.
- Provides that a trainer has the same rights, privileges and liabilities as a person with a disability as it relates to a service animal.
- Provides that any person who knowingly and fraudulently represents themselves as a service animal trainer commits a misdemeanor of the second degree punishable as provided in s. 775.082,<sup>1</sup> F.S. and s. 775.083,<sup>2</sup> F.S.

The bill does not appear to have a fiscal impact. The bill provides an effective date of July 1, 2012.

<sup>1</sup> For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days

<sup>2</sup> A maximum of \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1077a.HSAS

**DATE:** 1/26/2012

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### *Americans with Disabilities Act (ADA)*

The Americans with Disabilities Act defines an individual with a disability as someone who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.<sup>3</sup> The ADA provides that persons with disabilities shall not be discriminated against when applying for a job, and that public services and transportation shall accommodate such individuals.<sup>4</sup>

The ADA provides that an individual with a disability is permitted to bring their service animal with them to publicly and privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities.<sup>5</sup> The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.<sup>6</sup>

##### *Fair Housing Act*

The Fair Housing Act prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin.<sup>7</sup> Its coverage includes private housing, housing that receives Federal financial assistance, and state and local government housing.<sup>8</sup> It is unlawful to discriminate in any aspect of selling or renting housing or to deny a dwelling to a buyer or renter because of the disability of that individual, an individual associated with the buyer or renter, or an individual who intends to live in the residence.<sup>9</sup> The U.S. Department of Housing and Urban Development investigates complaints of violations against the Fair Housing Act, including discrimination in housing.<sup>10</sup> If someone is convicted of violating the Fair Housing Act he or she may be required to do the following:<sup>11</sup>

- To compensate the victim for actual damages, including humiliation, pain and suffering;
- To provide injunctive or other equitable relief;
- To pay the Federal Government a civil penalty to vindicate the public interest. The maximum penalties are \$16,000 for a first violation and \$65,000 for a third violation within seven years.
- To pay reasonable attorney's fees and costs.

##### *Service Animal Trainers*

The ADA defines service animals as animals that are individually trained to perform tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks.<sup>12</sup> Most service animals are dogs,<sup>13</sup> however, monkeys<sup>14</sup>, miniature horses<sup>15</sup> and other animals

---

<sup>3</sup> 42 U.S.C. 12101

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> 42 U.S.C. s. 3601

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> U.S. Department of Housing and Urban Development. Housing.

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/enforcement](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/enforcement). (last visited January 21, 2012).

<sup>11</sup> *Id.*

<sup>12</sup> Americans with Disabilities Brief, Service Animals, April 2002. <http://www.ada.gov/svcanimb.htm>. (last visited January 21, 2012).

<sup>13</sup> International Association of Assistance Dog Partners. <http://www.iaadp.org/A-dogWorld.html>. (last visited January 21, 2012).

<sup>14</sup> Helping Hands, Monkey Helpers for the Disabled. <http://www.monkeyhelpers.org/index.html>. (last visited January 21, 2012).

are also used for this function. Prior to an animal being used by an individual with a disability, the animal goes through a training course with a service animal trainer. The American Behavior College provides courses for people interested in becoming a certified dog trainer; courses include, but are not limited to: a basic study of canines, learning theory, training, obedience and safety.<sup>16</sup> Similar courses are also available for miniature horse trainers<sup>17</sup> and monkey trainers.<sup>18</sup>

### **Effect of Proposed Changes**

The bill creates the “Dawson and David Caras Act”.

The bill amends the definition of “individual with a disability” and “physically disabled” as used in ss.413.08 and 413.081, F.S, to include a person who has a psychological or neurological disability. This would permit individuals with psychological or neurological disabilities to the provisions of this legislation, and would also permit these individuals to full and equal advantages of public accommodations, employment and housing accommodations as currently defined in s. 413.08, F.S.

The bill creates a definition for “owner” to mean a person who owns a service animal or who is authorized by the owner to use a service animal. This definition would provide that an owner of a service animal could be an individual with a disability, a service animal trainer, or someone who has been authorized by the owner to use the service animal.

The bill expands the definition of a “service animal” to include that an animal may be used to help an individual who has low vision or who is suffering with a psychiatric or neurological disability by helping interrupt impulsive and destructive behaviors.

The bill specifies that an individual with a disability or a person who trains service animals and is a student at a public or private school in this state has the right to be accompanied by a service animal. The ADA provides that public and privately owned facilities, which would include schools, are required to allow an individual with a disability to be accompanied by a service animal.<sup>19</sup>

Current state law does not require a public accommodation (places to which the general public is invited and modes of transportation)<sup>20</sup> to provide care, food or a special location for the service animal to relieve itself. The bill clarifies that if federal law, rule or agency requires a public accommodation to provide such services they must do so. Additionally, if a public accommodation has a secured area, a special location shall be designated for the service animal to relieve itself.

The bill provides that a public accommodation may exclude or remove an animal from the premises if the animal fails to remain under the control of the handler or if the animal’s behavior is inappropriate. The bill specifies that inappropriate behavior includes, but is not limited to, growling, excessive barking, or biting.

The bill provides that any person, firm, corporation, or the agent of any person, firm or corporation , who denies or interferes with the renting, leasing, or purchasing of housing accommodations for an individual with a disability or a trainer of a service animal commits a misdemeanor of the second degree, punishable as provided in s. 775.082,<sup>21</sup> or s. 775.083,<sup>22</sup> F.S. The U.S. Department of Fair Housing and Urban Development, under the Fair Housing Act provides penalties for someone who is convicted of unlawful housing practices. The bill will provide both civil and criminal sanctions to someone in this state who is convicted of unlawful housing practices.

---

<sup>15</sup> The Guide Horse Foundation. <http://www.guidehorse.org/>. (last visited January 21, 2012).

<sup>16</sup> American Behavior College. Curriculum. <http://www.animalbehaviorcollege.com/curriculum.asp>. (last visited January 21, 2012).

<sup>17</sup> The Guide Horse Foundation. <http://www.guidehorse.org/>. (last visited January 21, 2012).

<sup>18</sup> Helping Hands, Monkey Helpers for the Disabled. <http://www.monkeyhelpers.org/index.html>. (last visited January 21, 2012).

<sup>19</sup> 42 U.S.C. 12101

<sup>20</sup> S. 413.08, F.S.

<sup>21</sup> For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

<sup>22</sup> A maximum of \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

The bill clarifies that an individual with a service animal is entitled to full and equal advantages, facilities and privileges in all housing accommodations.

The bill provides that a trainer of a service animal is also entitled to full and equal advantages, facilities and privileges in all housing accommodations and may not be required to pay extra compensation for the service animal. The bill also provides that any person who trains a public service animal has the same rights and access to public and housing accommodations as an individual with a disability, as long as the trainer is training the animal. However, the bill does not define trainer nor indicate how a person claiming to be a trainer could be verified by officials of public or private housing accommodations.

The bill provides that a trainer has the same rights, privileges and liabilities as a person with a disability as it relates to a service animal. The bill provides that any person who knowingly and fraudulently represents themselves as a service animal trainer commits a misdemeanor of the second degree punishable as provided in s. 775.082,<sup>23</sup> F.S. and s. 775.083,<sup>24</sup> F.S.

**B. SECTION DIRECTORY:**

**Section 1:** Cites the act as the “Dawson and David Caras Act”.

**Section 2:** Amends s. 413.08, F.S. relating to Rights of an individual with a disability; use of service animal; discrimination in public employment or housing accommodations – penalties.

**Section 3:** Provides an effective date of July 1, 2012.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

---

<sup>23</sup> For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

<sup>24</sup> A maximum of \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not provide a definition for “trainer” of a service animal. This could potentially allow anyone to claim to be a trainer entitled to the benefits of this legislation.

The bill amends the definition for “individual with a disability” and “physically disabled” to include individuals with psychological or neurological disabilities. This change in definition permits that an individual with a psychological or neurological disability has full and equal advantages of public accommodations, employment and housing accommodations as currently defined in s. 413.08, F.S. This change is not specific to service animals and as such the title of the bill needs to be changed in order to incorporate a significant change in the bill.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 24, 2012 the Health and Human Services Access Subcommittee adopted two amendments to House Bill 1077. The amendments do the following:

- Cite the act as the “Dawson and David Caras Act.”
- Amend the definition of “individual with a disability” to include an individual who has a psychological or neurological disability.
- Amend the definition of “physically disabled” to include an individual who has a psychological or neurological disability.
- Retain current law relating to the definition of a “service animal”.
- Provide that a public accommodation may remove an animal from the premises if the animal fails to remain under the control of the handler or if the animal’s behavior is inappropriate, including, but not limited to, growling, excessive barking or biting.
- Remove provisions that require a trainer to be training an animal from an accredited school.
- Remove provisions that would require a trainer to have available on himself or herself inspection credentials from an accredited school in which they were training an animal for.
- Remove provisions requiring that a service animal is wearing appropriate apparel that identifies the animal with an accredited school for which the service animal is being trained.

The bill was reportedly favorably as a Committee Substitute. This analysis reflects the Committee Substitute.