

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Committee

BILL: CS/CS/SB 1382

INTRODUCER: Budget Committee; Children, Families, and Elder Affairs Committee; and Senator Bennett

SUBJECT: Service Animals

DATE: March 4, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Farmer	CF	Fav/CS
2.	Bradford	Rhodes	BC	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill makes changes to the law relating to the rights of an individual with a disability and the use of a service animal, including the following:

- Cites the act as the “Dawson and David Caras Act;”
- Removes provisions relating to service animals from s. 413.08, F.S.; and
- Creates s. 413.083, F.S., relating to the use of a service animal. The newly created section:
 - Creates definitions for the terms "individual requiring assistance", "owner", and "service animal" relating to the use of service animals;
 - Extends the use of service animals to a person with a psychological or neurological disability;
 - Provides 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;
 - Provides 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, that public accommodation must do so;

- Prohibits a person, firm or corporation, from denying or interfering with the renting, leasing, or purchasing of housing accommodations for an individual who requires assistance or for a service animal trainer. Penalties are imposed for a violation of this prohibition;
- Provides 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 service animals has the same rights, privileges and liabilities as an individual requiring assistance as it relates to a service animal; and
- Creates a new second-degree misdemeanor for any person who knowingly and fraudulently misrepresents himself or herself as a service animal owner or trainer.

There is no fiscal impact on the Department of Health. There is insignificant fiscal impact on local governments.

This bill amends section 413.08, Florida Statutes.

The bill creates section 413.083, Florida Statutes.

The effective date of this legislation is July 1, 2012.

II. Present Situation:

Background

The first systematic use of companion animals to assist individuals with disabilities was the training of dogs to assist people who are blind and visually impaired. The first guide dog in the United States was trained in 1929 at The Seeing Eye, Inc., in Morristown, New Jersey.¹ For many years The Seeing Eye was the only training school for guide dogs in this country, which is why it is not uncommon to hear guide dogs called "seeing eye dogs." Since the 1960's, the practice of using companion animals to increase the physical mobility and personal independence of individuals with disabilities has become more widespread.²

While guide dogs for the blind are the most commonly identified companions for people with disabilities, a number of other training programs have been initiated. In 1975, Canine Companions for Independence (CCI) pioneered the concept of the service dog, a highly trained canine able to provide specialized services to assist people with disabilities.³ CCI classifies specific types of service dogs by function:

- Service dogs perform tasks such as operating light switches, retrieving items, pulling wheelchairs, and opening doors;
- Hearing dogs assist people who are deaf or hearing impaired by alerting them to sounds such as telephone rings, crying infants, alarms, and people calling them by name;
- Facility dogs work with a professional in a visitation, education or healthcare setting; and

¹The Seeing Eye, Inc. Retrieved February 2, 2012, from www.seeingeye.org.

² Kelly Henderson, *No Dogs Allowed?*, *Federal Policies On Access For Service Animals*. Animal Welfare Information Center Newsletter, Summer 1996, <http://www.nal.usda.gov/awic/newsletters/v7n2/7n2hende.htm>.

³ Canine Companions for Independence. Retrieved February 2, 2012, from www.caninecompanions.org

- Skilled companion dogs enhance independence for children and adults with physical, cognitive and developmental disabilities.

More recently, there has been an increase in the use of what is being termed, “psychiatric service dogs” that are trained to work or perform tasks for the benefit of an individual disabled by mental illness. Psychiatric service dogs are being used with individuals diagnosed with major depression, bipolar disorder, schizophrenia, panic disorder, social anxiety disorder, agoraphobia, obsessive compulsive disorder and post-traumatic stress disorder. They are also finding their way into homes with autistic children.^{4,5}

While dogs are by far the most common type of service animal, a wide variety of animals including cats, pot bellied pigs, capuchin monkeys, miniature horses, and birds are now being trained to assist individuals with disabilities. In 1979, Helping Hands, Monkey Helpers for the Disabled, trained and placed the first capuchin monkey as a helper and a companion to an individual who was paralyzed. From its inception, the organization’s mission has been to provide assistance to people with the greatest needs: those individuals who have become quadriplegic as a result of an accident, injury, or disease.⁶

Social animals, those used to address animal-assisted therapy goals, are trained and used in a wide variety of settings including hospitals, nursing facilities, schools, and other institutions. While several national organizations provide structured training and certification programs for these animals, most are not recognized as "service animals" under federal law.⁷

⁴ The Psychiatric Dog Service Society defines a psychiatric service dog as dog that is individually trained to do work or perform tasks for the benefit of an individual disabled by severe mental illness. The society recommends that disabled individuals train their own dogs under the guidance of a ‘regular’ professional dog trainer in private sessions. Retrieved February 3, 2012, from <http://www.psychdog.org/brochures/consumer.pdf>.

⁵ Heeling Allies privately trains Mental Health Service Dogs, Emotional Support Dogs and Skilled Companion Dogs that enrich the lives of individuals living with psychological, neurological and developmental impairments such as, Post Traumatic Stress Disorder (PTSD), Depressive and Anxiety Disorders, Asperger’s Syndrome, and Tourette Syndrome. Retrieved February 3, 2012, from <http://www.mentalhealthdogs.org/default.html>.

⁶ Helping Hands raises, trains, and places capuchin monkeys to be service animals: the monkeys are born at a closed colony at Southwick’s Zoo in the Boston area; they are raised in volunteer foster homes until they move to the training center. The monkeys are educated at the Helping Hands Carvel Foundation Training Center in Boston where they are taught essential helping tasks, then matched by personality and needs to a particular recipient, and finally prepared for tasks specific to the needs of the selected recipient. Monkeys are placed in the home of the recipient during a special placement week that includes eight days of set-up and on-site training by the placement team. Each monkey is supported post-placement by a placement specialist (including life-long health and behavioral support) and training for new tasks, when needed. Monkeys are provided with lifetime medical care overseen and paid for by Helping Hands, including all necessary care for chronic illnesses and geriatric care, by a specially selected network of veterinary and human doctors. Finally, the monkeys are given all necessary respite and retirement care, if needed. Retrieved February 5, 2012, from www.monkeyhelpers.org.

⁷ The Delta Society, for example, has a Pet Partners program that trains volunteers and screens volunteers and their pets for visiting animal programs in hospitals, nursing homes, rehabilitation centers, schools and other facilities. The Pet Partners program was established in 1990 to ensure that "both ends of the leash," people as well as animals, were well-prepared to participate in animal-assisted activity and animal-assisted therapy programs. Retrieved February 3, 2012, from <http://www.deltasociety.org/Page.aspx?pid=259>.

Federal Law⁸

As the use of service animals became increasingly popular, individual states and the federal government enacted legislation providing access rights for these animals.⁹ While all fifty states now have passed some legislation related to service animal access, nonetheless, when federal legislation provides greater protection for individuals with disabilities, it preempts local and state laws and regulations.¹⁰ The major federal legislation addressing individuals with disabilities who have service animals includes:

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. 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.¹¹

The ADA provides that an individual with a disability is permitted to bring his or her service animal to publicly and privately owned businesses that serve the public such as restaurants, hotels, retail stores, taxicabs, theaters, concert halls, and sports facilities. 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.¹²

Effective March 15, 2011, the federal Department of Justice (DOJ) offered definitions relating to nondiscrimination on the basis of disability by public accommodations and in commercial facilities. According to DOJ's definitions, a service animal is "any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. . ." Other species of animals are specifically excluded from the definition of service animals. According to DOJ, the "provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition."¹³

Fair Housing Act

The Fair Housing Act prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin. Its coverage includes private housing, housing that receives federal financial assistance, and state and local government housing. It is unlawful to

⁸ In addition to the Fair Housing Act and the Americans with Disabilities Act, the Air Carrier Access Act of 1986 (ACAA) was the first Federal legislation to directly address public access rights of people with disabilities who have service animals. The ACAA regulations provide one of the most specific statements of federal policy regarding accommodation of service animals. The act requires air carriers to permit service animals to accompany people with disabilities on flights. (14 CFR 382.55 (a) (16).

⁹ Kelly Henderson, *No Dogs Allowed?*, *Federal Policies On Access For Service Animals*. Animal Welfare Information Center Newsletter, Summer 1996, <http://www.nal.usda.gov/awic/newsletters/v7n2/7n2hende.htm>.

¹⁰ U.S. Department of Justice, Civil Rights Division, Disability Rights Section. *Commonly Asked Questions About Service Animals in Places of Business*, Retrieved February 2, 2012, from <http://www.ada.gov/qasrvc.htm>.

¹¹ 42 U.S.C. 12101, et. seq.

¹² *Id.*

¹³ 28 C.F.R. s. 36.104.

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.¹⁴

The U.S. Department of Housing and Urban Development investigates complaints of violations against the Fair Housing Act, including discrimination in housing.¹⁵ If someone is convicted of violating the Fair Housing Act he or she may be required to do the following:

- Compensate the victim for actual damages, including humiliation, pain and suffering;
- Provide injunctive or other equitable relief;
- Pay the federal government a civil penalty to vindicate the public interest;¹⁶ and
- Pay reasonable attorney's fees and costs.¹⁷

Florida Law

In 2005, the Florida Legislature significantly amended the law related to service animals to more closely mirror the provisions of the federal Americans with Disabilities Act of 1990. Specifically, the legislation amended definitions and changed the manner in which state and local governments and public accommodation facilities must provide access to service animals that accompany individuals with disabilities.¹⁸

Raising and Training Service Animals

While the earliest formal training of guide dogs in the United States dates back 65 years, widespread training has only occurred during the last three decades. There are no universally accepted methods for training or certifying assistance dogs. However, Assistance Dogs International (ADI) has developed minimum training standards for its member organizations to follow. In addition to the training requirements, ADI has developed a Code of Standards and Ethics for its members and is creating minimum requirements for assistance dog partners and assistance dog trainers.¹⁹

Likewise, service animal trainers are not "certified" and may be independent or affiliated with a service animal training school. In addition, individuals with disabilities sometimes train their own service animals. Although service animals are defined in the ADA, there are no criteria requiring identification or certification of a service animal. Public entities are prohibited from requiring certification of a service animal for the purpose of access.²⁰

¹⁴ 42 U.S.C. s. 3601, et. seq.

¹⁵ U.S. Department of Housing and Urban Development. Housing. Retrieved February 2, 2012, from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/enforcement.

¹⁶ The maximum penalties are \$16,000 for a first violation and \$65,000 for a third violation within seven years.

¹⁷ U.S. Department of Housing and Urban Development. Housing. Retrieved February 2, 2012, from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/enforcement

¹⁸ Chapter 2005-63, L.O.F.

¹⁹ Assistance Dogs International. Training Standards. Retrieved February 5, 2012, from <http://www.assistancedogsinternational.org/Standards/>.

²⁰ U.S. Department of Justice, Civil Rights Division, Disability Rights Section. *Commonly Asked Questions About Service Animals in Places of Business*, Retrieved February 2, 2012, from <http://www.ada.gov/qasrvc.htm>.

The largest of service animal training organizations, CCI has five training centers across the United States, including one in Orlando, Florida.²¹ Other groups operate training facilities either nationally or regionally. Policies vary by organization although many facilities prepare dogs to serve both mobility-impaired individuals and those with hearing impairments. Although there are no set training criteria, service dogs, guide dogs, and hearing dogs trained by assistance animal schools do go through a similar pattern of training, as described below:²²

- Puppies are given to volunteer “puppy raisers” who will care for them until they are old enough to begin advanced training. During this phase, most puppies will be taken to obedience training to learn basic obedience commands. At the same time, they are socialized with other dogs and humans. Some puppy raisers take their puppies with them to school or work. The intent is to expose the dog to as many different experiences as possible so it will be well-mannered and not easily distracted by new sights, sounds, and smells. When in public, these puppies often wear capes identifying them as puppies in training. Some states allow puppies in training to have access to public accommodations including public transportation, but this varies by state.²³
- When puppies are 15-18 months of age they are returned to the training school to receive their assistance dog training. They are carefully evaluated to test their temperament and natural abilities. Dogs selected to continue in the training program spend additional time – typically 6-9 months – learning to perform specific tasks (e.g., guiding a person who is blind, responding to doorbells and telephones, fetching dropped items, pulling a wheelchair). Not every dog makes it through the training program, either because of temperament, health or physical problems.²⁴
- After a service dog completes its training program, it is matched with a human partner. Trainers attempt to match skills, physical size, and personality types of both the dog and human. Teams are then trained together for up to several weeks or longer, if needed, so they can bond and learn how to work with each other and develop proper public etiquette. During this phase the person also learns about caring for his or her dog, including veterinary care requirements, flea and tick control, grooming, and good nutrition. Once the trainer is satisfied the pair has sufficiently bonded and learned to work together, the team graduates. Some training organizations provide annual follow-up evaluations to ensure that no bad habits have developed and to correct any training deficiencies. At that time they also can retrain the dog or person if a person's functional abilities have changed.²⁵

While many federal laws grant access to a disabled person with their service animal, these laws do not apply to service animals in training or animals being fostered until they are old enough to begin training. Some states have implemented laws to bridge this gap in coverage to allow volunteers, who raise young animals for trainers or who are trainers, full access to places of public accommodation for the purposes of socializing and training. Some of these laws enacted

²¹ Canine Companions for Independence. Retrieved February 5, 2012, from <http://www.cci.org/site/c.cdKGIRNqEmG/b.4010989/k.C6DF/History.htm>.

²² Canine Companions for Independence. Retrieved February 5, 2012, from http://www.cci.org/site/c.cdKGIRNqEmG/b.4011115/k.65BA/Training_assistance_dogs.htm.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

by states, however, have provisions limited to only one type of animal or to animals being raised or trained by “certified” centers or trainers.²⁶

The Animal Behavior College offers 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.²⁷ Similar courses are also available for miniature horse trainers²⁸ and monkey trainers.²⁹

III. Effect of Proposed Changes:

The bill makes a number of changes to law relating to the rights of an individual with a disability and the use of a service animal. Specifically, the bill:

- Cites the act as the “Dawson and David Caras Act;”
- Removes provisions relating to service animals from s. 413.08, F.S.; and
- Creates s. 413.083, F.S., relating to the use of a service animal. The newly created section:
 - Creates definitions for the terms "individual requiring assistance", "owner", and "service animal" relating to the use of service animals;
 - Extends the use of service animals to a person with a psychological or neurological disability;
 - Provides 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;
 - Provides 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, that public accommodation must do so;
 - Provides 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 service animals has the same rights, privileges and liabilities as an individual requiring assistance as it relates to a service animal; and
 - Creates a new second-degree misdemeanor for any person who knowingly and fraudulently misrepresents himself or herself as a service animal owner or trainer.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁶ Animal Legal and Historical Center. Michigan State College of Law, Table of State Assistance Animal Laws. Retrieved February 4, 2012, from <http://animallaw.info/articles/ddusassistanceanimaltable.htm>.

²⁷ Animal Behavior College. Retrieved February 5, 2012, from <http://www.animalbehaviorcollege.com/curriculum.asp>.

²⁸ The Guide Horse Foundation. Retrieved February 5, 2012, from <http://www.guidehorse.com/training.htm>.

²⁹ Helping Hands, Monkey Helpers for the Disabled. Retrieved February 5, 2012, from <http://www.monkeyhelpers.org/ourprograms/monkey-college/>.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is a 2nd misdemeanor penalty for those holding themselves out to be "owners" or "trainers" of service dogs and they are not. There is insignificant fiscal impact on local governments for this.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Budget on March 2, 2012:

The committee substitute:

- Changes the language back to existing law relating to the penalty for interfering with the rights of an individual requiring assistance while accompanied by a service animal or the trainer of a service animal while engaged in the training of that animal;
- Narrows the definition of one who knowingly and fraudulently represents himself or herself as an individual requiring assistance of a service animal or as the owner or trainer of a service animal to include the intent to receive benefits from the claim.

CS by the Children, Families, and Elder Affairs Committee on February 9, 2012:

The committee substitute is different from the original bill in that it:

- Cites the act as the “Dawson and David Caras Act;”
- Removes provisions relating to service animals from s. 413.08, F.S. and creates s. 413.083, F.S., relating to the use of a service animal. The newly created section:

- Creates definitions for the terms "individual requiring assistance", "owner", and "service animal" relating to the use of service animals;
- Provides 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, that public accommodation must do so;
- Provides that a person, firm or corporation, may not deny or interfere with the renting, leasing, or purchasing of housing accommodations for an individual requiring assistance or a service animal trainer and provides penalties for violation;
- Provides that a trainer of service animals has the same rights, privileges and liabilities as an individual requiring assistance as it relates to a service animal, but does not extend those rights, privileges, and liabilities to those who raise service animals;
- Removes reference to "accredited school", and
- Removes criteria that must be met in order for trainers to have access to housing accommodations.

B. Amendments:

None.