

By the Committees on Budget; and Children, Families, and Elder Affairs; and Senator Bennett

576-04505-12

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1                                   A bill to be entitled  
2       An act relating to service animals; providing a short  
3       title; amending s. 413.08, F.S.; removing provisions  
4       related to service animals; creating s. 413.083, F.S.;  
5       providing definitions; specifying rights of an  
6       individual accompanied by a service animal; providing  
7       that documentation that a service animal is trained is  
8       not a precondition for providing certain services to  
9       an individual accompanied by a service animal;  
10      authorizing a public accommodation to make certain  
11      inquiries regarding the animal; providing restrictions  
12      for a public accommodation imposing a deposit or  
13      surcharge; providing for liability of an individual  
14      accompanied by or the trainer of a service animal  
15      under certain circumstances; providing responsibility  
16      for care and supervision of a service animal;  
17      providing conditions for exclusion or removal of a  
18      service animal from a public accommodation; providing  
19      penalties for denying or interfering with admittance  
20      to or enjoyment of a public accommodation; specifying  
21      rights to housing accommodations for an individual  
22      accompanied by a service animal; providing  
23      limitations; providing rights of housing to the owner  
24      or trainer of a service animal; providing a penalty  
25      for misrepresentation as an owner or trainer; amending  
26      s. 252.355, F.S.; conforming a cross-reference;  
27      providing an effective date.

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29   Be It Enacted by the Legislature of the State of Florida:

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Section 1. This act may be cited as the "Dawson and David Caras Act."

Section 2. Section 413.08, Florida Statutes, is amended to read:

413.08 Rights of an individual with a disability; ~~use of a service animal~~; discrimination in public employment or housing accommodations; penalties.—

(1) As used in this section ~~and s. 413.081~~, the term:

(a) "Housing accommodation" means any real property or portion thereof which is used or occupied, or intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons, but does not include any single-family residence, the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(b) "Individual with a disability" means a person who is deaf, hard of hearing, blind, visually impaired, or otherwise physically disabled. As used in this paragraph, the term:

1. "Hard of hearing" means an individual who has suffered a permanent hearing impairment that is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.

2. "Physically disabled" means any person who has a physical impairment that substantially limits one or more major life activities.

(c) "Public accommodation" means a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation;

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59 hotel; lodging place; place of public accommodation, amusement,  
60 or resort; and other places to which the general public is  
61 invited, subject only to the conditions and limitations  
62 established by law and applicable alike to all persons.

63 ~~(d) "Service animal" means an animal that is trained to~~  
64 ~~perform tasks for an individual with a disability. The tasks may~~  
65 ~~include, but are not limited to, guiding a person who is~~  
66 ~~visually impaired or blind, alerting a person who is deaf or~~  
67 ~~hard of hearing, pulling a wheelchair, assisting with mobility~~  
68 ~~or balance, alerting and protecting a person who is having a~~  
69 ~~seizure, retrieving objects, or performing other special tasks.~~  
70 ~~A service animal is not a pet.~~

71 (2) An individual with a disability is entitled to full and  
72 equal accommodations, advantages, facilities, and privileges in  
73 all public accommodations. This section does not require any  
74 person, firm, business, or corporation, or any agent thereof, to  
75 modify or provide any vehicle, premises, facility, or service to  
76 a higher degree of accommodation than is required for a person  
77 not so disabled.

78 ~~(3) An individual with a disability has the right to be~~  
79 ~~accompanied by a service animal in all areas of a public~~  
80 ~~accommodation that the public or customers are normally~~  
81 ~~permitted to occupy.~~

82 ~~(a) Documentation that the service animal is trained is not~~  
83 ~~a precondition for providing service to an individual~~  
84 ~~accompanied by a service animal. A public accommodation may ask~~  
85 ~~if an animal is a service animal or what tasks the animal has~~  
86 ~~been trained to perform in order to determine the difference~~  
87 ~~between a service animal and a pet.~~

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88 ~~(b) A public accommodation may not impose a deposit or~~  
89 ~~surcharge on an individual with a disability as a precondition~~  
90 ~~to permitting a service animal to accompany the individual with~~  
91 ~~a disability, even if a deposit is routinely required for pets.~~

92 ~~(c) An individual with a disability is liable for damage~~  
93 ~~caused by a service animal if it is the regular policy and~~  
94 ~~practice of the public accommodation to charge nondisabled~~  
95 ~~persons for damages caused by their pets.~~

96 ~~(d) The care or supervision of a service animal is the~~  
97 ~~responsibility of the individual owner. A public accommodation~~  
98 ~~is not required to provide care or food or a special location~~  
99 ~~for the service animal or assistance with removing animal~~  
100 ~~excrement.~~

101 ~~(e) A public accommodation may exclude or remove any animal~~  
102 ~~from the premises, including a service animal, if the animal's~~  
103 ~~behavior poses a direct threat to the health and safety of~~  
104 ~~others. Allergies and fear of animals are not valid reasons for~~  
105 ~~denying access or refusing service to an individual with a~~  
106 ~~service animal. If a service animal is excluded or removed for~~  
107 ~~being a direct threat to others, the public accommodation must~~  
108 ~~provide the individual with a disability the option of~~  
109 ~~continuing access to the public accommodation without having the~~  
110 ~~service animal on the premises.~~

111 (3)~~(4)~~ A Any person, firm, or corporation, or the agent of  
112 any person, firm, or corporation, who denies or interferes with  
113 admittance to, or enjoyment of, a public accommodation or  
114 otherwise interferes with the rights of an individual with a  
115 disability ~~or the trainer of a service animal while engaged in~~  
116 ~~the training of such an animal pursuant to subsection (8),~~

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117 commits a misdemeanor of the second degree, punishable as  
118 provided in s. 775.082 or s. 775.083.

119 (4)~~(5)~~ It is the policy of this state that an individual  
120 with a disability be employed in the service of the state or  
121 political subdivisions of the state, in the public schools, and  
122 in all other employment supported in whole or in part by public  
123 funds, and an employer may not refuse employment to such a  
124 person on the basis of the disability alone, unless it is shown  
125 that the particular disability prevents the satisfactory  
126 performance of the work involved.

127 (5)~~(6)~~ An individual with a disability is entitled to rent,  
128 lease, or purchase, as other members of the general public, any  
129 housing accommodations offered for rent, lease, or other  
130 compensation in this state, subject to the conditions and  
131 limitations established by law and applicable alike to all  
132 persons.

133 ~~(a)~~ This section does not require any person renting,  
134 leasing, or otherwise providing real property for compensation  
135 to modify her or his property in any way or provide a higher  
136 degree of care for an individual with a disability than for a  
137 person who is not disabled.

138 ~~(b) An individual with a disability who has a service~~  
139 ~~animal or who obtains a service animal is entitled to full and~~  
140 ~~equal access to all housing accommodations provided for in this~~  
141 ~~section, and such a person may not be required to pay extra~~  
142 ~~compensation for the service animal. However, such a person is~~  
143 ~~liable for any damage done to the premises or to another person~~  
144 ~~on the premises by such an animal. A housing accommodation may~~  
145 ~~request proof of compliance with vaccination requirements.~~

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146 ~~(6)~~<sup>(7)</sup> An employer covered under subsection ~~(4)~~ <sup>(5)</sup> who  
147 discriminates against an individual with a disability in  
148 employment, unless it is shown that the particular disability  
149 prevents the satisfactory performance of the work involved, or  
150 any person, firm, or corporation, or the agent of any person,  
151 firm, or corporation, providing housing accommodations as  
152 provided in subsection ~~(5)~~ <sup>(6)</sup> who discriminates against an  
153 individual with a disability, commits a misdemeanor of the  
154 second degree, punishable as provided in s. 775.082 or s.  
155 775.083.

156 ~~(8) Any trainer of a service animal, while engaged in the~~  
157 ~~training of such an animal, has the same rights and privileges~~  
158 ~~with respect to access to public facilities and the same~~  
159 ~~liability for damage as is provided for those persons described~~  
160 ~~in subsection (3) accompanied by service animals.~~

161 Section 3. Section 413.083, Florida Statutes, is created to  
162 read:

163 413.083 Use of a service animal; penalties.-

164 (1) As used in this section and s. 413.081, the term:

165 (a) "Individual requiring assistance" means any person who  
166 is deaf, hard of hearing as defined in s. 413.08(1)(b)1., blind,  
167 visually impaired, or physically disabled as defined in s.  
168 413.08(1)(b)2. or who has a psychological or neurological  
169 disability.

170 (b) "Owner" means a person who owns a service animal or who  
171 is authorized by the owner to use a service animal.

172 (c) "Service animal" means any domesticated animal that is  
173 individually trained to do work or perform tasks for the benefit  
174 of an individual with a disability, including a physical,

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175 sensory, psychiatric, intellectual, or other mental disability.  
176 The work or tasks performed by a service animal must be directly  
177 related to the handler's disability. Examples of work or tasks  
178 include, but are not limited to, assisting individuals who are  
179 blind or have low vision with navigation and other tasks,  
180 alerting individuals who are deaf or hard of hearing to the  
181 presence of people or sounds, providing nonviolent protection or  
182 rescue work, pulling a wheelchair, assisting an individual  
183 during a seizure, alerting individuals to the presence of  
184 allergens, retrieving items such as medicine or the telephone,  
185 providing physical support and assistance with balance and  
186 stability to individuals with mobility disabilities, and helping  
187 individuals with psychiatric or neurological disabilities by  
188 preventing or interrupting impulsive or destructive behaviors.  
189 The crime deterrent effects of an animal's presence and the  
190 provision of emotional support, well-being, comfort, or  
191 companionship do not constitute work or tasks for the purposes  
192 of this paragraph.

193 (2) An individual requiring assistance has the right to be  
194 accompanied by a service animal in all areas of a public  
195 accommodation that the public or customers are normally  
196 permitted to occupy. If an individual requiring assistance or an  
197 individual who trains service animals is a student at a private  
198 or public school in the state, that individual has the right to  
199 be accompanied by a service animal, subject to the conditions  
200 established under this section.

201 (a) Documentation that the service animal is trained is not  
202 a precondition for providing service to an individual  
203 accompanied by a service animal. A public accommodation may ask

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204 if an animal is a service animal or what tasks the animal has  
205 been trained to perform in order to determine the difference  
206 between a service animal and a pet.

207 (b) A public accommodation may not impose a deposit or  
208 surcharge on an individual requiring assistance as a  
209 precondition to permitting a service animal to accompany the  
210 individual requiring assistance, even if a deposit is routinely  
211 required for pets.

212 (c) An individual with a disability is liable for damage  
213 caused by a service animal if it is the regular policy and  
214 practice of the public accommodation to charge nondisabled  
215 persons for damages caused by their pets.

216 (d) The care or supervision of a service animal is the  
217 responsibility of the owner. A public accommodation is not  
218 required to provide care, food, or a special location for the  
219 service animal or assistance with removing animal excrement  
220 unless required by any federal agency, federal law, or federal  
221 regulation. In such an instance, if a public accommodation has a  
222 secured area, the public accommodation must provide a special  
223 location for the service animal to relieve itself within that  
224 secured area.

225 (e) A public accommodation may exclude or remove any animal  
226 from the premises, including a service animal, if the animal  
227 fails to remain under the control of the handler or if the  
228 animal displays inappropriate behavior, including, but not  
229 limited to, growling, excessive barking, or biting, or poses a  
230 direct threat to the health and safety of others. Allergies and  
231 fear of animals are not valid reasons for denying access or  
232 refusing service to an individual accompanied by a service



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233 animal. If a service animal is excluded or removed for being a  
234 direct threat to others, the public accommodation must provide  
235 the individual requiring assistance the option of continuing  
236 access to the public accommodation without having the service  
237 animal on the premises.

238 (3) A person, firm, or corporation, or the agent of any  
239 person, firm, or corporation, who denies or interferes with  
240 admittance to, or enjoyment of, a public accommodation,  
241 interferes with the renting, leasing, or purchasing of housing  
242 accommodations, or otherwise interferes with the rights of an  
243 individual requiring assistance while accompanied by a service  
244 animal or the trainer of a service animal while engaged in the  
245 training of such an animal pursuant to subsection (5) commits a  
246 misdemeanor of the second degree, punishable as provided in s.  
247 775.082 or s. 775.083.

248 (4) An individual requiring assistance who is accompanied  
249 by a service animal is entitled to full and equal advantages,  
250 facilities, and privileges in all housing accommodations and is  
251 entitled to rent, lease, or purchase, as are other members of  
252 the general public, any housing accommodation offered for rent,  
253 lease, or other compensation in this state, subject to the  
254 conditions and limitations established by law and applicable  
255 alike to all persons.

256 (a) This section does not require any person renting,  
257 leasing, or otherwise providing real property for compensation  
258 to modify her or his property in any way or provide a higher  
259 degree of care for an individual requiring assistance than for a  
260 person who does not have a disability.

261 (b) An individual requiring assistance who has a service

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262 animal or an individual who is the trainer of a service animal  
263 is entitled to full and equal access to all housing  
264 accommodations provided for in this section, and that individual  
265 is not required to pay extra compensation for the service  
266 animal. However, the individual is liable for any damage done to  
267 the premises or to another individual on the premises by the  
268 service animal. A housing accommodation may request proof of  
269 compliance with vaccination requirements.

270 (5) A person who trains a service animal, while engaged in  
271 the training of such an animal, has the same rights and  
272 privileges with respect to access to public facilities and  
273 housing accommodations and the same liability for damage as is  
274 provided for a person described in subsection (2) who is  
275 accompanied by a service animal.

276 (6) A person who knowingly and fraudulently represents  
277 himself or herself to a third party as an individual requiring  
278 assistance or as the owner or trainer of a service animal with  
279 the intent to avail himself or herself of the benefits of this  
280 section commits a misdemeanor of the second degree, punishable  
281 as provided in s. 775.082 or s. 775.083.

282 Section 4. Subsection (3) of section 252.355, Florida  
283 Statutes, is amended to read:

284 252.355 Registry of persons with special needs; notice.—

285 (3) A person with special needs must be allowed to bring  
286 his or her service animal into a special needs shelter in  
287 accordance with s. 413.083 ~~413.08~~.

288 Section 5. This act shall take effect July 1, 2012.