

HB 1073

2013

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,

HB 1073

2013

57 | airplane, motor vehicle, railroad train, motor bus, streetcar,
58 | boat, or other public conveyance or mode of transportation;
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
72 | and equal accommodations, advantages, facilities, and privileges
73 | in 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~~
83 | ~~not a precondition for providing service to an individual~~
84 | ~~accompanied by a service animal. A public accommodation may ask~~

HB 1073

2013

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.~~

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~~
102 ~~animal from the premises, including a service animal, if the~~
103 ~~animal's behavior poses a direct threat to the health and safety~~
104 ~~of others. Allergies and fear of animals are not valid reasons~~
105 ~~for 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) Any person, firm, or corporation, or the agent of
112 any person, firm, or corporation, who denies or interferes with

HB 1073

2013

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),~~
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
128 | rent, lease, or purchase, as other members of the general
129 | public, any housing accommodations offered for rent, lease, or
130 | other 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~~

HB 1073

2013

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.~~

146 (6) ~~(7)~~ An employer covered under subsection (4) ~~(5)~~ 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) ~~(6)~~ 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
162 to 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

HB 1073

2013

169 disability.

170 (b) "Owner" means a person who owns a service animal or
171 who 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,
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

HB 1073

2013

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
202 not a precondition for providing service to an individual
203 accompanied by a service animal. A public accommodation may ask
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.

HB 1073

2013

225 (e) A public accommodation may exclude or remove any
226 animal from the premises, including a service animal, if the
227 animal fails to remain under the control of the handler or if
228 the 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
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) Any 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):

246 (a) For a first offense, commits a noncriminal violation
247 punishable as provided in s. 775.083. The offender may contest
248 the citation or may, within 30 days after receiving the
249 citation, elect to pay a civil penalty of \$50 plus court costs.

250 (b) For a second or subsequent offense, commits a
251 misdemeanor of the second degree, punishable as provided in s.
252 775.082 or s. 775.083.

HB 1073

2013

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

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

266 (b) An individual requiring assistance who has a service
267 animal or an individual who is the trainer of a service animal
268 is entitled to full and equal access to all housing
269 accommodations provided for in this section, and that individual
270 is not required to pay extra compensation for the service
271 animal. However, the individual is liable for any damage done to
272 the premises or to another individual on the premises by the
273 service animal. A housing accommodation may request proof of
274 compliance with vaccination requirements.

275 (5) Any person who trains a service animal, while engaged
276 in the training of such an animal, has the same rights and
277 privileges with respect to access to public facilities and
278 housing accommodations and the same liability for damage as is
279 provided for a person described in subsection (2) who is
280 accompanied by a service animal.

HB 1073

2013

281 (6) A person who knowingly and fraudulently represents
282 herself or himself, through her or his conduct or verbal or
283 written notice, as the owner or trainer of a service animal
284 commits a misdemeanor of the second degree, punishable as
285 provided in s. 775.082 or s. 775.083.

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

288 252.355 Registry of persons with special needs; notice.—

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

292 Section 5. This act shall take effect July 1, 2013.