

HB 849

2014

1 A bill to be entitled

2 An act relating to service animals; amending s.
3 413.08, F.S.; providing and revising definitions;
4 requiring a public accommodation to permit use of a
5 service animal by an individual with a disability
6 under certain conditions; providing conditions for a
7 public accommodation to exclude or remove a service
8 animal; revising penalties to include community
9 service for certain persons or entities who interfere
10 with use of a service animal in specified
11 circumstances; providing equal access to housing
12 accommodations for an individual with a disability
13 accompanied by an emotional support animal; providing
14 conditions under which a landlord may request
15 documentation of a qualifying disability; providing a
16 penalty for fraud with respect to use or training of a
17 service animal; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 413.08, Florida Statutes, is amended to
22 read:

23 413.08 Rights and responsibilities of an individual with a
24 disability; use of a service or emotional support animal;
25 prohibited discrimination in public employment, public
26 accommodations, and ~~or~~ housing accommodations; penalties.-

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

28 (a) "Emotional support animal" means an animal that
 29 provides emotional support to individuals with disabilities who
 30 have a disability-related need for such support or that
 31 alleviates one or more identified symptoms or effects of an
 32 individual's disability. Training is not required for an
 33 emotional support animal.

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

41 (c) ~~(b)~~ "Individual with a disability" means a person who
 42 has a physical or mental impairment that substantially limits
 43 one or more major life activities of the individual ~~is deaf,~~
 44 ~~hard of hearing, blind, visually impaired, or otherwise~~
 45 ~~physically disabled.~~ As used in this paragraph, the term:

46 1. "Major life activity" means a function such as caring
 47 for one's self, performing manual tasks, walking, seeing,
 48 hearing, speaking, breathing, learning, and working ~~"Hard of~~
 49 ~~hearing" means an individual who has suffered a permanent~~
 50 ~~hearing impairment that is severe enough to necessitate the use~~
 51 ~~of amplification devices to discriminate speech sounds in verbal~~
 52 ~~communication.~~

53 2. "Physical or mental impairment" means:
 54 a. A physiological disorder or condition, disfigurement,
 55 or anatomical loss that affects one or more bodily functions; or
 56 b. A mental or psychological disorder that meets one of
 57 the diagnostic categories specified in the most recent edition
 58 of the Diagnostic and Statistical Manual of Mental Disorders
 59 published by the American Psychiatric Association, such as an
 60 intellectual or developmental disability, organic brain
 61 syndrome, traumatic brain injury, posttraumatic stress disorder,
 62 or an emotional or mental illness ~~"Physically disabled" means~~
 63 ~~any person who has a physical impairment that substantially~~
 64 ~~limits one or more major life activities.~~
 65 ~~(d)~~ (e) "Public accommodation" means a common carrier,
 66 airplane, motor vehicle, railroad train, motor bus, streetcar,
 67 boat, or other public conveyance or mode of transportation;
 68 hotel; lodging place; place of public accommodation, amusement,
 69 or resort; and other places to which the general public is
 70 invited, subject only to the conditions and limitations
 71 established by law and applicable alike to all persons.
 72 ~~(e)~~ (d) "Service animal" means an animal that is trained to
 73 do work or perform tasks for an individual with a disability,
 74 including a physical, sensory, psychiatric, intellectual, or
 75 other mental disability. The work done or tasks performed must
 76 be directly related to the individual's disability and may
 77 include, but are not limited to, guiding an individual ~~a person~~
 78 who is visually impaired or blind, alerting an individual ~~a~~

79 ~~person~~ who is deaf or hard of hearing, pulling a wheelchair,
80 assisting with mobility or balance, alerting and protecting an
81 individual ~~a person~~ who is having a seizure, retrieving objects,
82 alerting an individual to the presence of allergens, providing
83 physical support and assistance with balance and stability to an
84 individual with a mobility disability, helping an individual
85 with a psychiatric or neurological disability by preventing or
86 interrupting impulsive or destructive behaviors, reminding an
87 individual with mental illness to take prescribed medications,
88 calming an individual with posttraumatic stress disorder during
89 an anxiety attack, or doing other specific work or performing
90 other special tasks. A service animal is not a pet. The crime-
91 deterrent effect of an animal's presence and the provision of
92 emotional support, well-being, comfort, or companionship do not
93 constitute work or tasks for purposes of this definition.

94 (2) An individual with a disability is entitled to full
95 and equal accommodations, advantages, facilities, and privileges
96 in all public accommodations. A public accommodation must modify
97 its policies, practices, and procedures to permit use of a
98 service animal by an individual with a disability. This section
99 does not require any person, firm, business, or corporation, or
100 any agent thereof, to modify or provide any vehicle, premises,
101 facility, or service to a higher degree of accommodation than is
102 required for a person not so disabled.

103 (3) An individual with a disability has the right to be
104 accompanied by a service animal in all areas of a public

105 accommodation that the public or customers are normally
106 permitted to occupy.

107 (a) The service animal must be under the control of its
108 handler and must have a harness, leash, or other tether, unless
109 either the handler is unable because of a disability to use a
110 harness, leash, or other tether, or the use of a harness, leash,
111 or other tether would interfere with the service animal's safe,
112 effective performance of work or tasks, in which case the
113 service animal must be otherwise under the handler's control by
114 means of voice control, signals, or other effective means.

115 (b)~~(a)~~ Documentation that the service animal is trained is
116 not a precondition for providing service to an individual
117 accompanied by a service animal. A public accommodation may not
118 ask about the nature or extent of an individual's disability. To
119 determine the difference between a service animal and a pet, a
120 public accommodation may ask if an animal is a service animal
121 required because of a disability and what work or ~~what~~ tasks the
122 animal has been trained to perform ~~in order to determine the~~
123 ~~difference between a service animal and a pet.~~

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

128 (d)~~(e)~~ An individual with a disability is liable for
129 damage caused by a service animal if it is the regular policy
130 and practice of the public accommodation to charge nondisabled

131 persons for damages caused by their pets.

132 ~~(e)-(d)~~ The care or supervision of a service animal is the
133 responsibility of the individual owner. A public accommodation
134 is not required to provide care or food or a special location
135 for the service animal or assistance with removing animal
136 excrement.

137 ~~(f)-(e)~~ A public accommodation may exclude or remove any
138 animal from the premises, including a service animal, if the
139 animal is out of control and the animal's handler does not take
140 effective action to control it, the animal is not housebroken,
141 or the animal's behavior poses a direct threat to the health and
142 safety of others. Allergies and fear of animals are not valid
143 reasons for denying access or refusing service to an individual
144 with a service animal. If a service animal is excluded or
145 removed for being a direct threat to others, the public
146 accommodation must provide the individual with a disability the
147 option of continuing access to the public accommodation without
148 having the service animal on the premises.

149 (4) Any person, firm, or corporation, or the agent of any
150 person, firm, or corporation, who denies or interferes with
151 admittance to, or enjoyment of, a public accommodation or
152 otherwise interferes with the rights of an individual with a
153 disability or the trainer of a service animal while engaged in
154 the training of such an animal pursuant to subsection (8),
155 commits a misdemeanor of the second degree, punishable as
156 provided in s. 775.082 or s. 775.083 and must perform 30 hours

157 of community service for an organization that serves individuals
158 with disabilities, or for another entity or organization at the
159 discretion of the court, to be completed in not more than 1
160 year.

161 (5) It is the policy of this state that an individual with
162 a disability be employed in the service of the state or
163 political subdivisions of the state, in the public schools, and
164 in all other employment supported in whole or in part by public
165 funds, and an employer may not refuse employment to such a
166 person on the basis of the disability alone, unless it is shown
167 that the particular disability prevents the satisfactory
168 performance of the work involved.

169 (6) An individual with a disability is entitled to rent,
170 lease, or purchase, as other members of the general public, any
171 housing accommodations offered for rent, lease, or other
172 compensation in this state, subject to the conditions and
173 limitations established by law and applicable alike to all
174 persons.

175 (a) This section does not require any person renting,
176 leasing, or otherwise providing real property for compensation
177 to modify her or his property in any way or provide a higher
178 degree of care for an individual with a disability than for a
179 person who is not disabled.

180 (b) An individual with a disability who has a service
181 animal or an emotional support animal or who obtains a service
182 animal or an emotional support animal is entitled to full and

183 equal access to all housing accommodations provided for in this
184 section, and such a person may not be required to pay extra
185 compensation for such ~~the service~~ animal. However, such a person
186 is liable for any damage done to the premises or to another
187 person on the premises by the ~~such an~~ animal. A housing
188 accommodation may request proof of compliance with vaccination
189 requirements.

190 (c) Except when the disability and the need for the
191 service or emotional support animal is readily apparent, such as
192 when it is observed guiding, pulling, or providing physical
193 assistance to an individual who is blind, has low vision, uses a
194 wheelchair, or needs the animal for stability, a landlord may
195 request medical documentation that a tenant has a qualifying
196 disability and how the service or emotional support animal
197 benefits the individual with a disability.

198 (7) An employer covered under subsection (5) who
199 discriminates against an individual with a disability in
200 employment, unless it is shown that the particular disability
201 prevents the satisfactory performance of the work involved, or
202 any person, firm, or corporation, or the agent of any person,
203 firm, or corporation, providing housing accommodations as
204 provided in subsection (6) who discriminates against an
205 individual with a disability, commits a misdemeanor of the
206 second degree, punishable as provided in s. 775.082 or s.
207 775.083.

208 (8) Any trainer of a service animal, while engaged in the

209 training of such an animal, has the same rights and privileges
210 with respect to access to public facilities and the same
211 liability for damage as is provided for those persons described
212 in subsection (3) accompanied by service animals.

213 (9) A person who knowingly and fraudulently represents
214 herself or himself, through conduct or verbal or written notice,
215 as using a service animal and being qualified to use a service
216 animal or as a trainer of a service animal commits a misdemeanor
217 of the second degree, punishable as provided in s. 775.082 or s.
218 775.083 and must perform 30 hours of community service for an
219 organization that serves individuals with disabilities, or for
220 another entity or organization at the discretion of the court,
221 to be completed in not more than 1 year.

222 Section 2. This act shall take effect July 1, 2014.