

A bill to be entitled

An act relating to service animals; amending s. 413.08, F.S.; providing and revising definitions; requiring a public accommodation to permit use of a service animal by an individual with a disability under certain conditions; providing conditions for a public accommodation to exclude or remove a service animal; revising penalties to include community service for certain persons or entities who interfere with use of a service animal in specified circumstances; providing a penalty for knowing and willful misrepresentation with respect to use or training of a service animal; providing an effective date.

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

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

413.08 Rights and responsibilities of an individual with a disability; use of a service animal; prohibited discrimination in public employment, public accommodations, and ~~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,

27 arranged, or designed to be used or occupied, as the home,
 28 residence, or sleeping place of one or more persons, but does
 29 not include any single-family residence, the occupants of which
 30 rent, lease, or furnish for compensation not more than one room
 31 therein.

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

37 1. "Major life activity" means a function such as caring
 38 for one's self, performing manual tasks, walking, seeing,
 39 hearing, speaking, breathing, learning, and working ~~"Hard of~~
 40 ~~hearing" means an individual who has suffered a permanent~~
 41 ~~hearing impairment that is severe enough to necessitate the use~~
 42 ~~of amplification devices to discriminate speech sounds in verbal~~
 43 ~~communication.~~

44 2. "Physical or mental impairment" means:

45 a. A physiological disorder or condition, disfigurement,
 46 or anatomical loss that affects one or more bodily functions; or

47 b. A mental or psychological disorder that meets one of
 48 the diagnostic categories specified in the most recent edition
 49 of the Diagnostic and Statistical Manual of Mental Disorders
 50 published by the American Psychiatric Association, such as an
 51 intellectual or developmental disability, organic brain
 52 syndrome, traumatic brain injury, posttraumatic stress disorder,

53 or an emotional or mental illness ~~"Physically disabled" means~~
54 ~~any person who has a physical impairment that substantially~~
55 ~~limits one or more major life activities.~~

56 (c) "Public accommodation" means a common carrier,
57 airplane, motor vehicle, railroad train, motor bus, streetcar,
58 boat, or other public conveyance or mode of transportation;
59 hotel; a timeshare that is a transient public lodging
60 establishment as defined in s. 509.013; lodging place; place of
61 public accommodation, amusement, or resort; and other places to
62 which the general public is invited, subject only to the
63 conditions and limitations established by law and applicable
64 alike to all persons.

65 (d) "Service animal" means an animal that is trained to do
66 work or perform tasks for an individual with a disability,
67 including a physical, sensory, psychiatric, intellectual, or
68 other mental disability. The work done or tasks performed must
69 be directly related to the individual's disability and may
70 include, but are not limited to, guiding an individual ~~a person~~
71 who is visually impaired or blind, alerting an individual ~~a~~
72 ~~person~~ who is deaf or hard of hearing, pulling a wheelchair,
73 assisting with mobility or balance, alerting and protecting an
74 individual ~~a person~~ who is having a seizure, retrieving objects,
75 alerting an individual to the presence of allergens, providing
76 physical support and assistance with balance and stability to an
77 individual with a mobility disability, helping an individual
78 with a psychiatric or neurological disability by preventing or

79 interrupting impulsive or destructive behaviors, reminding an
80 individual with mental illness to take prescribed medications,
81 calming an individual with posttraumatic stress disorder during
82 an anxiety attack, or doing other specific work or performing
83 other special tasks. A service animal is not a pet. For purposes
84 of subsections (2), (3), and (4), the term "service animal" is
85 limited to a dog or miniature horse, except that the term, as
86 applied to an air carrier covered by the Air Carrier Access Act
87 of 1986, 49 U.S.C. s. 41705, shall be as provided in the act and
88 by regulations adopted by the United States Department of
89 Transportation that implement the act. The crime-deterrent
90 effect of an animal's presence and the provision of emotional
91 support, well-being, comfort, or companionship do not constitute
92 work or tasks for purposes of this definition.

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

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

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

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

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

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

127 (d)~~(e)~~ An individual with a disability is liable for
128 damage caused by a service animal if it is the regular policy

129 and practice of the public accommodation to charge nondisabled
130 persons for damages caused by their pets.

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

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

148 (4) Any person, firm, or corporation, or the agent of any
149 person, firm, or corporation, who denies or interferes with
150 admittance to, or enjoyment of, a public accommodation or, with
151 regard to a public accommodation, otherwise interferes with the
152 rights of an individual with a disability or the trainer of a
153 service animal while engaged in the training of such an animal
154 pursuant to subsection (8), commits a misdemeanor of the second

155 degree, punishable as provided in s. 775.082 or s. 775.083 and
156 must perform 30 hours of community service for an organization
157 that serves individuals with disabilities, or for another entity
158 or organization at the discretion of the court, to be completed
159 in not more than 6 months.

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

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

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

179 (b) An individual with a disability who has a service
180 animal or who obtains a service animal is entitled to full and

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

188 (c) This subsection does not limit the rights or remedies
189 of a housing accommodation or an individual with a disability
190 that are granted by federal law or another law of this state
191 with regard to other assistance animals.

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

202 (8) Any trainer of a service animal, while engaged in the
203 training of such an animal, has the same rights and privileges
204 with respect to access to public facilities and the same
205 liability for damage as is provided for those persons described
206 in subsection (3) accompanied by service animals.

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207 (9) A person who knowingly and willfully misrepresents
208 herself or himself, through conduct or verbal or written notice,
209 as using a service animal and being qualified to use a service
210 animal or as a trainer of a service animal commits a misdemeanor
211 of the second degree, punishable as provided in s. 775.082 or s.
212 775.083 and must perform 30 hours of community service for an
213 organization that serves individuals with disabilities, or for
214 another entity or organization at the discretion of the court,
215 to be completed in not more than 6 months.

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