

Fair Housing and Service Animals

Research Paper – September 2019

Background

Under Title II and III of the Americans with Disabilities Act (ADA), service animals are limited to dogs, with one exception. Entities must make reasonable modifications to allow miniature horses if they have been individually trained to do work or perform tasks for individuals with disabilities. The work or tasks performed by a service animal must be directly related to the individual's disability.

Emotional support animals, comfort animals and therapy dogs are not service animals under Title II and Title III.

Other animals, whether wild or domestic, trained or untrained, are not considered service animals. A note from a doctor stating that the person has a disability and needs to have the animal for emotional support does not make an animal a service animal.

Examples that fit the ADA's definition of "service animal" are:

- Guide Dog or Seeing Eye[®] Dog: Trained to serve as a travel tool for people with severe visual impairments or who is blind.
- Hearing or Signal Dog: Dog trained to alert a person with significant hearing loss or who is deaf when a sound occurs, such as a knock on the door.
- Psychiatric Service Dog: Dog trained to perform tasks that help people with disabilities detect the onset of psychiatric episodes and lessen the effects. Tasks performed may include reminding the handler to take medicine; providing safety checks, room searches, calming or turning on lights for those with Post Traumatic Stress Disorder; interrupting self-mutilation by those with dissociative identity disorders; and keeping disoriented individuals from danger.
- SSigDOG (aka Sensory Signal or Social Signal alert Dog): Trained to assist a person with autism, very individualized to the child or adult. The dog may alert the handler to distracting repetitive movements common with autism such as hand flapping, adjust actions when a routine is modified and the person becomes confused, navigate when the person is unaware of their physical environment or is fixated and wanders or gets lost, or seek help when the person is disoriented in unfamiliar places.
- Seizure Response Dog: Trained to assist a person with a seizure disorder, how the dog serves depends on the person's needs. The dog may stand guard over the person during a seizure or the dog may go for help. Some dogs have learned to predict a seizure and warn the person in advance to sit down or move to a safe place.

2019 Legislation

[SF 341](#) passed unanimously in the Senate and House and was signed into law. The bill conforms Iowa's definitions of "assistance animals" and "service animals" to the federal provisions of the ADA and the Fair Housing Act. The new Code section 216.8B sets up a process for proving need, provides penalties for misrepresentation, and establishes liability guidelines. The substantive portions do not apply to "assistive animals" under Chapter 717F -- Dangerous Wild Animals.

As directed in [SF341](#), the Iowa Civil Rights Commission worked with the Attorney General's Consumer Protection Division to develop a verification form for providers to use in written findings to certify need. The form can only allow for a "yes" or "no" response for whether the patient or client has a disability, and if the need for the animal is related to the disability.

The licensed health care professional who signs the form must (1) have met with the patient or client in person or via telemedicine; (2) be sufficiently familiar with the patient or client and the disability; and (3) be legally and professionally qualified to practice in Iowa.

Fair Housing and Service Animals

Research Paper – September 2019

The form cannot allow for additional detail (federal privacy laws). The landlord must waive any restrictions, fees or other charges assessed to tenants with pets. A landlord can deny a request for exemption from the entity's pet policy if there is no visible disability and no documentation.

A person who intentionally misrepresents an animal as a service animal or service animal in training for the purpose of obtaining rights or privileges set forth in state or federal law could be charged with a crime. A person commits this offense if all of these elements are established:

- Intentionally misrepresents an animal as a service animal.
- Was previously warned that it is illegal to misrepresent an animal's status.
- Knows the animal is not a service animal.

The intentional misrepresentation of a service animal is a simple misdemeanor punishable by confinement for no more than 30 days, or a fine of at least \$65 but no more than \$625, or by both.

Under Iowa law, property owners and landlords are immune from liability for injury or damage caused by service animals and service animals in training if the owner or landlord believes in good faith that the animal is a service animal; the person using the animal is a person with a disability, a person assisting the disabled person by controlling a service animal or a person training a service animal; and the injury or damage is not caused by the owner's negligence, recklessness or willful misconduct.

Administrative Rules

[SF 341](#) authorized the Civil Rights Commission to adopt emergency rules to implement Section 3 (findings, forms). The public comment period and public hearing are currently underway [ARC 4551C, ARC 4552C Assistance Animal as Reasonable Accommodation in Housing].

At the August 2019 meeting of the Administrative Rules Review Committee (ARRC), Andrew Greenberg and Stephanie Adkisson from the Iowa Civil Rights Commission presented the rules and answered questions from Committee members. They confirmed that [SF 341](#) applies to apartment buildings, townhome associations and condominium associations; and that a tenant is responsible for damage caused by an assistance animal.

Addressing concerns about misrepresenting the need for a service animal, Greenberg explained that the legislation and rulemaking should help limit fraudulent claims by setting requirements for health care professionals to meet when certifying that a person has a disability and a disability-related need for an assistance animal.

Additional Information and Forms

- [Request for Assistance Animal as a Reasonable Accommodation in Housing: Health Care Professional Form](#)
- [Assistance Animal Fact Sheet, Policy, Guidelines, and Request Forms](#)
- [Iowa Civil Rights Commission](#): 515-281-4121 or 1-800-457-4416