



HB 1230: Relating to the definition of a service animal.

Thank you for your consideration regarding the language of North Dakota Century Code 25-13-01.1 regarding what animal can be considered a "service animal". Under the current definition, it could be interpreted that a service animal could be "any animal" trained to do work, perform tasks, or provide assistance to an individual with a disability.

Having North Dakota Century Code align with the Americans with Disabilities Act (ADA) removes confusion as to which animals *specifically* can be considered for service animal work.

It should be clarified; a service animal by definition can only be a dog (or miniature horse, with limitations) defined by the ADA. It should also be clarified that a service animal MUST perform specific tasks to mitigate their handler's disability/disabilities.

I would recommend the following language:

25-13-01.1 Definitions:

For the purpose of this chapter "service animal" means any dog (and sometimes miniature horse subject to limitations as defined by the ADA) that has been trained to do work, perform tasks, or provide assistance for the benefit of an individual with a disability. The tasks performed by the service animal must be directly related to the handler's disability/disabilities.

Animals whose sole function is to provide comfort, emotional support, or physical protection do not qualify as "service animals" under this definition. (If you feel like you need to list tasks, you could include: The term task includes any trained behavior that mitigates the handler's disability, including but not limited to: guide assistance [for someone with a vision disability], retrieving dropped items, lending balance support, hearing assistance, detecting a dangerous drop in blood sugar levels, responding to a neurological event [seizure] of the handler, finding an emergency exit or other assistance in a medical crisis.)

As you can see, the definition suggested above directly mirrors the ADA's definition:

The ADA's definition is this: "a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability." "Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA."

(Attached source: [https://www.ada.gov/service\\_animals\\_2010.htm](https://www.ada.gov/service_animals_2010.htm) and [https://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](https://www.ada.gov/regs2010/service_animal_qa.pdf))

I have also attached a frequently asked questions document from the ADA which clearly defines "tasks".

(Attached source: [https://www.ada.gov/regs2010/service\\_animal\\_qa.pdf](https://www.ada.gov/regs2010/service_animal_qa.pdf))

Having North Dakota Century Code language aligned with the ADA's definition ensures appropriate accessibility for those who qualify. It also makes it easier to investigate and enforce the Misrepresentation of a Service Dog language in the same chapter which was enacted last session.

25-13-02.2. Service animal - Misrepresentation - Penalty. An individual is guilty of an infraction if the individual, in an attempt to gain admission to a public place under this chapter or obtain a reasonable housing accommodation under section 47-16-07.5, knowingly makes a false claim that a pet is a service animal.

(Attached source: <https://www.legis.nd.gov/cencode/t25c13.pdf>)

By mirroring the ADA's definition, it "does not affect or limit the broader definition of 'assistance animal' under the Fair Housing Act or the broader definition of 'service animal' under the Air Carrier Access Act."

(Attached Source: [https://www.ada.gov/service\\_animals\\_2010.htm](https://www.ada.gov/service_animals_2010.htm))

Thank you for your time today. Do you have any questions?



## Service Animals

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, contain updated requirements, including the 2010 Standards for Accessible Design (2010 Standards).

### Overview

This publication provides guidance on the term “service animal” and the service animal provisions in the Department’s regulations.

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

### How “Service Animal” Is Defined

**Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities.**

Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. **Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.**

**This definition does not affect or limit the broader definition of “assistance animal” under the Fair Housing Act or the broader definition of “service animal” under the Air Carrier Access Act.**

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from the relevant State attorney general’s office.

### Where Service Animals Are Allowed

**Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is allowed to go.** For example, in a hospital it usually would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn units where the animal’s presence may compromise a sterile environment.

### Service Animals Must Be Under Control

**A service animal must be under the control of its handler. Under the ADA, service animals must be harnessed, leashed, or tethered, unless the individual’s disability prevents using these devices or these devices interfere with the service animal’s safe, effective performance of tasks.** In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

### Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals

- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person’s disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility,

for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.

- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.
- Establishments that sell or prepare food must generally allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care for or supervision of a service animal.

### **Miniature Horses**

**In addition to the provisions about service dogs, the Department's ADA regulations have a separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities.** (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

**For more information about the ADA, please visit our website or call our toll-free number.**

#### **ADA Website**

[www.ADA.gov](http://www.ADA.gov)

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M-W, F 9:30 a.m. – 5:30 p.m., Th 12:30 p.m. – 5:30 p.m. (Eastern Time)  
to speak with an ADA Specialist. All calls are confidential.

For persons with disabilities, this publication is available in alternate formats.  
Duplication of this document is encouraged.

The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.

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(Source: [https://www.ada.gov/service\\_animals\\_2010.htm](https://www.ada.gov/service_animals_2010.htm))



## Frequently Asked Questions about Service Animals and the ADA

Many people with disabilities use a service animal in order to fully participate in everyday life. Dogs can be trained to perform many important tasks to assist people with disabilities, such as providing stability for a person who has difficulty walking, picking up items for a person who uses a wheelchair, preventing a child with autism from wandering away, or alerting a person who has hearing loss when someone is approaching from behind.

The Department of Justice continues to receive many questions about how the Americans with Disabilities Act (ADA) applies to service animals. The ADA requires State and local government agencies, businesses, and non-profit organizations (covered entities) that provide goods or services to the public to make "reasonable modifications" in their policies, practices, or procedures when necessary to accommodate people with disabilities. The service animal rules fall under this general principle. Accordingly, entities that have a "no pets" policy generally must modify the policy to allow service animals into their facilities. This publication provides guidance on the ADA's service animal provisions and should be read in conjunction with the publication [ADA Revised Requirements: Service Animals](#).

### DEFINITION OF SERVICE ANIMAL

#### **Q1: What is a service animal?**

A: Under the ADA, a service animal is defined as a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

#### **Q2: What does "do work or perform tasks" mean?**

A: The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.



**Q3: Are emotional support, therapy, comfort, or companion animals considered service animals under the ADA?**

A: No. These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

**Q4: If someone's dog calms them when having an anxiety attack, does this qualify it as a service animal?**

A: It depends. The ADA makes a distinction between psychiatric service animals and emotional support animals. If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog's mere presence provides comfort, that would not be considered a service animal under the ADA.

**Q5: Does the ADA require service animals to be professionally trained?**

A: No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

**Q6: Are service-animals-in-training considered service animals under the ADA?**

A: No. Under the ADA, the dog must already be trained before it can be taken into public places. However, some State or local laws cover animals that are still in training.

## **GENERAL RULES**

**Q7: What questions can a covered entity's employees ask to determine if a dog is a service animal?**

A: In situations where it is not obvious that the dog is a service animal, staff may ask only two specific questions: (1) is the dog a service animal required because of a disability? and (2) what work or task has the dog been trained to perform? Staff are not allowed to request any documentation for the dog, require that the dog demonstrate its task, or inquire about the nature of the person's disability.

**Q8: Do service animals have to wear a vest or patch or special harness identifying them as service animals?**

A: No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

**Q9: Who is responsible for the care and supervision of a service animal?**

A: The handler is responsible for caring for and supervising the service animal, which includes toileting, feeding, and grooming and veterinary care. Covered entities are not obligated to supervise or otherwise care for a service animal.

**Q10: Can a person bring a service animal with them as they go through a salad bar or other self-service food lines?**

A: Yes. Service animals must be allowed to accompany their handlers to and through self-service food lines. Similarly, service animals may not be prohibited from communal food preparation areas, such as are commonly found in shelters or dormitories.

**Q11: Can hotels assign designated rooms for guests with service animals, out of consideration for other guests?**

A: No. A guest with a disability who uses a service animal must be provided the same opportunity to reserve any available room at the hotel as other guests without disabilities. They may not be restricted to “pet-friendly” rooms.

**Q12: Can hotels charge a cleaning fee for guests who have service animals?**

A: No. Hotels are not permitted to charge guests for cleaning the hair or dander shed by a service animal. However, if a guest’s service animal causes damages to a guest room, a hotel is permitted to charge the same fee for damages as charged to other guests.

**Q13: Can people bring more than one service animal into a public place?**

A: Generally, yes. Some people with disabilities may use more than one service animal to perform different tasks. For example, a person who has a visual disability and a seizure disorder may use one service animal to assist with way-finding and another that is trained as a seizure alert dog. Other people may need two service animals for the same task, such as a person who needs two dogs to assist him or her with stability when walking. Staff may ask the two permissible questions (See Question 7) about each of the dogs. If both dogs can be accommodated, both should be allowed in. In some circumstances, however, it may not be possible to accommodate more than one service animal. For example, in a crowded small restaurant, only one dog may be able to fit under the table. The only other place for the second dog would be in the aisle, which would block the space between tables. In this case, staff may request that one of the dogs be left outside.

**Q14: Does a hospital have to allow an in-patient with a disability to keep a service animal in his or her room?**

A: Generally, yes. Service animals must be allowed in patient rooms and anywhere else in the hospital the public and patients are allowed to go. They cannot be excluded on the grounds that staff can provide the same services.

**Q15: What happens if a patient who uses a service animal is admitted to the hospital and is unable to care for or supervise their animal?**

A: If the patient is not able to care for the service animal, the patient can make arrangements for a family member or friend to come to the hospital to provide these services, as it is always preferable that the service animal and its handler not to be separated, or to keep the dog during the hospitalization. If the patient is unable to care for the dog and is unable to arrange for someone else to care for the dog, the hospital may place the dog in a boarding facility until the patient is released, or make other appropriate arrangements. However, the hospital must give the patient opportunity to make arrangements for the dog’s care before taking such steps.



**Q16: Must a service animal be allowed to ride in an ambulance with its handler?**

A: Generally, yes. However, if the space in the ambulance is crowded and the dog's presence would interfere with the emergency medical staff's ability to treat the patient, staff should make other arrangements to have the dog transported to the hospital.

## **CERTIFICATION AND REGISTRATION**

**Q17: Does the ADA require that service animals be certified as service animals?**

A: No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

**Q18: My city requires all dogs to be vaccinated. Does this apply to my service animal?**

A: Yes. Individuals who have service animals are not exempt from local animal control or public health requirements.

**Q19: My city requires all dogs to be registered and licensed. Does this apply to my service animal?**

A: Yes. Service animals are subject to local dog licensing and registration requirements.

**Q20: My city requires me to register my dog as a service animal. Is this legal under the ADA?**

A: No. Mandatory registration of service animals is not permissible under the ADA. However, as stated above, service animals are subject to the same licensing and vaccination rules that are applied to all dogs.

**Q21: My city / college offers a voluntary registry program for people with disabilities who use service animals and provides a special tag identifying the dogs as service animals. Is this legal under the ADA?**

A: Yes. Colleges and other entities, such as local governments, may offer voluntary registries. Many communities maintain a voluntary registry that serves a public purpose, for example, to ensure that emergency staff know to look for service animals during an emergency evacuation process. Some offer a benefit, such as a reduced dog license fee, for individuals who register their service animals. Registries for purposes like this are permitted under the ADA. An entity may not, however, require that a dog be registered as a service animal as a condition of being permitted in public places. This would be a violation of the ADA.

## BREEDS

### **Q22: Can service animals be any breed of dog?**

A: Yes. The ADA does not restrict the type of dog breeds that can be service animals.

### **Q23: Can individuals with disabilities be refused access to a facility based solely on the breed of their service animal?**

A: No. A service animal may not be excluded based on assumptions or stereotypes about the animal's breed or how the animal might behave. However, if a particular service animal behaves in a way that poses a direct threat to the health or safety of others, has a history of such behavior, or is not under the control of the handler, that animal may be excluded. If an animal is excluded for such reasons, staff must still offer their goods or services to the person without the animal present.

### **Q24: If a municipality has an ordinance that bans certain dog breeds, does the ban apply to service animals?**

A: No. Municipalities that prohibit specific breeds of dogs must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others. Under the "direct threat" provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal's actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave. It is important to note that breed restrictions differ significantly from jurisdiction to jurisdiction. In fact, some jurisdictions have no breed restrictions.

## EXCLUSION OF SERVICE ANIMALS

### **Q25: When can service animals be excluded?**

A: The ADA does not require covered entities to modify policies, practices, or procedures if it would "fundamentally alter" the nature of the goods, services, programs, or activities provided to the public. Nor does it overrule legitimate safety requirements. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

### **Q26: When might a service dog's presence fundamentally alter the nature of a service or program provided to the public?**

A: In most settings, the presence of a service animal will not result in a fundamental alteration. However, there are some exceptions. For example, at a boarding school, service animals could be restricted from a specific area of a dormitory reserved specifically for students with allergies to dog dander. At a zoo, service animals can be restricted from areas where the animals on display are the natural prey or natural predators of dogs, where the presence of a dog would be disruptive, causing the displayed animals to behave aggressively or become agitated. They cannot be restricted from other areas of the zoo.



**Q27: What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?**

A: The ADA requires that service animals be under the control of the handler at all times. In most instances, the handler will be the individual with a disability or a third party who accompanies the individual with a disability. In the school (K-12) context and in similar settings, the school or similar entity may need to provide some assistance to enable a particular student to handle his or her service animal. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal's work or the person's disability prevents use of these devices. In that case, the person must use voice, signal, or other effective means to maintain control of the animal. For example, a person who uses a wheelchair may use a long, retractable leash to allow her service animal to pick up or retrieve items. She may not allow the dog to wander away from her and must maintain control of the dog, even if it is retrieving an item at a distance from her. Or, a returning veteran who has PTSD and has great difficulty entering unfamiliar spaces may have a dog that is trained to enter a space, check to see that no threats are there, and come back and signal that it is safe to enter. The dog must be off leash to do its job, but may be leashed at other times. Under control also means that a service animal should not be allowed to bark repeatedly in a lecture hall, theater, library, or other quiet place. However, if a dog barks just once, or barks because someone has provoked it, this would not mean that the dog is out of control.

**Q28: What can my staff do when a service animal is being disruptive?**

A: If a service animal is out of control and the handler does not take effective action to control it, staff may request that the animal be removed from the premises.

**Q29: Are hotel guests allowed to leave their service animals in their hotel room when they leave the hotel?**

A: No, the dog must be under the handler's control at all times.

**Q30: What happens if a person thinks a covered entity's staff has discriminated against him or her?**

A: Individuals who believe that they have been illegally denied access or service because they use service animals may file a complaint with the U.S. Department of Justice. Individuals also have the right to file a private lawsuit in Federal court charging the entity with discrimination under the ADA.

## MISCELLANEOUS

**Q31: Are stores required to allow service animals to be placed in a shopping cart?**

A: Generally, the dog must stay on the floor, or the person must carry the dog. For example, if a person with diabetes has a glucose alert dog, he may carry the dog in a chest pack so it can be close to his face to allow the dog to smell his breath to alert him of a change in glucose levels.

**Q32: Are restaurants, bars, and other places that serve food or drink required to allow service animals to be seated on chairs or allow the animal to be fed at the table?**

A: No. Seating, food, and drink are provided for customer use only. The ADA gives a person with a disability the right to be accompanied by his or her service animal, but covered entities are not required to allow an animal to sit or be fed at the table.

**Q33: Are gyms, fitness centers, hotels, or municipalities that have swimming pools required to allow a service animal in the pool with its handler?**

A: No. The ADA does not override public health rules that prohibit dogs in swimming pools. However, service animals must be allowed on the pool deck and in other areas where the public is allowed to go.

**Q34: Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?**

A: No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.

**Q35: Do apartments, mobile home parks, and other residential properties have to comply with the ADA?**

A: The ADA applies to housing programs administered by state and local governments, such as public housing authorities, and by places of public accommodation, such as public and private universities. In addition, the Fair Housing Act applies to virtually all types of housing, both public and privately-owned, including housing covered by the ADA. Under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with a disabilities, or provide emotional support to alleviate a symptom or effect of a disability. For information about these Fair Housing Act requirements see HUD's Notice on Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs.

**Q36: Do Federal agencies, such as the U. S. Department of Veterans Affairs, have to comply with the ADA?**

A: No. Section 504 of the Rehabilitation Act of 1973 is the Federal law that protects the rights of people with disabilities to participate in Federal programs and services. For information or to file a complaint, contact the agency's equal opportunity office.

**Q37: Do commercial airlines have to comply with the ADA?**

A: No. The Air Carrier Access Act is the Federal law that protects the rights of people with disabilities in air travel. For information or to file a complaint, contact the U.S. Department of Transportation, Aviation Consumer Protection Division, at 202-366-2220.

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July 20, 2015



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## **CHAPTER 25-13 BLIND AND DISABLED PERSONS' ACTIVITIES**

### **25-13-01. Legislative policy.**

It is the policy of this state to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment.

#### **25-13-01.1. Definitions.**

For purposes of this chapter "service animal" means any guide dog, signal dog, or other animal trained to do work, perform tasks, or provide assistance for the benefit of an individual with a disability. The term includes an animal trained to provide assistance or protection services to an individual with a disability, pull a wheelchair, lend balance support, retrieve dropped objects, or provide assistance in a medical crisis.

#### **25-13-02. Individual with a disability - Service animal - Admission to public places.**

An individual with a disability is entitled to be accompanied by a service animal in places of public accommodations, common carriers, facilities of a health care provider, and all places to which the public is generally invited, without being required to pay an extra charge for the animal; provided, that the individual is liable for any damage done to the premises or facility by the animal.

##### **25-13-02.1. Trainer and a service animal in training - Admission to public places.**

1. A trainer with a service animal in training may enter any place of public accommodation, common carrier, facility of a health care provider, and any place to which the public is generally invited, without being required to pay an extra charge for the service animal in training, provided:
  - a. The trainer notifies an onsite manager that a service animal in training is being brought onto the premises;
  - b. The trainer wears a photo identification card issued by a nationally recognized service animal training program; and
  - c. The trainer is liable for any damage done to the premises or facility by the service animal in training.
2. Upon receiving notice as provided in subsection 1, the onsite manager may not deny admission to the trainer and the service animal in training without good cause.

##### **25-13-02.2. Service animal - Misrepresentation - Penalty.**

An individual is guilty of an infraction if the individual, in an attempt to gain admission to a public place under this chapter or obtain a reasonable housing accommodation under section 47-16-07.5, knowingly makes a false claim that a pet is a service animal.

#### **25-13-03. Driver of motor vehicle - Precaution - Individual with service animal.**

If the driver of a motor vehicle approaches an individual who is blind or visually impaired and who is carrying a cane predominately white or metallic in color, with or without a red tip, or who is accompanied by a service animal, the driver shall take all reasonable precautions to avoid injury to the individual and the service animal. Any driver who fails to take reasonable precautions is liable to the individual for any injury caused. An individual who is blind or visually impaired and not carrying a cane or an individual with a disability who is not accompanied by a service animal has all of the rights and privileges conferred by law upon other individuals. The failure of an individual who is blind or visually impaired to carry a cane or the failure of an individual with a disability to be accompanied by a service animal is not by itself evidence of fault.

**25-13-04. Penalty for interfering or denying use of facilities.**

Any person who denies or interferes with admittance to or enjoyment of the public places or facilities enumerated in section 25-13-02 or otherwise interferes with the rights of an individual who is blind or visually impaired, or with the rights of an individual who is accompanied by a service animal, is guilty of a class A misdemeanor. This section does not apply to a denial of admission under section 25-13-02.1.

**25-13-05. State employment of individuals who are blind or otherwise disabled.**

It is the policy of this state that individuals who are blind, visually impaired, or otherwise disabled shall be employed in the state service, the service of the political subdivisions of the state, the public schools, and all other employment supported in whole or in part by public funds on the same terms and conditions as individuals who are not disabled, unless the particular disability prevents the performance of the work involved.

**25-13-06. Killing or injury of service animal - Penalty.**

1. A person is guilty of a class C felony and is subject to a civil penalty of up to ten thousand dollars if that person willfully and unjustifiably kills, shoots, tortures, torments, beats, kicks, strikes, mutilates, disables, or otherwise injures a service animal.
2. A person is guilty of a class A misdemeanor and is subject to a civil penalty of up to five thousand dollars if that person willfully:
  - a. Harasses, taunts, or provokes a service animal; or
  - b. Interferes with a service animal while the animal is working.
3. This section does not apply to a veterinarian who terminates the life of a service animal to relieve the animal of undue suffering and pain.





## Housing Protection Provided Within Existing Federal Law by Each Class

### Service [Dog] Animal

Rights protected under The Americans with Disabilities Act and the Fair Housing Act; public access granted in all public areas

### Emotional Support Animal

Rights Protected under the Fair Housing Act in certain circumstances; no public access granted

### Therapy Animal Teams

No rights, no protection provided, public access granted by invitation only

## Working Animal Definitions

### Service [Dog] Animal Defined, Sourced

***Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.***

*This definition does not affect or limit the broader definition of "assistance animal" under the Fair Housing Act or the broader definition of "service animal" under the Air Carrier Access Act. (Source: [www.ada.gov](http://www.ada.gov))*

\*There is an exception (albeit uncommon), which is a miniature horse which can only be used as a guide animal (for someone who is blind). This class of animal is required to have specific training.

### Emotional Support (Comfort) Animal Defined, Sourced

*While **Emotional Support Animals** or **Comfort Animals** are often used as part of a medical treatment plan as therapy animals, they **are not considered service animals under the ADA**. These support animals provide companionship, relieve loneliness, sometimes help with depression, anxiety, and certain phobias but do not have special training to perform tasks that assist people with disabilities. (Source: <https://adata.org/publication/service-animals-booklet>)*

\*Emotional Support (Comfort) Animal is not species specific. It can be a dog, cat, iguana, bird, rat, etc. This class does not require any type of training or obedience.

### Therapy Animal [Team] Defined, Sourced

*...Some states have laws defining therapy animals; these animals are not limited to working with people with disabilities and therefore are not covered by federal laws protecting the use of service animals. Therapy animals [team] provide people with therapeutic contact, usually in a clinical setting, to improve their physical, social, emotional, and/or cognitive functioning. (Source: <https://adata.org/publication/service-animals-booklet>)*

*Therapy animals, like those who participate in the Pet Partners Therapy Animal Program, provide affection and comfort to various members of the public, typically in facility settings such as hospitals, retirement homes, and schools. These pets have a special aptitude for interacting with members of the public and enjoy doing so. Therapy animal owners volunteer their time to visit with their animal in the community. **A therapy animal has no special rights of access, except in those facilities where they are welcomed.** They may not enter businesses with "no pets" policies or accompany their handler in the cabin of an airplane regardless of their therapy animal designation. (Source: <https://petpartners.org/learn/terminology/>)*

\*Therapy Animal [Team] is not species specific. It can be a dog, cat, iguana, bird, rat, etc. The team must consist of an animal and a human who received necessary training to provide services.

### Disability Defined, Sourced

*An individual with a **disability** is **defined** by the **ADA** as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. (Source: [www.ada.gov](http://www.ada.gov))*