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Florida criminalizes fake emotional support animal ownership

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On July 1, it became a crime in Florida to falsely declare a pet as an emotional support animal. If convicted, the pet owner can be jailed for two months and/or fined \$500 and be required to perform 30 hours of community service with an organization that serves people with disabilities.



The law allows property owners to require documentation that a person has a disability and proof that their animal has met licensing and vaccination requirements.

The law also makes clear that printing out a form from the internet isn't enough to qualify.

Landlords may also reject any animals that may threaten the safety, health or property of others.

In the same vein, earlier this month, the Iowa Supreme Court overturned a lower court ruling in favor of a tenant who had been issued a waiver to the complex's no-pet rule. At issue was a neighbor's severe allergy to pet dander. As a result, David Clark will have to get rid of his pet or move.

"Our balancing in this case is not a one-size-fits-all test that will create the same result under different circumstances, such as when the animal at issue is a service animal for a visually disabled person," Chief Justice Susan Christensen cautioned in the ruling.

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Federal law governs access for service and emotional support animals

Animals that qualify as service or emotional support for disabled people are allowed in most places where normal pets may be barred, but the rules governing that access are tightening, largely because of scam certificates that proliferate on the internet.

In 2017, the University of California, Davis published a study in *Frontiers in Veterinary Science* that found "major increases in uses of assistance dogs for improving the function, health, and well-being of their human companions."

That same year, the U.S. Supreme Court unanimously ruled in favor of a Michigan girl with cerebral palsy who sued her school when it barred her service dog from her classroom.

The rules for special access for “assistance animals” are set in accordance with a trio of federal laws: the Fair Housing Act, passed in 1968 and expanded in 1988 to prohibit discrimination in housing based on a person’s disability; the Americans with Disabilities Act (1990); and the Air Carrier Access Act (1973). Respectively, these laws govern access rules for service and emotional support animals in housing, public spaces and on airplanes.

The U.S. Department of Justice, which enforces ADA provisions in public settings, recognizes only dogs and some miniature horses as service animals.

The U.S. Department of Housing and Urban Development defines assistance animals as one that “works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person’s disability.”

HUD stresses that an assistance animal is “not a pet” and that housing complexes, whether rentals or condominiums, must make “reasonable accommodations” for disabled individuals, such as waiving no-pet policies, pet deposits, monthly pet fees or other pet rules.

The only out for housing providers is to prove that a request for an assistance animal would impose an “undue financial and administrative burden,” would “fundamentally alter” the “essential nature” of the provider’s operations, would result in “significant physical damage” to others’ property, and, perhaps most significantly, would pose a “direct threat to the health or safety of others.”

Increasingly, disabled owners of assistance animals are required to provide proof that their animal is legitimately needed, particularly if it is an emotional support animal.

Such proof usually involves certificates or letters from professional animal training organizations or licensed medical professionals.

Assistance animal owners should be wary, however, of the dozens online certificates, registrations and service animal equipment that can be purchased online for less than \$100. Many such certificates provide “absolutely no proof of an animal’s training or abilities,” according to Hal Herzog Ph.D., author of a 2014 article in *Psychology Today*.

Airline tightens rules for flying with animals

Rules for flying with an assistance animal are governed by the U.S. Department of Transportation, but still can differ slightly from airline to airline. Passengers may be required to provide a doctor’s letter to certify their disability and a veterinary certificate for the animal. There may be restrictions on size or behavior. Airlines also differ as to the type of animal that is allowed to fly with most banning insects, rodents and reptiles.

Delta Airlines carries more than 250,000 service animals each year. Most are dogs and cats, but the airline says people have also tried to board with “comfort turkeys, gliding possums known as sugar gliders, snakes, spiders and more.”

Delta says it has experienced an 84 percent increase in animal incidents over the past four years, ranging from animals relieving themselves in airplane cabins to biting other passengers.

Last year, Marlin Jackson sued Delta after being attacked and bitten by an emotional support dog sitting in another passenger’s lap.

According to the lawsuit, which is still being litigated in Georgia, the dog “mauled” Jackson’s face as he took his seat next to the dog, resulting in so much blood being spilled that the entire row of seats had to be removed from the plane.

Jackson received 28 stitches and says he has “suffered permanent injury, scarring and loss of sensation” to the affected areas of his face.

Last month, Delta responded by tightening its rules regarding assistance animals.

“The rise in serious incidents involving animals in flight leads us to believe that the lack of regulation in both health and training screening for these animals is creating unsafe conditions across U.S. air travel,” said John Laughter, Delta’s Senior Vice President of Corporate Safety, Security and Compliance. “As a leader in safety, we worked with our Advisory Board on Disability to find a solution that supports those customers with a legitimate need for these animals, while prioritizing a safe and consistent travel experience.”

Assistance animals who fly are governed by the Air Carrier Access Act. According to the U.S. Department of Transportation, both trained service and emotional support animals may travel with their owners in airplane cabins so long as they meet certain rules. Airlines may:

- Determine the validity of a service animal through the “credible verbal assurances of an individual with a disability using the animal” or by “physical indicators such as the presence of a harness or tags.”
- Require documentation signed within the current year by a licensed medical professional certifying an emotional or psychiatric support animal is necessary for a mental or emotional disability that is recognized by the Diagnostic and Statistical Manual of Mental Disorders.
- Require 48 hours advance notice from a passenger prior to flying with an animal.
- Refuse to board animals that are too large or heavy to fit in the airplane cabin, that may pose a direct threat to other passengers’ health or safety or that may significantly disrupt cabin service.
- Refuse boarding of exotic pets such as snakes, reptiles, ferrets, rodents, sugar gliders and spiders.
- Require that service and emotional support animals fit under the seat space in front of the passenger.

These rules may get a bit tougher, however, if new rules now under consideration by the DOT go into effect.

The goal, according to the agency, is to reduce “the likelihood that

passengers wishing to travel with their pets on aircraft will be able to falsely claim their pets are service animals.”

Emotional support animals would no longer qualify as service animals. Psychiatric service animals would have to certify that they have received the same level of training as other service animals, that they are healthy and well-behaved and that they have the ability to refrain from relieving themselves during a flight.

The new rules also would allow airlines to require early check-ins for passengers accompanied by service animals and to limit passengers to no more than two service animals.

Eighth-grader Allie Epstein of Lafayette, CA, who described herself as a person who has a service dog because of her “invisible disability”, wrote to the DOT asking them to fully consider the needs of the disabled, even if they must use a miniature horse as their service animal.

“There are too many fake or aggressive service dogs,” she wrote, “because certain scam websites pretend to give out certification of registration ... not covered under the law.”

In her two-page letter, Epstein suggested how to determine if an emotional support animal was legitimate and why miniature horses might be used as service animals.

“It would be harmful to deny (miniature horses) access. Some handlers may have allergies or need a bigger and sturdier animal than a dog,” Epstein wrote.

