

Florida

## SUMMARY

The following statutes comprise Florida's pertinent service animal laws. These statutes provide criminal penalties for discriminating against a disabled individual accompanied by a service animal. These laws also provide graduated criminal penalties for interfering with, injuring, or killing a service animal. It is also a criminal offense to misrepresent an untrained dog as a service animal.

1. Date last checked: April 2021

### **316.1301. Traffic regulations to assist blind persons**

(1) It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is white in color or white tipped with red. A person who is convicted of a violation of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Whenever a pedestrian is crossing, or attempting to cross, a public street or highway, guided by a dog guide or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, the driver of every vehicle approaching the intersection or place where the pedestrian is attempting to cross shall bring his or her vehicle to a full stop before arriving at such intersection or place of crossing and, before proceeding, shall take such precautions as may be necessary to avoid injuring such pedestrian. A person who is convicted of a violation of this subsection is guilty of a moving violation punishable as provided in chapter 318.

(3) Nothing contained in this section shall be construed to deprive any totally or partially blind or otherwise incapacitated person not carrying such a cane or walking stick, or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways. The failure of any such person to carry a cane or walking stick or to be guided by a dog shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence.

### Credits

Laws 1949, c. 25269, §§ 1 to 4; Laws 1951, c. 26484, § 10; Laws 1971, c. 71-136, § 360; Laws 1977, c. 77-259, § 18; Fla.St.1987, § 413.07; Laws 1989, c. 89-32, § 1. Amended by Laws 1992, c. 92-296, § 1, eff. Oct. 1, 1992; Laws 1995, c. 95-148, § 307, eff. July 10, 1995; Laws 1995, c. 95-327, § 6, eff. July 1, 1995; Laws 1996, c. 96-350, § 16, eff. Oct. 1, 1996.

### **316.1303. Traffic regulations to assist mobility-impaired persons**

(1) Whenever a pedestrian who is mobility impaired is in the process of crossing a public street or highway with the assistance of a guide dog or service animal designated as such with a visible means of identification, a walker, a crutch, an orthopedic cane, or a wheelchair, the driver of a vehicle approaching the intersection shall bring his or her vehicle to a full stop before arriving at the intersection and, before proceeding, shall take precautions necessary to avoid injuring the pedestrian.

(2) A person who is mobility impaired and who is using a motorized wheelchair on a sidewalk may temporarily leave the sidewalk and use the roadway to avoid a potential conflict, if no alternative route exists. A law enforcement officer may issue only a verbal warning to such person.

(3) A person who is convicted of a violation of subsection (1) shall be punished as provided in s. 318.18(3).

#### **Credits**

Laws 1989, c. 89-32, § 2. Amended by Laws 1992, c. 92-296, § 2, eff. Oct. 1, 1992; Laws 1995, c. 95-148, § 308, eff. July 10, 1995; Laws 1996, c. 96-350, § 17, eff. Oct. 1, 1996; Laws 2005, c. 2005-260, § 1, eff. July 1, 2005; Laws 2012, c. 2012-181, § 4, eff. Jan. 1, 2013; Laws 2016, c. 2016-239, § 64, eff. July 1, 2016.

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

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

1. "Major life activity" means a function such as caring

for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working "Hard of hearing" means an individual who has suffered a permanent hearing impairment that is severe enough to necessitate the use of amplification devices to discriminate speech sounds in verbal communication.

2. "Physical or mental impairment" means:

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

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

"Physically disabled" means

any person who has a physical impairment that substantially limits one or more major life activities.

(c) "Public accommodation" means a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation; hotel; a timeshare that is a transient public lodging establishment as defined in s. 509.013; lodging place; place of public accommodation, amusement, or resort; and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. The term does not include air carriers covered by the Air Carrier Access Act of 1986, 49 U.S.C. s. 41705, and by regulations adopted by the United States Department of Transportation to implement such act.

(d) "Service animal" means an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to, guiding an individual a person who is visually impaired or blind, alerting an individual a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting an individual a person who is having a seizure, retrieving objects, alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability to an

individual with a mobility disability, helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors, reminding an individual with mental illness to take prescribed medications, calming an individual with posttraumatic stress disorder during an anxiety attack, or doing other specific work or performing other special tasks. A service animal is not a pet. For purposes of subsections (2), (3), and (4), the term "service animal" is limited to a dog or miniature horse. The crime-deterrent effect of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for purposes of this definition.

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

(3) An individual with a disability has the right to be accompanied by a service animal in all areas of a public accommodation that the public or customers are normally permitted to occupy.

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

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

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

(d) An individual with a disability is liable for damage caused by a service animal if it is the regular policy and practice of the public accommodation to charge nondisabled persons for damages caused by their pets.

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

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

(4) Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with admittance to, or enjoyment of, a public accommodation or, with regard to a public accommodation, otherwise interferes with the rights of an individual with a disability or the trainer of a service animal while engaged in the training of such an animal

pursuant to subsection (8), commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083 and must perform 30 hours of community service for an organization that serves individuals with disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than 6 months.

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

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

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

(b) An individual with a disability who has a service animal or who obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and such a person may not be required to pay extra compensation for such the service animal. However, such a person is liable for any damage done to the premises or to another person on the premises by the such an animal. A housing accommodation may request proof of compliance with vaccination requirements.

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

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

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

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

Section 2. This act shall take effect July 1, 2015.

**413.081 Interference with or injury to a service animal; penalties; restitution.—**

(1) A person who, with reckless disregard, interferes with, or permits a dog that he or she owns or is in the immediate control of to interfere with, the

use of a service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the service animal or its user commits a misdemeanor of the

second degree for the first offense and a misdemeanor of the first degree for each subsequent offense, punishable as provided in s.

775.082

or s.

775.083.

(2) A person who, with reckless disregard, injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill,

a service animal commits a misdemeanor of the first degree, punishable as provided in s.

775.082

or s.

775.083.

(3) A person who intentionally injures or kills, or permits a dog that he or she owns or is in the immediate control of to injure or kill, a service animal

commits a felony of the third degree, punishable as provided in s.

775.082,

s.

775.083,

or s.

775.084.

(4)(a) A person who is convicted of a violation of this section, in addition to any other penalty, must make full restitution for all damages that arise

out of or are related to the offense, including incidental and consequential damages incurred by the service animal's user.

(b) Restitution includes the value of the service animal; replacement and training or retraining expenses for the service animal and the user; veterinary

and other medical and boarding expenses for the service animal; medical expenses for the user; and lost wages or income incurred by the user during any

period that the user is without the services of the service animal.

History.—s. 2, ch. 2002-176; s. 2, ch. 2005-63.