

## Lawmaking guide: service dogs

If you want to develop or revise service dog laws, the tips and references in this guide can help you avoid common pitfalls and find practical ways to reach for society's loftier goals.

*Target audience: state and municipal lawmakers and policymakers in the United States, but those anywhere and at any level can benefit significantly from this document.*

- Prioritize access, not barriers

Disability rights are first and foremost about including disabled people as fellow humans in society. When disabled people need accommodations in order to be included, the point is to break down barriers so disabled people aren't kept out.

On the other hand, we could prioritize blocking the few sensationalized "fraudsters" or attacking the often mislabeled "fakers". When we do this, rather than focusing on including those who do need accommodations, we can easily make life harder on those we're trying to help.

Ask yourself:

Does my proposal improve access for disabled people?

Does my proposal make disabled people jump through hoops to gain access?

Which narratives are driving my proposal?

- Be anti-prejudice

An old way of thinking is to divide different types of disabled people and treat them differently in laws. This is discrimination based on disability type and it's not okay.

Whether someone is blind, has bipolar disorder, or has a developmental disability, laws must treat them equally. More than this, laws have to make it clear that there is no room for prejudice in how people with different disability types are treated.

Ask yourself:

Does my proposal treat people differently based on what kind of disability they have?

Does my proposal allow others significant room to use their judgment (prejudice) to discriminate based on someone's disability type?

- Work within controlling laws

Higher-level laws, such as the federal Americans with Disabilities Act (ADA), take precedence over state and local laws wherever the higher-level law applies. Lower-level laws cannot take away rights given at a higher level, but they can add to them. This should be the main purpose of state and local service dog laws.

For example, a municipality cannot use breed-specific legislation (BSL) to stop a disabled person from having a certain breed of service dog. Nor can it require a service dog team to use a special ID card, tag, or collar for public access.

By contrast, a state can grant public access to people training dogs to become service dogs, which is not covered by the ADA.

Ask yourself:

Which higher-level laws apply?

Does my proposal contradict any higher-level law, such as by restricting existing rights?

Does my proposal expand existing rights in a way that gives it a meaningful purpose?

- Use existing, appropriate terms

Avoid making up redundant terms or switching around terms that laws already use.

In the US, a **service animal/dog** is a dog trained to do work or tasks to help a particular disabled person (with exceptional access for miniature horses). Service animals tend to have extensive training for good public behavior, but the duration and method of training can vary widely among successful service dog teams, so the resulting behavior is more important than the exact training history.

A **support animal** (or **emotional support animal/ESA**) helps a disabled person by being there, but isn't necessarily trained to help or to behave. An **assistance animal** is either a service dog or a support animal. **Therapy dogs** are separate and not connected to disability laws. They are taken places (with individual permission) to bring joy and comfort to multiple people regardless of whether the people are disabled.

Use "disability", "disabled person" or "person with a disability", rather than any euphemism or outdated term (like "handicapped", "differently abled", "special needs", etc.). Disabled people have varying opinions on using "disabled person" vs. "person with a disability", but "disabled" and "disability" are not bad words.

Ask yourself:

Does my proposal use terms in a way that's consistent with existing federal law?

Does my proposal invent a new term where an existing term would be better recognized?

Does my proposal avoid outdated terms that most disabled people view as disrespectful?

- Consider safety

If a dog is consistently disruptive, destructive, or is a direct threat to health or safety, the handler can (and often should) be required to remove the dog. This applies whether a dog is a service dog or a pet.

Most places do not grant public access rights in no-pets places to disabled people with their support animals. Support animals are not expected to be trained or experienced in behaving in public. Because of this, they usually don't have the needed psychological shock absorbers and could become unexpectedly aggressive in stressful environments. This is unsafe for everyone, but especially for service dog teams.

A tether is also usually required to help ensure service dogs remain under control. There are exceptions for times when a disability prevents its use at the moment but the service dog is still otherwise under control (no wandering).

Ask yourself:

Does my proposal empower places to require that an animal be removed if it presents an undue problem?

Does my proposal anticipate that service dogs will have the training to be in public, but not assume that pets will?

Does my proposal require service dog handlers to maintain control of their dogs?

- Allow training

Service dogs aren't born, they're made. Many state governments recognize this in laws that grant access to individuals who are actively training dogs to become service dogs.

It doesn't fit the traditional image we get from service dog programs, but there are a lot of owner-trainers—disabled people who trained their own dogs to assist them and to behave in public. There are also professional dog trainers that are not associated with a service dog program, but help train service dogs.

Service dog in training (SDIT) laws should recognize and grant reasonable access to all these parties so that service dogs in the community are able to be well-trained.

Ask yourself:

Does my proposal only grant access to one type of service dog trainer?

Does my proposal enable future service dogs to get the training they need?

Does my proposal encourage or force anyone to rush their service dog training?

- Educate corporations and the public

Especially if your laws are more expansive than federal laws, it's important that people are aware of them. Allocate funding to educate businesses, nonprofits, your government offices, and the general public about access for service dog teams and people training service dogs.

Fight common misconceptions, such as thinking businesses can require documentation, that a service dog vest is required, or that only certain size dogs can become service dogs. Many access denials and harassment incidents are based on misinformation. Caring about access must not only include theoretical lawmaking, but also practically ensuring the laws are respected.

Ask yourself:

How will shopkeepers and neighbors know about service dog teams' rights?

Am I putting my money where my mouth is, so my proposal has an impact beyond the page?

- Talk to (disabled) disability experts from the beginning

"Nothing about us without us." That's a refrain from every marginalized group, because leaving a group out of a discussion about controlling its public or private life is a good way to end up with bad laws.

There are excellent disability rights groups—but especially service dog advocacy groups—that are eager to help you craft better disability rights laws. Be sure to get service dog user perspectives, rather than just the perspective of a business that trains service dogs.

Ask yourself:

Am I consulting the disabled people that will be affected by my proposal?

Am I in an information silo?

Please contact us if you would like a tailored consultation for your specific situation. We can help set you up for success, avoiding the common mistakes we've seen so many times.

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—Laws and guidance—

The main federal laws that state and local governments should consult are the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHAct). Below are links to guidance documents and to the relevant regulations.

- Americans with Disabilities Act (ADA)

Department of Justice (DOJ) service animal FAQ:

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

ADA regulations for (1) state and local government services and (2) for places of public accommodation (28 CFR §35.136 and 28 CFR §36.302 respectively):

[http://www.ecfr.gov/cgi-bin/text-idx?  
c=ecfr&SID=2ab2aab2d3d2fd0f544a5ce7aad8f04c&rgn=div5&view=text&node=28:1.0.1.1.36  
&idno=28#28:1.0.1.1.36.2.32.7](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=2ab2aab2d3d2fd0f544a5ce7aad8f04c&rgn=div5&view=text&node=28:1.0.1.1.36&idno=28#28:1.0.1.1.36.2.32.7)

[http://www.ecfr.gov/cgi-bin/retrieveECFR?  
gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#  
28:1.0.1.1.37.3.32.2](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1fcb95e0991fa49ff719bbe362cdddc1&ty=HTML&h=L&n=28y1.0.1.1.37&r=PART#28:1.0.1.1.37.3.32.2)

- Fair Housing Act (FHAct)

Department of Housing and Urban Development (HUD) assistance animal guidance document:

<https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

FHAct regulations about which housing providers do not have to comply with the FHAct (24 CFR §100.10(c)):

[http://www.ecfr.gov/cgi-bin/text-idx?  
SID=78a3492597cf4c6e185484c5dfdb485b&mc=true&node=se24.1.100\\_110&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=78a3492597cf4c6e185484c5dfdb485b&mc=true&node=se24.1.100_110&rgn=div8)

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