

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 16-1159.01 Thomas Morris x4218

HOUSE BILL 16-1426

HOUSE SPONSORSHIP

Primavera and Willett,

SENATE SPONSORSHIP

Tate and Jahn,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO**
102 **AN ASSISTANCE ANIMAL.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Federal law requires that reasonable accommodations be provided under some circumstances to individuals with a disability. An "assistance animal", sometimes referred to as an "emotional support animal", can assist individuals with a disability with their condition but is not necessarily trained to provide a specific task as "service animals" are. Certain providers of housing must allow an individual with a disability to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 3rd Reading
May 2, 2016

HOUSE
Amended 2nd Reading
April 28, 2016

reside with his or her assistance animal without charging any fees or imposing conditions that would otherwise apply if the animal were merely a pet.

The bill requires the following medical professionals, when approached by a patient seeking an assistance animal, to make a written finding regarding whether the patient has a disability and whether the need for the animal is related to that disability, or that there is insufficient evidence to make a disability determination:

- ! Physicians, physician assistants, and anesthesiologist assistants (**section 1** of the bill);
- ! Nurses (**section 2**); and
- ! Psychologists, social workers, clinical social workers, marriage and family therapists, licensed professional counselors, and addiction counselors (**section 3**).

Section 4 creates a class 1 petty offense for intentional misrepresentation of entitlement to an assistance animal.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Service animals that are properly trained to assist persons with
5 disabilities play a vital role in establishing independence for such persons;

6 (b) The term "service animal" has a distinct meaning in the law.
7 A service animal means a dog or miniature horse trained to do work or
8 perform tasks for the benefit of an individual with a disability and whose
9 work or task is directly related to the individual's disability. Under the
10 law, the provision of emotional support, well-being, comfort, or
11 companionship does not constitute the work or tasks of a service animal.

12 (c) No vest, other marking, or documentation is required for an
13 animal to qualify as a service animal, nor are such vests, markings, or
14 documentation a reliable indication of whether an animal is, by law, a
15 service animal. People sometimes erroneously think that a therapy animal,
16 an emotional support animal, or any animal wearing a vest or having any

1 other type of marking is a service animal as defined by law.

2 (d) There are an increasing number of occurrences where people
3 exploit the confusion related to service animals and attempt to bring an
4 animal into a place that it would otherwise not be allowed to enter by
5 passing off a pet, therapy animal, or emotional support animal as a service
6 animal or a service-animal-in-training, either by oral misrepresentation,
7 placing a vest or other marking on the animal, or presenting a
8 "certificate", despite knowing that it is not a service animal;

9 (e) Some companies mislead individuals into believing that they
10 will be entitled to the rights or privileges for individuals with disabilities
11 with service animals if only they buy the company's vests or obtain some
12 type of certificate. These misrepresentations, in some cases, are unlawful
13 deceptive trade practices and compound the confusion around service
14 animals.

15 (f) Commendably, federal and state laws require places of public
16 accommodation, including restaurants, theaters, stores, hospitals, and
17 more, to allow any animal that is presented as a service animal or a
18 service-animal-in-training into the place of public accommodation. These
19 same places of public accommodation face a dilemma when someone
20 enters the premises and intentionally misrepresents his or her animal as
21 a service animal or service-animal-in-training.

22 (g) To respect the privacy of individuals with disabilities,
23 regulations sensibly allow businesses and other places of public
24 accommodation to ask only two questions of a person who is being
25 assisted by an animal in such a place:

26 (I) Is the dog [or miniature horse] a service animal required
27 because of a disability?

1 (II) What work or task has the dog [or miniature horse] been
2 trained to perform?

3 (h) False answers to these two questions harm not only the place
4 of public accommodation and its patrons, but also individuals with
5 disabilities who legitimately rely on service animals. If an animal is not
6 properly trained, the place of public accommodation and its clientele may
7 suffer damages, health issues, injury, or other problems. When people try
8 to falsely represent a non-service animal as a service animal or a
9 service-animal-in-training, business owners and other places of public
10 accommodation become increasingly distrustful that an animal being
11 represented to them as a service animal or service-animal-in-training is,
12 in fact, a service animal or service-animal-in-training. Misrepresentation
13 of service animals delegitimizes the program and makes it harder for
14 persons with disabilities to gain unquestioned acceptance of their
15 legitimate, properly trained, and essential service animals.

16 (2) Therefore, the general assembly finds that the state of
17 Colorado needs to enact a crime of intentional misrepresentation of a
18 service animal for a person with a disability.

19 **SECTION 2.** In Colorado Revised Statutes, **add** 12-36-142 as
20 follows:

21 **12-36-142. Licensee duties relating to assistance animals -**
22 **definitions.** (1) A LICENSEE WHO IS APPROACHED BY A PATIENT SEEKING
23 AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION IN HOUSING
24 SHALL EITHER:

25 (a) MAKE A WRITTEN FINDING REGARDING WHETHER THE PATIENT
26 HAS A DISABILITY AND, IF A DISABILITY IS FOUND, A SEPARATE WRITTEN
27 FINDING REGARDING WHETHER THE NEED FOR THE ANIMAL IS RELATED TO

1 THAT DISABILITY; OR

2 (b) MAKE A WRITTEN FINDING THAT THERE IS INSUFFICIENT
3 INFORMATION AVAILABLE TO MAKE A FINDING REGARDING DISABILITY OR
4 THE DISABILITY-RELATED NEED FOR THE ANIMAL.

5 (2) THIS SECTION DOES NOT:

6 (a) CHANGE ANY LAWS OR PROCEDURES RELATED TO A SERVICE
7 ANIMAL;

8 (b) AFFECT IN ANY WAY THE RIGHT OF PET OWNERSHIP IN PUBLIC
9 HOUSING ESTABLISHED IN 42 U.S.C. SEC. 1437Z-3, AS AMENDED; OR

10 (c) LIMIT THE MEANS BY WHICH A PERSON WITH A DISABILITY MAY
11 DEMONSTRATE, PURSUANT TO STATE OR FEDERAL LAW, THAT THE PERSON
12 HAS A DISABILITY OR THAT THE PERSON HAS A DISABILITY-RELATED NEED
13 FOR AN ASSISTANCE ANIMAL.

14 (3) A LICENSEE SHALL NOT MAKE A DETERMINATION RELATED TO
15 SUBSECTION (1) OF THIS SECTION UNLESS THE LICENSEE:

16 (a) HAS MET WITH THE PATIENT IN PERSON OR BY TELEMEDICINE;

17 (b) IS SUFFICIENTLY FAMILIAR WITH THE PATIENT AND THE
18 DISABILITY; AND

19 (c) IS LEGALLY AND PROFESSIONALLY QUALIFIED TO MAKE THE
20 DETERMINATION.

21 (4) FOR PURPOSES OF THIS SECTION:

22 (a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL, OTHER THAN A
23 SERVICE ANIMAL, THAT QUALIFIES AS A REASONABLE ACCOMMODATION
24 UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ.,
25 AS AMENDED, OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF
26 1973", 29 U.S.C. SEC. 794, AS AMENDED.

27 (b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE

1 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
2 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
3 REGULATIONS.

4 (c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN
5 THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE
6 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
7 12101 ET SEQ.

8 **SECTION 3.** In Colorado Revised Statutes, **add** 12-38-132.5 as
9 follows:

10 **12-38-132.5. Licensee duties relating to assistance animals -**
11 **definitions.** (1) A LICENSEE WHO IS APPROACHED BY A PATIENT SEEKING
12 AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION IN HOUSING
13 SHALL EITHER:

14 (a) MAKE A WRITTEN FINDING REGARDING WHETHER THE PATIENT
15 HAS A DISABILITY AND, IF A DISABILITY IS FOUND, A SEPARATE WRITTEN
16 FINDING REGARDING WHETHER THE NEED FOR THE ANIMAL IS RELATED TO
17 THAT DISABILITY; OR

18 (b) MAKE A WRITTEN FINDING THAT THERE IS INSUFFICIENT
19 INFORMATION AVAILABLE TO MAKE A FINDING REGARDING DISABILITY OR
20 THE DISABILITY-RELATED NEED FOR THE ANIMAL.

21 (2) THIS SECTION DOES NOT:

22 (a) CHANGE ANY LAWS OR PROCEDURES RELATED TO A SERVICE
23 ANIMAL;

24 (b) AFFECT IN ANY WAY THE RIGHT OF PET OWNERSHIP IN PUBLIC
25 HOUSING ESTABLISHED IN 42 U.S.C. SEC. 1437Z-3, AS AMENDED; OR

26 (c) LIMIT THE MEANS BY WHICH A PERSON WITH A DISABILITY MAY
27 DEMONSTRATE, PURSUANT TO STATE OR FEDERAL LAW, THAT THE PERSON

1 HAS A DISABILITY OR THAT THE PERSON HAS A DISABILITY-RELATED NEED
2 FOR AN ASSISTANCE ANIMAL.

3 (3) A LICENSEE SHALL NOT MAKE A DETERMINATION RELATED TO
4 SUBSECTION (1) OF THIS SECTION UNLESS THE LICENSEE:

5 (a) HAS MET WITH THE PATIENT IN PERSON;

6 (b) IS SUFFICIENTLY FAMILIAR WITH THE PATIENT AND THE
7 DISABILITY; AND

8 (c) IS LEGALLY AND PROFESSIONALLY QUALIFIED TO MAKE THE
9 DETERMINATION.

10 (4) FOR PURPOSES OF THIS SECTION:

11 (a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL, OTHER THAN A
12 SERVICE ANIMAL, THAT QUALIFIES AS A REASONABLE ACCOMMODATION
13 UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ.,
14 AS AMENDED, OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF
15 1973", 29 U.S.C. SEC. 794, AS AMENDED.

16 (b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
17 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
18 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
19 REGULATIONS.

20 (c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN
21 THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE
22 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
23 12101 ET SEQ.

24 **SECTION 4.** In Colorado Revised Statutes, **add** 12-43-226.5 as
25 follows:

26 **12-43-226.5. Licensee duties relating to assistance animals -**
27 **definitions.** (1) A LICENSEE WHO IS APPROACHED BY A PATIENT SEEKING

1 AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION IN HOUSING
2 SHALL EITHER:

3 (a) MAKE A WRITTEN FINDING REGARDING WHETHER THE PATIENT
4 HAS A DISABILITY AND, IF A DISABILITY IS FOUND, A SEPARATE WRITTEN
5 FINDING REGARDING WHETHER THE NEED FOR THE ANIMAL IS RELATED TO
6 THAT DISABILITY; OR

7 (b) MAKE A WRITTEN FINDING THAT THERE IS INSUFFICIENT
8 INFORMATION AVAILABLE TO MAKE A FINDING REGARDING DISABILITY OR
9 THE DISABILITY-RELATED NEED FOR THE ANIMAL.

10 (2) THIS SECTION DOES NOT:

11 (a) CHANGE ANY LAWS OR PROCEDURES RELATED TO A SERVICE
12 ANIMAL;

13 (b) AFFECT IN ANY WAY THE RIGHT OF PET OWNERSHIP IN PUBLIC
14 HOUSING ESTABLISHED IN 42 U.S.C. SEC. 1437Z-3, AS AMENDED; OR

15 (c) LIMIT THE MEANS BY WHICH A PERSON WITH A DISABILITY MAY
16 DEMONSTRATE, PURSUANT TO STATE OR FEDERAL LAW, THAT THE PERSON
17 HAS A DISABILITY OR THAT THE PERSON HAS A DISABILITY-RELATED NEED
18 FOR AN ASSISTANCE ANIMAL.

19 (3) A LICENSEE SHALL NOT MAKE A DETERMINATION RELATED TO
20 SUBSECTION (1) OF THIS SECTION UNLESS THE LICENSEE:

21 (a) HAS MET WITH THE PATIENT IN PERSON;

22 (b) IS SUFFICIENTLY FAMILIAR WITH THE PATIENT AND THE
23 DISABILITY; AND

24 (c) IS LEGALLY AND PROFESSIONALLY QUALIFIED TO MAKE THE
25 DETERMINATION.

26 (4) FOR PURPOSES OF THIS SECTION:

27 (a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL, OTHER THAN A

1 SERVICE ANIMAL, THAT QUALIFIES AS A REASONABLE ACCOMMODATION
2 UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ.,
3 AS AMENDED, OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF
4 1973", 29 U.S.C. SEC. 794, AS AMENDED.

5 (b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
6 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
7 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
8 REGULATIONS.

9 (c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN
10 THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE
11 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
12 12101 ET SEQ.

13 **SECTION 5.** In Colorado Revised Statutes, **add** 18-13-107.3 and
14 18-13-107.7 as follows:

15 **18-13-107.3. Intentional misrepresentation of entitlement to**
16 **an assistance animal - penalty - definitions.** (1) A PERSON COMMITS
17 INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE
18 ANIMAL IF:

19 (a) THE PERSON INTENTIONALLY MISREPRESENTS ENTITLEMENT TO
20 AN ANIMAL IN HIS OR HER POSSESSION AS AN ASSISTANCE ANIMAL FOR THE
21 PURPOSE OF OBTAINING ANY OF THE RIGHTS OR PRIVILEGES SET FORTH IN
22 STATE OR FEDERAL LAW FOR AN INDIVIDUAL WITH A DISABILITY AS A
23 REASONABLE ACCOMMODATION IN HOUSING; ■

24 (b) THE PERSON WAS PREVIOUSLY GIVEN A WRITTEN OR VERBAL
25 WARNING REGARDING THE FACT THAT IT IS ILLEGAL TO INTENTIONALLY
26 MISREPRESENT ENTITLEMENT TO AN ASSISTANCE ANIMAL.

27 (c) THE PERSON KNOWS THAT:

1 (I) THE ANIMAL IS NOT AN ASSISTANCE ANIMAL WITH REGARD TO
2 THAT PERSON; OR

3 (II) THE PERSON DOES NOT HAVE A DISABILITY.

4 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION,
5 UPON CONVICTION, SHALL BE PUNISHED AS FOLLOWS:

6 (a) FOR A FIRST OFFENSE, THE PERSON COMMITS A CLASS 2 PETTY
7 OFFENSE WITH A CORRESPONDING FINE OF FIFTY DOLLARS UNLESS THE
8 VIOLATION ENDANGERED ONE OR MORE THIRD PARTIES, IN WHICH CASE
9 THE PERSON IS GUILTY OF A MISDEMEANOR WITH A CORRESPONDING FINE
10 OF NOT LESS THAN THREE HUNDRED FIFTY DOLLARS BUT NOT MORE THAN
11 ONE THOUSAND DOLLARS;

12 (b) FOR A SECOND OFFENSE, THE PERSON IS GUILTY OF A
13 MISDEMEANOR WITH A FINE OF NOT LESS THAN SIX HUNDRED DOLLARS BUT
14 NOT MORE THAN ONE THOUSAND DOLLARS; AND

15 (c) FOR A THIRD OR SUBSEQUENT OFFENSE, THE PERSON IS GUILTY
16 OF A CLASS 3 MISDEMEANOR WITH A FINE OF NOT LESS THAN ONE
17 THOUSAND DOLLARS BUT NOT MORE THAN FIVE THOUSAND DOLLARS, IN
18 ADDITION TO NOT MORE THAN TEN HOURS OF COMMUNITY ASSISTANCE.

19 (3) (a) A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE
20 DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE
21 DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL MISREPRESENTATION
22 OF ENTITLEMENT TO AN ASSISTANCE ANIMAL, AS DESCRIBED IN
23 SUBSECTION (1) OF THIS SECTION, ARE LOCATED FOR THE SEALING OF THE
24 CONVICTION RECORDS, EXCEPT FOR BASIC IDENTIFYING INFORMATION.

25 (b) IF A PETITION IS FILED PURSUANT TO PARAGRAPH (a) OF THIS
26 SUBSECTION (3) FOR THE SEALING OF A RECORD OF CONVICTION FOR
27 INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE

1 ANIMAL, THE COURT SHALL ORDER THE RECORD SEALED IF THE FOLLOWING
2 CRITERIA ARE MET:

3 (I) THE PETITION IS FILED;

4 (II) THE FILING FEE IS PAID OR THE DEFENDANT HAS FILED A
5 MOTION TO FILE WITHOUT PAYMENT WITH A SUPPORTING FINANCIAL
6 AFFIDAVIT AND THE COURT HAS GRANTED THE MOTION;

7 (III) THE DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL
8 MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL WAS AT
9 LEAST THREE YEARS PRIOR TO THE DATE OF THE FILING OF THE PETITION;
10 AND

11 (IV) THE DEFENDANT HAS NOT HAD A SUBSEQUENT CONVICTION
12 FOR INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN
13 ASSISTANCE ANIMAL.

14 (c) AN ORDER ENTERED PURSUANT TO THIS SUBSECTION (3) MUST
15 BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART
16 OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER.
17 WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS
18 PURSUANT TO THIS SUBSECTION (3), THE DEFENDANT SHALL PROVIDE THE
19 COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE
20 CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE
21 BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
22 CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU UNLESS
23 THE COURT HAS GRANTED THE MOTION SPECIFIED IN SUBPARAGRAPH (II)
24 OF PARAGRAPH (b) OF THIS SUBSECTION (3). THEREAFTER, THE
25 DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER
26 SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE
27 SEALED.

1 (4) A WRITTEN FINDING MADE PURSUANT TO SECTION 12-36-142
2 (1) (a), 12-38-132.5 (1) (a), OR 12-43-226.5 (1) (a), C.R.S., IS AN
3 AFFIRMATIVE DEFENSE TO THE OFFENSE ESTABLISHED BY THIS SECTION.
4 THE LACK OF SUCH A FINDING IS NOT PROOF OF THE OFFENSE ESTABLISHED
5 BY THIS SECTION, AND NOTHING IN THIS SECTION OR IN SECTIONS
6 12-36-142, 12-38-132.5, OR 12-43-226.5, C.R.S., LIMITS THE MEANS BY
7 WHICH A PERSON WITH A DISABILITY MAY DEMONSTRATE, PURSUANT TO
8 STATE OR FEDERAL LAW, THAT THE PERSON HAS A DISABILITY OR THAT
9 THE PERSON HAS A DISABILITY-RELATED NEED FOR AN ASSISTANCE
10 ANIMAL.

11 (5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL, OTHER THAN A
14 SERVICE ANIMAL, THAT QUALIFIES AS A REASONABLE ACCOMMODATION
15 UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ.,
16 AS AMENDED OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF
17 1973", 29 U.S.C. SEC. 794, AS AMENDED.

18 (b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
19 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
20 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
21 REGULATIONS.

22 (c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN
23 THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE
24 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
25 12101 ET SEQ.

26 (d) "STATE AND FEDERAL LAW" INCLUDES SECTION 24-34-803,
27 C.R.S., THE FEDERAL LAWS SPECIFIED IN PARAGRAPH (a) OF THIS

1 SUBSECTION (5), AND RULES AND REGULATIONS IMPLEMENTING THOSE
2 LAWS.

3 **18-13-107.7. Intentional misrepresentation of a service animal**
4 **for a person with a disability - penalty - sealing of conviction records**
5 **- definitions.** (1) A PERSON COMMITS INTENTIONAL MISREPRESENTATION

6 OF A SERVICE ANIMAL IF:

7 (a) THE PERSON INTENTIONALLY MISREPRESENTS AN ANIMAL IN HIS
8 OR HER POSSESSION AS HIS OR HER SERVICE ANIMAL OR
9 SERVICE-ANIMAL-IN-TRAINING FOR THE PURPOSE OF OBTAINING ANY OF
10 THE RIGHTS OR PRIVILEGES SET FORTH IN SECTION 24-34-803, C.R.S.;

11 (b) THE PERSON WAS PREVIOUSLY GIVEN A WRITTEN OR VERBAL
12 WARNING REGARDING THE FACT THAT IT IS ILLEGAL TO INTENTIONALLY
13 MISREPRESENT A SERVICE ANIMAL.

14 (c) THE PERSON KNOWS THAT THE ANIMAL IN QUESTION IS NOT A
15 SERVICE ANIMAL OR SERVICE-ANIMAL-IN-TRAINING.

16 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION,
17 UPON CONVICTION, SHALL BE PUNISHED AS FOLLOWS:

18 (a) FOR A FIRST OFFENSE, THE PERSON COMMITS A CLASS 2 PETTY
19 OFFENSE WITH A CORRESPONDING FINE OF FIFTY DOLLARS UNLESS THE
20 VIOLATION ENDANGERED ONE OR MORE THIRD PARTIES, IN WHICH CASE
21 THE PERSON IS GUILTY OF A MISDEMEANOR WITH A CORRESPONDING FINE
22 OF NOT LESS THAN THREE HUNDRED FIFTY DOLLARS BUT NOT MORE THAN
23 ONE THOUSAND DOLLARS;

24 (b) FOR A SECOND OFFENSE, THE PERSON IS GUILTY OF A
25 MISDEMEANOR WITH A CORRESPONDING FINE OF NOT LESS THAN SIX
26 HUNDRED DOLLARS BUT NOT MORE THAN ONE THOUSAND DOLLARS; AND

27 (c) FOR A THIRD OR SUBSEQUENT OFFENSE, THE PERSON IS GUILTY

1 OF A MISDEMEANOR WITH A CORRESPONDING FINE OF NOT LESS THAN ONE
2 THOUSAND DOLLARS BUT NOT MORE THAN FIVE THOUSAND DOLLARS, IN
3 ADDITION TO NOT MORE THAN TEN HOURS OF COMMUNITY SERVICE.

4 (3) (a) A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE
5 DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE
6 DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL MISREPRESENTATION
7 OF A SERVICE ANIMAL, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION,
8 ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT
9 FOR BASIC IDENTIFYING INFORMATION.

10 (b) IF A PETITION IS FILED PURSUANT TO PARAGRAPH (a) OF THIS
11 SUBSECTION (3) FOR THE SEALING OF A RECORD OF CONVICTION FOR
12 INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL, THE COURT
13 SHALL ORDER THE RECORD SEALED IF THE FOLLOWING CRITERIA ARE MET:

14 (I) THE PETITION IS FILED;

15 (II) THE FILING FEE IS PAID OR THE DEFENDANT HAS FILED A
16 MOTION TO FILE WITHOUT PAYMENT WITH A SUPPORTING FINANCIAL
17 AFFIDAVIT AND THE COURT HAS GRANTED THE MOTION;

18 (III) THE DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL
19 MISREPRESENTATION OF A SERVICE ANIMAL WAS AT LEAST THREE YEARS
20 PRIOR TO THE DATE OF THE FILING OF THE PETITION; AND

21 (IV) THE DEFENDANT HAS NOT HAD A SUBSEQUENT CONVICTION
22 FOR INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL.

23 (c) AN ORDER ENTERED PURSUANT TO THIS SUBSECTION (3) MUST
24 BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART
25 OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER.
26 WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS
27 PURSUANT TO THIS SUBSECTION (3), THE DEFENDANT SHALL PROVIDE THE

1 COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE
2 CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE
3 BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL
4 CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU UNLESS
5 THE COURT HAS GRANTED THE MOTION SPECIFIED IN SUBPARAGRAPH (II)
6 OF PARAGRAPH (b) OF THIS SUBSECTION (3). THEREAFTER, THE
7 DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER
8 SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE
9 SEALED.

10 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
13 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
14 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
15 REGULATIONS.

16 (b) "QUALIFIED INDIVIDUAL WITH A DISABILITY" HAS THE SAME
17 MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES
18 ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED
19 AMENDMENTS AND IMPLEMENTING REGULATIONS.

20 (c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN
21 THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE
22 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
23 12101 ET SEQ.

24 (d) "SERVICE-ANIMAL-IN-TRAINING" MEANS A DOG OR MINIATURE
25 HORSE THAT IS BEING INDIVIDUALLY TRAINED TO DO WORK OR PERFORM
26 TASKS FOR THE BENEFIT OF A QUALIFIED INDIVIDUAL WITH A DISABILITY.

27 (e) "TRAINER OF A SERVICE ANIMAL" MEANS A PERSON WHO IS

1 INDIVIDUALLY TRAINING A SERVICE ANIMAL TO DO WORK OR PERFORM
2 TASKS FOR THE BENEFIT OF A QUALIFIED INDIVIDUAL WITH A DISABILITY.

3 **SECTION 6.** In Colorado Revised Statutes, **add 24-34-309** as
4 follows:

5 **24-34-309. Public education - service and assistance animals**
6 **- form used in housing.** (1) THE DIVISION IS AUTHORIZED TO EDUCATE

7 THE PUBLIC ABOUT THE DEFINITIONS OF ASSISTANCE AND SERVICE
8 ANIMALS, AS THOSE TERMS ARE DEFINED IN SECTIONS 18-13-107.3 AND
9 18-13-107.7, C.R.S., AND THE RIGHTS THAT ACCOMPANY PEOPLE WITH
10 DISABILITIES WHO USE THOSE ANIMALS. THE DIVISION MAY:

11 (a) USE ITS WEBSITE TO INCLUDE INFORMATION ON HOW A PERSON
12 WITH A DISABILITY CAN COMPLAIN ABOUT DISCRIMINATION ENCOUNTERED
13 IN PLACES OF PUBLIC ACCOMMODATION AND HOUSING;

14 (b) CREATE AND PUBLICIZE PUBLIC SERVICE ANNOUNCEMENTS
15 ABOUT THE DEFINITIONS OF ASSISTANCE AND SERVICE ANIMALS AND LINKS
16 TO THE DIVISION'S WEBSITE;

17 (c) CREATE AND PUBLICIZE UNIFORM SIGNAGE FOR ALL PLACES OF
18 PUBLIC ACCOMMODATION TO DISPLAY TO INFORM THE PUBLIC OF THE
19 RULES SURROUNDING SERVICE AND ASSISTANCE ANIMALS;

20 (d) CREATE AND PUBLICIZE ONE OR MORE FORMS THAT
21 LANDLORDS, QUALIFIED INDIVIDUALS WITH A DISABILITY, AND HEALTH
22 CARE PROVIDERS MAY USE IN MAKING A DETERMINATION CONTEMPLATED
23 BY SECTION 12-36-142, 12-38-132.5, OR 12-43-226.5, C.R.S.; AND

24 (e) ESTABLISH AN EDUCATION PROGRAM FOR LAW ENFORCEMENT
25 OFFICERS IN COLORADO ABOUT SERVICE AND ASSISTANCE ANIMALS AND
26 HOW TO PROVIDE EFFECTIVE COMMUNICATION TO PEOPLE WITH
27 DISABILITIES WHEN MAKING INQUIRIES UNDER APPLICABLE LAW.

1 (2) IF A LANDLORD REQUIRES A TENANT TO PROVIDE
2 DOCUMENTATION IN CONNECTION WITH THE TENANT'S ASSISTANCE
3 ANIMAL, AS THAT TERM IS DEFINED IN SECTION 18-13-107.3, C.R.S., THE
4 LANDLORD SHALL PROVIDE THE TENANT WITH THE FORM SPECIFIED IN
5 PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION IF THE DIVISION HAS
6 POSTED THE FORM ON ITS WEBSITE. THE TENANT NEED NOT USE THE FORM.

7 **SECTION 7. Act subject to petition - effective date -**
8 **applicability.** (1) This act takes effect January 1, 2017; except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within the ninety-day period after final adjournment of the general
12 assembly, then the act, item, section, or part will not take effect unless
13 approved by the people at the general election to be held in November
14 2016 and, in such case, will take effect on January 1, 2017, or on the date
15 of the official declaration of the vote thereon by the governor, whichever
16 is later.

17 (2) This act applies to conduct occurring on or after the applicable
18 effective date of this act.

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