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# Service Animals Cannot Be Dangerous Animals<sup>©</sup>

By Claudine Wilkins, Founder of Animal Law Source™ and The Animal Protection Society

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The intent of the ADA is to protect those with disabilities but not to the detriment of public safety.

**A mistake – potentially returning dogs that killed a child and severely injured mother when owner threatens a law suit claiming their dog(s) are protected because they are a service animal and the other an emotional support animal– [read this 2021 article](#) on the case in Garner, NC.**

Service animals cannot be dangerous animals and an owner cannot hide behind the veil of the Americans with Disabilities Act (ADA) if their service animal poses a public threat or has been classified as dangerous or vicious or has harmed a human who did not provoke it. Once the dangerous propensities of a dog(s) become “known” to the impounding agency (or agents thereof) or person(s) impounding the dog may be held liable of the same dog(s) is allowed back into the custody of owner/handler or the dog(s) was transfer/adopted to a third party.

Click here [https://5f6c4713-9d6b-452f-b336-49c15b4939f7.usrfiles.com/ugd/5f6c47\\_83f755a067344d299fddf577cc17ebec.pdf](https://5f6c4713-9d6b-452f-b336-49c15b4939f7.usrfiles.com/ugd/5f6c47_83f755a067344d299fddf577cc17ebec.pdf) for our Georgia Service Animal And Emotional Support Animal Toolkit created as part of a 2019 Georgia Senate Study Committee.

2021 updated HUD circular can be found here <https://www.understandingtheada.com/blog/2020/02/04/animals-in-housing-new-hud-circular/>. Note items in the link - #31 If the assistance animal poses a direct threat that cannot be eliminated or reduced to an acceptable level, that animal can be refused by the housing provider.

#35 Service animals and support animals are subject to conduct rules.

## Some Fundamentals:

- Emotional Support Animals (ESA) are still pets and do not have the same protection under the ADA.
- Service animals & ESAs have to follow local laws to license or maintain vaccination requirements. If dog is deemed dangerous, the public safety/public policy usurps one’s right to have a service animal.
- A service dog is typically with its handler wherever they go. If a person goes on vacation without their service animal, it would be unlikely the dog is not a service dog and that handler could be potentially violating the law. Some states make it a misdemeanor to intentionally fake a service animal (see below). General criminal and civil fraud laws still apply in those states without specific “service animal fraud” laws.



**Q: It is illegal to claim a pet is a service animal.**

**A:** Many states have laws prohibiting this, but it is different in every state. Michigan State University's Animal Legal and Historical Center has compiled [comprehensive state-by-state information\(link is external\)](#) about many different state laws related to service animals, including the fraudulent representation of a service animal.

**Q: Businesses have the right to exclude or remove a service animal under specific conditions.**

**A:** Businesses have the right to exclude or remove a service animal under specific conditions. While businesses and other covered entities must modify its policies to allow a service animal to accompany an individual with a disability, it is not required to do so if it would result in a fundamental alteration or would jeopardize the safe operation of the public accommodation. One example of this is excluding a service animal from a hospital's sterile environment like an operating room.

A business may ask an individual with a disability to remove a service animal from the premises if the animal is not housebroken or if the animal is out of control and the individual does not take effective action to control it. Learn more about [removing a service animal](#).

A decision to exclude or remove a service animal cannot be based on the notion that an animal might threaten the safety of others. It also cannot be based on a business person's assumptions or bad experiences with other animals. Each service animal must be considered individually.

**Q: 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.



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**Q. 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.

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

**A:** dog must be under the handler's control at all times.

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