# Animals in Court: Dangerous, Wild, Service, and More!

Amber Myers, TJCTC Director of Legal Outreach & Staff Attorney

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Address inquiries to: Permissions Texas Justice Court Training Center 1701 Directors Blvd. Suite 530 Austin, TX, 78744



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## **Service Animals**

How might the issue of service animals come up in your court?

What types of cases?

Who has had prior experience?

# **Service Animals in Justice Court**

Physically present in the courtroom

Evictions - lease violation

Small claim for personal property

Writ of retrieval

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#### Service Animals 101

When can they come to court?

• Almost always

How do they qualify as a service animal?

- We will discuss this more in a minute, but
- "Service animal" is defined in the ADA
- There is a more broad term of "**assistance animal**" that includes: service animals, emotional support animals, and therapy animals

# Definitions

**Service Animal:** Any dog that is individually trained to do work or perform tasks for a person with a disability

#### **Emotional Support Animal (ESA):**

Any animal that is necessary to give an individual with a disability an equal opportunity to use and enjoy a residence or travel on an airplane. **Therapy Animal:** An animal used to provide affection and comfort to people.

- Can be any species of animal.
- Can benefit multiple
  people
- Person benefited doesn't have to have a disability.

## Differences

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#### Americans with Disabilities Act (ADA)

- Service animals are allowed to accompany people with disabilities in all areas where members of the public are allowed to go.
- Applies to all public entities.

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## **ADA Definitions**

#### **Disability:**

A physical or mental impairment that substantially limits one or more of the major life activities of such individual. *Includes:* 

- Physical,
- Sensory,
- Psychiatric,
- Intellectual, or
- Other mental disability.

#### **Prohibiting Animals Under ADA**

The use of service animals can be prohibited if:

- The entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.
  - ex: animal is out of control and the handler doesn't take effective action to control it, or animal is not housebroken.

• Direct threat to the health and safety of others.

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## **Discussion 1**

Can you require that a person with a service animal provide documentation regarding the animal's certification and their disability to bring them into the courtroom?

## Fair Housing Act (FHA)

- Requires a landlord to make reasonable accommodations in rules, policies, practices, or services when such accommodation is necessary to afford a person with a handicap equal opportunity to use and enjoy a dwelling.
- Applies to ALL housing providers covered by the FHA and/or the ADA.
- Persons with a *handicap* may request a reasonable accommodation for any assistance animal, including an ESA
- The animal is for the benefit of 1 person with a handicap.

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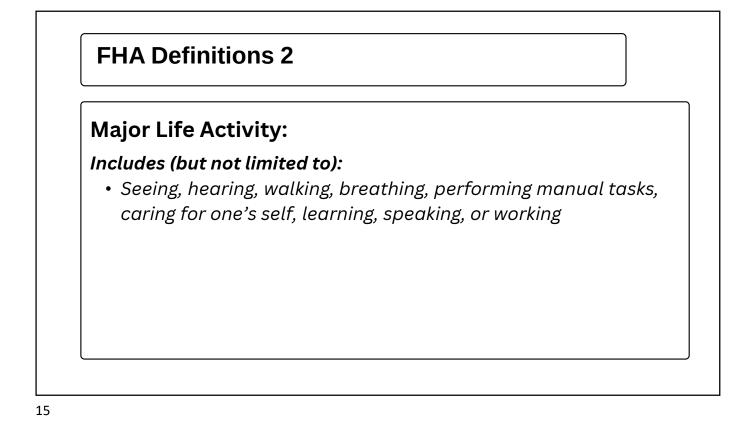
## FHA Definitions 1

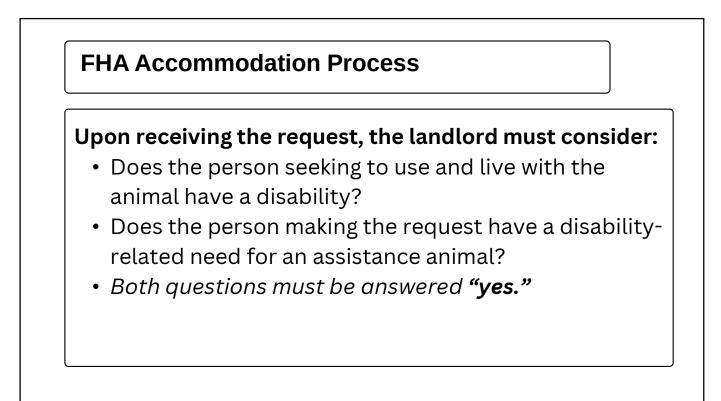
#### Handicap:

A mental or physical impairment that substantially limits one or more major life activities.

#### Includes (but not limited to):

 Blindness, Hearing impairment, Mobility impairment, HIV infection, Mental retardation, Alcoholism, Drug addiction, Chronic fatigue, Learning disability, Head injury, and Mental illness.





#### **FHA Accommodation Denial**

# The request may be denied if the specific assistance animal:

- Poses a direct threat to the health or safety of others that can't be reduced or eliminated by another reasonable accommodation, or
- Would cause substantial physical damage to the property of others that can't be reduced or eliminated by another reasonable accommodation.

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## **Discussion 2**

Can a landlord require documentation of the disability and need for the service animal?

## What does this look like in the courtroom?

- Service animal helping a plaintiff, defendant, or witness carry out a life function while that person is there to conduct a court related action.
  - The judge has no discretion whether or not to allow the animal's presence, the animal *must* be allowed.

ESA or therapy animal providing support to traumatized witnesses, usually children, while they testify.

• It is up to the judge to determine whether or not to allow the animal in the courtroom.

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## Resources

- <u>https://www.ada.gov/resources/service-animals-faqs/</u>
- <u>https://www.hud.gov/program\_offices/fair\_housing\_equal</u> opp/assistance\_animals#\_Obligations\_of\_Housing

## **Dangerous Dogs**

Who handles these in your court often?

Does anyone know the 4 types of these cases we handle in justice court from memory?

## **Dangerous Dogs 4 Types**

Type 1 - dog allegedlycaused death,or seriousbodily injury to a person

**Type 3** - determination of whether dog is "dangerous dog" (direct report to justice court) **Type 2** - determination of whether dog is "dangerous dog" (report to animal control and appealed to justice court)

**Type 4** - owner of a "dangerous dog" has allegedly failed to comply with statutory requirements

## **Discussion 3**

Do you charge a filing fee?

Where do we discuss this in the Deskbook?

## **Flowcharts**

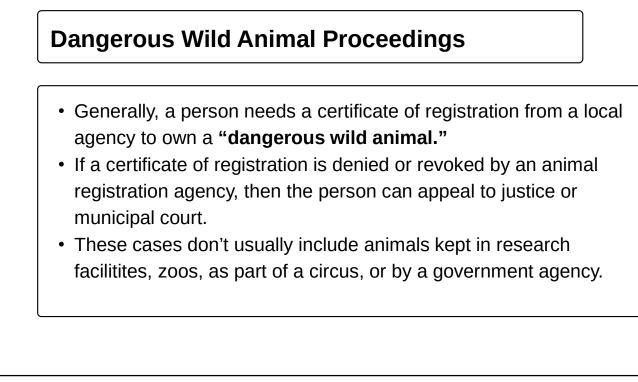
Take a look at your handouts to find the flowcharts for each type of Dangerous Dog Hearing.

Highlight the steps where the clerk will be involved.

## **Dangerous Wild Animals**

Who has prior experience with these?

Can anyone tell us where the list of animals is found?



#### **Dangerous Wild Animals**

**Dangerous wild animal:** a lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, bobcat, lynx, serval, caracal, hyena, bear, coyote, jackal, baboon, chimpanzee, orangutan, gorilla, or any hybrid of an animal listed.

#### **Dangerous Wild Animal Procedure**

- No filing fee.
- Must be filed no later than the 15th day after the certificate of registration is denied or revoked.
- Appeal in justice court will stay the denial or revocation until the appeal is ruled on
- No notice/hearing provisions in the statute, so reasonable notice applies.
- Appeal from justice court goes to county court or county court at law.

## **Discussion 4**

Who can find what the judge should base their ruling on in a TJCTC Deskbook?

# **Cruelly Treated Animals**

What kind of animals do you see in these cases?

Does your county have animal control?

## **Disposition of Cruelly Treated Animal Proceeding**

#### **Purpose:**

Determine if an animal has been cruelly treated by their owner, and if so, to take the animal away from the owner and remove their ownership rights.

#### **Cruelly Treated Definition:**

- tortured;
- seriously overworked;
- unreasonably abandoned;
- unreasonably deprived of
- necessary food, care, or shelter;
- cruelly confined; or
- caused to fight with another animal.

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# Disposition of Cruelly Treated Animal Procedure Initiated by an application for a warrant by a peace officer or

- animal control officer
- No filing fee
- · County-wide jurisdiction
- · Judge finds probable cause and issues a warrant
- Hearing must be within 10 calendar days
- · Animal owner is entitled to a jury trial upon request

#### **Disposition of Cruelly Treated Animal Hearing**

- · County attorney or other prosecutor represents the state
- · Each side presents evidence
- If the owner was convicted in a related criminal case for animal cruelty or beastiality that is prima facie evidence that the animal has been cruelly treated.

Does anyone know what prima facie evidence means?

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## **Disposition of Cruelly Treated Animal Orders**

#### No Finding of Cruel Treatment:

Order animal returned to owner

#### If Finding of Cruel Treatment:

Order that owner no longer owns animal, plus:

- order a public sale of the animal at auction;
- order the animal given to local shelter (city, county, non-profit), or
- order animal humanely destroyed if in best interests of animal or public health and safety would be served.

## **Discussion 5**

Who pays the court costs?

What are they made up of?

## **Discussion 6**

What is the procedure for the sale of the animal?

Why might a judge order destruction vs. sale?

## **Disposition of Cruelly Treated Animal Appeal**

• Very important part of the procedure, especially if animal is ordered destroyed!

• Who can find the procedure for appeal in the Deskbook?

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## Flowchart

## **Parks and Wildlife**

Do you have a state park or public waterway where you might get these cases?

## Parks & Wildlife (PW)

Generally, PW offenses are treated just like other criminal offenses, but they do have a few things that only apply to PW.

- Defendants arrested for a PW offense may be required to appear within 15 days of the offense if the officer gives them a written notice
- Failure to appear within the 15 days is a Class C PW misdemeanor under PW Code 12.06(b) (remember the warrant requirements)
- PW offenses have a fine range of \$25-\$500
- 85% of PW fines must be paid to PW Department

## **Question 7**

How much of the fine on an arrest by a marine safety enforcement officer (other than a game warden) must be remitted to the game, fish, and water safety account?

## **Question 8**

Do you send any of the PW court costs to the PW Department?

## Parks & Wildlife Resources

Information on **Violation Codes** for Disposition Reports as well as **Game Wardens** listed by county can be found by going to http://tpwd.texas.gov/warden.

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# Thank you!