

Animal Law: Dangerous Dogs, Cruelly Treated Animals, & More

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Class Topics:

- Service Animals
- Dangerous Dogs
- Dangerous Wild Animals
- Cruelly Treated Animals
- Parks & Wildlife

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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?

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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

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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.

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Differences

Definition	trained to do work or perform tasks for people with disabilities	provide emotional well-being for people with disabilities	trained to provide comfort to individuals in specific environments	
Applicable Federal Laws	ADA Americans with Disabilities Act	ACAA Air Carrier Access Act	FHA Fair Housing Act	Only State & Local Laws Apply
Type of Animal	Dog or Miniature Horse	Any Animal (with some exclusions)	Any Animal	
Should Be Certified or Registered	✓	✓	✓	
Must Have Documentation Identifying the Disability	✓	✓	✗	
Travel in the Cabin of an Airplane	✓	✓	✗	
Live in No-Pet Housing	✓	✓	✗	
Able to Have in Public Places	✓	✓	✗	
Animal Must Be Leashed or Tethered at All Times	✓	✓	✗	
Must Wear a Leash or Vest Identifying the Animal	✓	Not Always Required	✗	

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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.*

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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?

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Service vs. ESA vs. Therapy Animals in Court

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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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.*

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FHA Definitions 2

Major Life Activity:

Includes (but not limited to):

- Seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working*

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FHA Accommodation Process

Upon receiving the request, the landlord must consider:

- Does the person seeking to use and live with the animal have a disability?
- Does the person making the request have a disability-related need for an assistance animal?
- *Both questions must be answered “yes.”*

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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?

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Service Animals Resources

- <https://www.ada.gov/resources/service-animals-faqs/>
- https://www.hud.gov/program_offices/fair_housing_equal_opp/assistance_animals#_Obligations_of_Housing
- Office of Fair Housing and Equal Opportunity notice in your handouts: *Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act*

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Dangerous Dogs

Who sees these cases often?

Who serves as animal control in your county?

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

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Dangerous Dogs 4 Types

Type 1 - dog allegedly
caused death or serious
bodily injury to a person

Type 2 - determination of
whether dog is “dangerous
dog” (report to animal control
and appealed to justice court)

Type 3 - determination of
whether dog is “dangerous
dog” (direct report to justice
court)

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

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Flowcharts

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

Note the steps where the clerk will be involved.

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Discussion 3

Do you charge a filing fee?

Where do we discuss this in the
Deskbook?

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Discussion 4

A person has filed an application alleging that a “dangerous dog” owner has not complied with the statutory requirements. The statute says that the hearing must be held not later than the 10th day after the dog is seized/delivered, but no seizure is authorized prior to this type of hearing when the case is based on an application.

So when should the hearing be held?

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Discussion 5

Is appeal an option for all hearing types?

What happens to the court order while an appeal is pending?

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Dangerous Dogs Resources

More information on these proceeding can be found in Ch. 2 of TJCTC's Administrative Proceedings Deskbook.

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Dangerous Wild Animals

Who has prior experience with these?

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

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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.

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Dangerous Wild Animal Proceedings

- Generally, a person needs a certificate of registration from a local agency to own a “**dangerous wild animal**.”
- If a certificate of registration is denied or revoked by an animal registration agency, then the person can appeal to a justice or municipal court.
- These proceedings don’t usually apply to animals kept in research facilities, zoos, rehabilitations centers, as part of a circus, or by a government agency. For a full list of when these proceedings wouldn’t apply, see Ch. 3, Sec. C of the Administrative Proceedings Deskbook.

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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.

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Discussion 6

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

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Dangerous Wild Animals Resources

More information on these proceeding can be found in Ch. 3 of TJCTC's Administrative Proceedings Deskbook.

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Cruelly Treated Animals

What kind of animals do you see in these cases?

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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

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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.

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Discussion 7

Who pays the court costs?

What are they made up of?

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Discussion 8

What is the procedure for the sale of the animal?

Why might a judge order destruction vs. sale?

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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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Cruelly Treated Animals Resources

More info in Ch. 4 of
TJCTC's
Administrative
Proceedings
Deskbook



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Parks and Wildlife

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

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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) and a warrant may be issued (remember the warrant requirements).
- Boater education courses are required for certain convictions.
- Defendants may sometimes request deferral/dismissal upon boater/hunter education course completion.
- PW offenses have a fine range of \$25-\$500.
- 85% of PW fines must be remitted to PW Department.

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Discussion 9

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?

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Discussion 10

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

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Parks & Wildlife Resources

Additional information about procedures related to Parks and Wildlife offenses can be found in Ch. 11, Sec. A of TJCTC's Criminal Deskbook.

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>.