

# **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 of for people with disabilities	trained to provide comfort to individuals in specific environments
Applicable Federal Laws	<b>ADA</b> <small>American Disabilities Act</small>	<b>ACAA</b> <b>FHA</b> <small>Air Carrier Access Act Fair Housing Act</small>	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](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 10<sup>th</sup> 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 bestiality 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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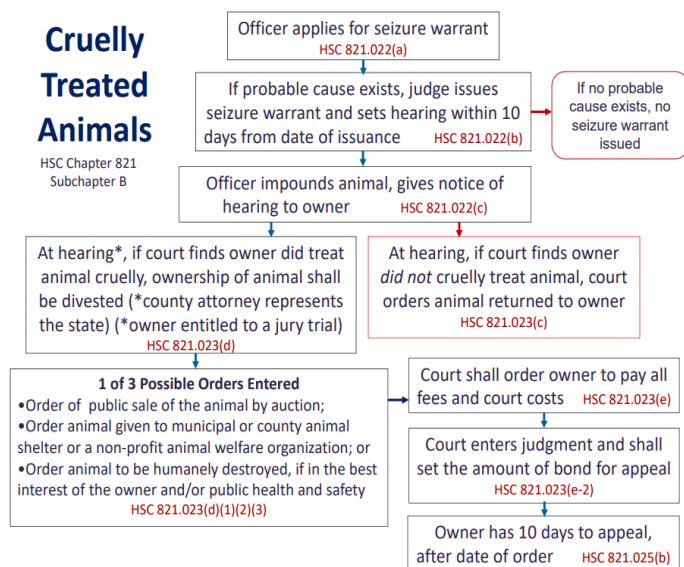
## Disposition of Cruelly Treated Animal Appeal

- *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>.