

Assisting Survivors with Support Animals

A Guide for Domestic Violence Shelters and Sexual Assault Centers



This guide is intended to provide an overview of applicable laws. It is not legal advice. Please contact an attorney for more information.

Acknowledgements

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Reasonable Accommodations for People with Disabilities

Survivors of domestic violence and sexual assault may have a strong bond with an animal that provides much-needed comfort and companionship. Shelter administrators often have questions concerning whether they must accommodate a request to accept an animal into the shelter.

This Guide covers the laws relating to discrimination and accommodations for people with disabilities, frequently asked questions and useful resources.

What is discrimination?

Under federal and state housing laws, discrimination is denying equal access to housing to people who belong to a protected class. A shelter is prohibited from discriminating against people with disabilities.

What is discrimination against people with disabilities?

Anti-discrimination laws prohibit two things. First, the laws prohibit denying housing to a person with disabilities, or a person associated with a person with disabilities, *because* of the disability or the perception of the disability. Second, they prohibit denying a person with disabilities a reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with disabilities the equal opportunity to use and enjoy a public accommodation or a dwelling. This means that people with disabilities **must** be treated differently if doing so will allow them to use and enjoy the public accommodation or dwelling in the same way as someone who is not disabled.

Do all accommodation requests have to be granted?

An accommodation must be both “reasonable” and “necessary.” An accommodation is reasonable if it does not cause a financial or administrative burden on the housing provider, or would fundamentally alter the nature of the housing provider’s operations.¹ An accommodation is necessary if there is an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.² Determining whether an accommodation is reasonable is fact-specific and requires a case-by-case analysis.³ An example of reasonable accommodation would be to change a “no pets”

¹ *Majors v. Hous. Auth. of Cty. of Dekalb, Ga.*, 652 F.2d 454 (5th Cir. 1981).

² *HUD v. Riverbay*, 2012 WL 1655364 at *2 (citing *Lapid-Laurel, LLC. v. Zoning Board of Adjustment to Tp. Scotch Plains*, 284 F.3d 442, 459 (3d Cir. 2002)).

³ *Groner v. Golden Gate Gardens Apartments*, 250 F.3d 1039, 1044 (6th Cir. 2001).

policy to one that allows survivors of domestic violence or sexual assault who also have a disability to use a support animal in shelter.⁴

Why Accommodating Service Animals is Important to Shelters

1. **Animals help people to heal.** Shelter staff may view the animal as an added burden, but it is likely that the animal will help the survivor heal and recover. Approximately 30% of sexual assault survivors suffer from post-traumatic stress disorder.

2. **Animal abuse is rampant in situations involving domestic violence.** In one study, 71% of survivors surveyed reported that their partner threatened, hurt, or killed much-loved companion animals before they left.⁵ Service providers should not underestimate the bond between people and their animals, particularly if they have survived abuse and trauma together.



3. **Providing a safe space for animals can help break the cycle of abuse.** In a recent study of a shelter that welcomed survivors and their animals, regardless of disability, 75% of those surveyed reported that the shelter's permissive policy on pets influenced their decision to leave their abuser.⁶ Shelters offer survivors safety as well as an opportunity to make a fresh start. A survivor's attachment to an animal and fear for its safety should not discourage them from leaving abusive partners.

4. **It may be a matter of life and death.** For a survivor with a physical and/or mental disability, a support animal can mean the difference between life and death. A survivor with epilepsy, for example, may rely on a service animal to be on the alert for seizures. A survivor with severe depression and suicidal thoughts may find solace and motivation in their emotional support animal.

⁴Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations Under the Fair Housing Act (May 17, 2004); HUD Notice: FHEO-2013-01 (April 25, 2013), Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs ("HUD Notice: FHEO-2013-01"); *Chavez v. Aber*, 2015 WL 4724807 at *11 (W.D. Tex. August 8, 2015).

⁵ Arkow, P. (1994). Animal Abuse and Domestic Violence: Intake Statistics Tell a Sad Story. *Latham Letter* 15 (2), 17.

⁶ Urban Resource Institute and People and Animals Living Safely Program (2015). White Paper: "Escaping Domestic Violence as a Pet Owner." Available at: <http://urinc.org/uripals-white-paper-abstract/>.

5. **It is the law.** Depending on the type of housing provided, a shelter may have a legal obligation to accommodate survivors with disabilities who rely on a service or emotional support animal. Additionally, survivors with disabilities may not be aware of their legal right to be accompanied by their support animal, even in places that otherwise forbid pets. A shelter that informs survivors with disabilities of their legal rights allows them to exercise those rights when they leave shelter and begin renting from public or private landlords or purchase a home.

Laws Applicable to Different Types of Shelters⁷

There are a number of different laws meant to protect people with disabilities from housing discrimination. The laws that apply vary by the type of housing provided.

TYPE OF SHELTER	Emergency Shelter	Transitional Shelter	Temporary Housing	Permanent Housing (oral or written lease)
LAWS THAT APPLY	<ul style="list-style-type: none"> • ADA* • Texas Bootz Law • FHA** • Section 504*** • Stafford Act 	<ul style="list-style-type: none"> • Texas Bootz Law • FHA • Section 504*** 	<ul style="list-style-type: none"> • Texas Bootz Law • FHA • Section 504*** 	<ul style="list-style-type: none"> • Texas Bootz Law • FHA • Section 504***

* The ADA does not apply if the shelter is run by religious organization.

** The FHA may apply to emergency shelters. Please see discussion below.

*** Section 504 applies if the shelter receives HUD funding.

American with Disabilities Act (ADA)

Title III of the Americans with Disabilities Act (ADA) is a federal law that applies to all non-governmental entities that provide goods and services to the public. The ADA calls these entities “places of public accommodation,” which includes “social service center establishments.”⁸ Examples of public accommodations include rental offices, shelters, some types of multifamily housing, assisted living facilities and housing at places of public education.⁹ The ADA does not apply to shelters owned and operated by religious organizations. If the shelter with no religious affiliation operates in a building owned by a religious organization, however, the ADA still applies and the shelter must follow its rules.¹⁰

Shelters sued by the Texas Attorney General for ADA violations face potential liability for money damages and civil penalties, must provide the reasonable accommodation

⁷ Please note that the definitions used provided are limited to those that are relevant to this manual. For instance, Title II of the American with Disabilities Act applies to public entities, such as public housing, however, that definition is not included here since it is not relevant.

⁸ 28 C.F.R. §36.104.

⁹ HUD Notice: FHEO-2013-01.

¹⁰ 28 C.F.R. §36.102(e).

requested and comply with ADA accessibility standards for people with disabilities. If a person with disabilities brings a lawsuit through a private attorney, the shelter could be ordered to provide the requested accommodation, comply with ADA accessibility standards, and pay the plaintiff's attorney's fees.¹¹

Texas Bootz Law, Amendments to the Texas Human Resources Code, Chapter 121

Chapter 121 of the Texas Human Resources Code was amended in 2014 to include provisions of the bill "Bootz Law," which is named after the service animal of a veteran. Bootz Law mirrors the federal ADA rules and regulations, but has a more expansive definition of housing accommodations.¹²

Bootz law applies to "public facilities," which includes hotels, motels, or other places of lodging and defines "housing accommodations" as "all or part of real property that is used or occupied or is intended, arranged, or designed to be used or occupied as the home, residence, or sleeping place of one or more human beings, except a single-family residence whose occupants rent, lease, or furnish for compensation only one room."¹³



If a shelter violates Bootz Law, it could be subject to a misdemeanor punishable by a fine of up to \$300 and 30 hours of community service. It could also face a civil lawsuit, with a conclusive presumption of damages in the amount of at least \$300 to the person with a disability and additional damages.¹⁴

Federal and Texas Fair Housing Acts (FHA)

The federal and Texas Fair Housing Acts (FHA) protect tenants and home buyers against discrimination based on race, color, nationality, religion, sex, familial status and disability. The FHA applies to virtually all types of housing, including privately owned housing and federally assisted housing. The FHA exempts individual housing providers

¹¹ 28 C.F.R. § 36.501; 28 C.F.R. § 36.502.

¹² Tex. Hum. Res. Code, § 121, et seq., *See also*, State Bar of Texas Disability Issues Committee and Disability Rights Texas – Veterans and Bootz's Law: Service Animals and Persons with Disabilities in Texas (<https://www.youtube.com/watch?v=yMHlf7Mc7g0&feature=youtu.be>)

¹³ Tex. Hum. Res. Code § 121.002 (3); (5).

¹⁴ Tex. Hum. Res. Code § 121.004 .

who rent or own 3 or less single-family homes.¹⁵ The FHA may apply to emergency shelters.¹⁶

If a shelter violates the FHA, it could face an administrative complaint before the U.S. Department of Housing and Urban Development and/or the Texas Workforce Commission on Civil Rights Division (TWCCCRD). Through the administrative process, it could be subject to monetary penalties, monetary damages, attorney's fees, and changes to your policies. It could also face a civil lawsuit in state or federal court for money damages, attorney's fees, and court costs.

Section 504 of the Federal Rehabilitation Act of 1973 (Section 504)

Section 504 of the Rehabilitation Act (Section 504) is a federal law that applies to housing providers that receive federal financial assistance from the U.S. Department of Housing and Urban Development (HUD), whether directly or through a state agency.¹⁷ A shelter that violates Section 504 could be subject to a civil suit for compensatory damages.¹⁸

Stafford Act and Post-Katrina Emergency Management Reform Act (PKEMRA)

The Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA) was enacted to address various shortcomings identified in the preparation for and response to Hurricane Katrina and modified the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act).¹⁹ PKEMRA requires that people with disabilities receive lawful and equal assistance before, during, and after public health emergencies and disasters.

¹⁵ 42 U.S.C. §3603 (b).

¹⁶ 42 USC § 3602 (b); Courts have found two factors relevant in determining whether a facility is a dwelling under the FHA: (1) "whether the facility is intended or designed for occupants who 'intend to remain in the [facility] for any significant period of time' "; and (2) "whether those occupants would 'view [the facility] as a place to return to' during that period." *Woods v. Foster*, 884 F. Supp. 1169, 1174 (D. Ill. 1995) (Shelter for homeless families was a "dwelling" within meaning of the FHA, notwithstanding that facility was not designed to be a place of permanent residence, considering that shelter residents were not mere transients such as hotel or motel guests, and had nowhere else to "return to."), but see *Intermountain Fair Housing Council v. Boise Rescue Mission Ministries*, 655 F.Supp.2d 1150 (D. Id. 2009) (Homeless shelter operated by nonprofit corporation was not "dwelling" within meaning of FHA's anti-discrimination provision; shelter's guests were generally allowed to stay for maximum of 17 consecutive nights, were not guaranteed same bed each night and were not allowed to stay in shelter during day).

¹⁷ 29 U.S.C. §794(b); HUD Notice: FHEO-2013-01.

¹⁸ 24 C.F.R. § 8.52; 29 USC 701 et seq; *Barnes v. Gorman*, 536 U.S. 181, 185 (2002).

¹⁹ 42 U.S.C.A. § 5121, et seq.

Differences between Service Animals and Emotional Support Animals

Animals that help people with disabilities are often referred to as “support” and/or “assistance” animals. However, service animals and emotional support animals are treated differently under various laws.

Service Animals

Definition: an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability.²⁰

Examples of work, assistance, or tasks:

- alerting persons with hearing impairments to sounds.
- pulling wheelchairs or carrying/picking up things for persons with mobility impairments.
- reminding the person with a disability to take medication.



Psychiatric service dogs assist people with psychiatric disabilities, such as severe depression, anxiety disorders, and post-traumatic stress disorder (PTSD). Many veterans use psychiatric service dogs.

Examples of work or tasks that psychiatric service dogs perform include:

- providing safety checks or room searches for individuals with PTSD.
- blocking persons in dissociative episodes from wandering into danger.
- preventing or interrupting impulsive or destructive behaviors, such as self-mutilation.



Emotional Support Animals

Definition: an animal that provides very private functions for persons with mental and emotional disabilities. Emotional support animals by their nature, and without training, may relieve or provide emotional support that alleviates one or more of the identified symptoms or effects of a person’s existing disability.²¹

²⁰ HUD Notice: FHEO-2013-01 at 2; HUD’s Preamble to HUD’s final rule, *Pet Ownership for the Elderly and Persons With Disabilities*, 73 Fed. Reg. 63834, 63835 (October 27, 2008)

²¹ HUD Notice: FHEO-2013-01at 2-3.

Examples of emotional support an animal may provide:

- A person with paranoia adopts a dog and is able to sleep through the night.
- A person with major depression adopts a cat and their crying spells decrease.
- A person with anxiety adopts a pot belly pig and being able to take care of the animal improves their confidence and helps them complete other tasks they were not able to do before.



Is a shelter required to accommodate a survivor's service animal?

The answer is most likely, yes.

First, determine what laws apply to the shelter.

If the ADA, Bootz Law, FHA, Section 504, Stafford Act/PKEMRA, the shelter **MUST** accommodate the service animal. However, if only the ADA applies to the shelter, the shelter must only accommodate service animals that are dogs and miniature horses. The ADA does not allow a service animal to be of any other type. Bootz Law only applies to service animals that are dogs.²²

ADA	Bootz Law	FHA	Sec. 504	Stafford Act/ PKEMRA
Dogs; Mini horses	Dogs only	All service animals	All service animals	All service animals

If the dog is the service animal, the shelter must allow all dogs. None of these laws permits a shelter to restrict the service dog by weight, size, or breed.

If the FHA, Section 504, Stafford Act/PKEMRA apply to the shelter, the shelter must accommodate any animal that is a service animal.

²² Tex. Hum. Res. Code § 121.002.

Is a shelter required to accommodate a survivor’s emotional support animal?

It depends.

First, determine what laws apply to the shelter. If only the ADA and Bootz Law apply, the shelter is NOT required to accommodate the emotional support animal. If the FHA, Section 504, Stafford Act/PKEMRA apply, the shelter MUST accommodate the emotional support animal.

ADA Bootz Law	NOT required to accommodate emotional support animals
FHA Sec. 504 Stafford Act/PKEMRA	MUST accommodate emotional support animals

The emotional support animal can be of any type. If the emotional support animal is a dog, the shelter cannot restrict the dog by weight, size, or breed.

Preparing for the arrival of survivors with support animals

1. Talk to local animal shelters about training shelter staff, evaluating shelter facilities, resources, and ability to temporarily house pets that are not support animals. Talk to them about using existing foster pet programs for survivors.
2. Establish a pet foster program for survivors who have pets.
3. Talk to pet food pantries in the area about pet food donations for the shelter as needed.
4. Talk to veterinarians about their willingness to provide free or significantly reduced emergency vet care for abused animals of survivors.
5. Talk to veterinarians about providing free or reduced regular vet care for support animals.
6. Talk to animal groomers about providing free or reduced services.
7. Establish an outdoor area that can be used by support animals.

Welcoming a survivor with a support animal

Ask the survivor two questions:

1. Does the animal help you with a disability?
2. How does it help?



If the animal is a service animal, ask what type of work or task the service animal is trained to perform.

Avoid asking the person for their diagnosis. The person does not have to have a diagnosis by medical provider or qualify as disabled by the Social Security Administration or any other agency.

A disability is defined a physical or mental impairment which substantially limits one or more of such person's major life activities.²³ Major life activities include “functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning working, sleeping, interacting with others, and concentrating.”²⁴

If the survivor does not have a disability, spend some time talking with the survivor about safe places for the animal while he or she is at the shelter.



Introducing the support animal to the shelter

Talk to the survivor about how the animal assists them. The answer will help determine when the animal and survivor will be interacting with other residents and staff and can help the shelter plan ahead. If the animal is an emotional support animal, it could be an exotic animal and its integration into shelter life might be more difficult. However, depending on the function of the emotional support animal, the animal may not need to be with their owner at all times.

Be prepared to explain the presence and function of the animal to your staff and residents, without violating the survivor's right to privacy about the nature of their disability. Ask the survivor what he or she is comfortable sharing about the animal and its relationship to his or her disability. Obtain permission before passing this information on to others. Talk to the survivor about rules that pertain to the support animal. For instance, if the animal is working, are people allowed to pet the animal?

²³ 42 U.S.C. § 3602(h).

²⁴ 24 C.F.R. § 100.201(b); See *HUD v. Riverbay Corp.*, 2012 WL 1655364 at *11 (HUD ALJ 11-F-052-FH-18) (May 7, 2012).

Frequently Asked Questions

Can I ask to see the service animal's certification?

No. You cannot require that the support animal be certified. There is no national or state registry for support animals.

Can I charge a pet deposit?

No. The support animal is not a pet and you cannot charge a pet deposit, even if you are providing transitional housing under an oral or written lease.

Can I designate an area where the support animal can be used?

No. You must allow a person with a disability to live with and use the support animal in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial or administrative burden or would fundamentally alter the nature of your services.²⁵

Who is responsible for damage caused by the support animal?

The survivor is still responsible for any damage caused by the support animal.

Who is responsible for taking care of the support animal?

In general, the survivor is responsible. However, if the survivor's disability prevents them from caring for the support animal, they may request the assistance of shelter staff, as a "reasonable accommodation," unless it significantly alters the staff's role. If the survivor does not know how to take care of the animal because the abuser may not have allowed it, talk to local animal shelters or local groomers about volunteering some time to work with the survivor, which will help the survivor's independence and autonomy. You may also be able to get tools donated from local pet shops, like a "poop-scoop" with a long handle for someone with mobility issues.

Can I ask to see proof of the support animal's vaccinations and registration?

Yes. If the survivor does not have the documents, you can assist them in getting proof from their veterinarians.

Do I have to accommodate the use of the support animal even though it is aggressive?

It depends. A survivor is responsible for addressing the support animal's behavioral issues. You do not have to accommodate them if the specific animal: (1) poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation or (2) would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable

²⁵ HUD Notice: FHEO-2013-01

accommodation. You have to look at objective evidence about the specific animal's actual conduct – not on mere speculation or fear. Even if the support animal is a direct threat, the person with the disability is still entitled to request another reasonable accommodation to show that the threat can be reduced or eliminated, such as specific training, medication, or equipment for the animal.²⁶

What if staff members or residents are afraid of dogs?

Think creatively of how to address those fears, since they are not a valid reason for excluding or limiting the use of a support animal. Perhaps you can invite an animal behaviorist to talk to your staff and residents about how to minimize interactions with the dog or to use vocal commands and/or body language if the dog makes an unwelcome approach to that person.

What if staff members or residents have allergies that are triggered by the support animal?

In general, the needs of the person with a disability will trump those of a person with allergies, if those allergies only cause minor discomfort. Think about options that allow both persons to fully participate but maintain some distance from each other, like using a common space at different times or reducing exposure by providing a single bedroom for a person with a support animal.

²⁶ HUD Pet Ownership Rule for People With Disabilities at 63835; HUD Notice: FHEO-2013-01 at 3.

Resources

National Center on Domestic Violence, Trauma and Mental Health – Federal Anti-Discrimination Laws and Survivors of Domestic Violence who have Mental Health Disabilities: Recommended Qualification and Intake Practices for Domestic Violence Shelters

http://www.ncdsv.org/images/NCDVTMH_FedAntiDiscrimLawsDVSurvWithMenHealth_April-2008.pdf

National Law Center on Homelessness and Poverty – Questions and Answers: Domestic Violence Shelters and Civil Rights Statutes

http://www.ncdsv.org/images/NLCHP_QA-DVSheltersAndCivilRightsStatues_2009.pdf

Animal Assisted Therapy for Trauma Survivors - Research from the Center on Violence Against Women and Children, Rutgers University

http://socialwork.rutgers.edu/Libraries/VAWC/Root_Animal_Assisted_Therapy.sflb.ashx

Safe Place Austin - Domestic Violence shelter that welcomes support animals. They have also established a foster program for pets that cannot stay at the shelter.

<http://www.safeaustin.org/safeplace/>

A Safe Place for Pets - A RedRover project with the National Link Coalition and Sheltering Animals and Families Together. Provides an online directory of domestic violence shelters that welcome animals and educational tools for shelters that house survivors and their animals.

<http://safeplaceforpets.org/>

State Bar of Texas Disability Issues Committee and Disability Rights Texas – The Rights of People with Disabilities in Homeless Shelters and Transitional Living Shelters

<https://www.youtube.com/watch?v=tYap3cCAuNc&feature=youtu.be>

State Bar of Texas Disability Issues Committee and Disability Rights Texas – Veterans and Bootz's Law: Service Animals and Persons with Disabilities in Texas

<https://www.youtube.com/watch?v=yMHlf7Mc7g0&feature=youtu.be>

Urban Resource Institute - A shelter in New York City that welcomes pets and has compiled research on the benefits of doing so.

<http://urinyc.org/>