

**2007 DRAFTING REQUEST**

**Bill**

Received: **08/01/2006**

Received By: **rryan**

Wanted: **Soon**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Dianne**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters: **gmalaise**

Subject: **Criminal Law - miscellaneous  
Discrimination**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Definition of service animal for discrimination in public accomodation and harassmt of an animal

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rryan 08/28/2006	wjackson 09/12/2006	pgreensl 09/12/2006	_____	lparisi 09/12/2006		
	rryan 02/06/2007	wjackson 02/06/2007		_____			
/2			pgreensl 02/07/2007	_____	sbasford 02/07/2007	cduerst 02/13/2007	

FE Sent For:

<END>

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12 WJ 2/6

Handwritten initials and signature

<END>

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FE Sent For:

<END>

**2005 DRAFTING REQUEST**

**Bill**

Received: **08/01/2006**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Dianne**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Adl. Drafters: **gmalaise**

Subject: **Criminal Law - miscellaneous  
Discrimination**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Risser@legis.state.wi.us**

Carbon copy (CC:) to: **cathlene.hanaman@legis.state.wi.us**

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Definition of service animal for discrimination in public accomodation and harassment of an animal

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**Instructions:**

Change definition of service dog

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 08/07/2006 gmalaise	<i>XIWI 9/12</i>		_____			
				_____			
				_____			

FE Sent For:

<END>

7/31/06

Dianne for Sen. Kissel

Change definition of service dog under  
951.01(5) - Harassment of Service Dogs

current definition too broad - covers  
dogs that aren't really service dogs  
& therefore gives real service dogs  
a bad reputation.

Dianne sending written materials  
may contact Marcia Carlson

## Ryan, Robin

---

**From:** Cieslewicz, Dianne  
**Sent:** Monday, July 31, 2006 1:38 PM  
**To:** Ryan, Robin  
**Subject:** Service Dog Definition

Hi Robin,

Senator Risser has been contacted by a constituent, Marsha Carlson, who would like to expand on the state's new definition of "service dog" (Section 951.01(5), Wis. Stat.). Marcia uses a service dog and has been active in ADA issues.

I am sending you -under separate cover.

1. Language of Wisconsin's new definition of a "service dog."
2. US Department of Justice ADA definition.

Marcia explained that this change or clarification has come out of talks with some business owners who have let dogs into their businesses because there is nothing clearly written explaining the difference between a service/assistance dog and a pet. They have let dogs into their businesses that have caused problems. For example, a service dog is not a protection dog. Service dogs are trained not to react to other aggressive dogs.

Senator Risser would like the new language to reflect the US Justice Dept. definition.

If you have any questions please give me a call at 266-1627. Also, please call Marcia at 238-1367 for additional assistance.

Thank you,

Dianne

From Dianne

951.01(4)



(4) "Law enforcement officer" has the meaning assigned under s. 967.02 (5) but does not include a conservation warden appointed under s. 23.10.

951.01(5)



(5) "Service dog" means a dog that is trained for the purpose of assisting a person with a sensory, mental, or physical disability or accommodating such a disability.



# IAADP

## International Association of Assistance Dog Partners

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### ASSISTANCE DOG COALITION POSITION PAPER

#### Proposed Changes to the Definition of "Service Animal"

The Americans with Disabilities Act (ADA) has opened many avenues for people with disabilities who choose to work with trained animals to mitigate their disabilities. The broad nature of the ADA's regulations is beneficial in most cases. Recent developments in the assistance animal movement, however, have called into question the practicality of such breadth.

On February 18, 2001, the undersigned gathered in conference to craft language that might more accurately portray the role of responsibly trained and handled assistance animals. This coalition of consumer groups and professional organizations training assistance animal teams proposes the following revised definition of "service animal" under CFR 36.104 - Definition of Service Animal. Supporting documentation, including reasoning for each change in wording of the definition, is located in the appendices to this document.

28 CFR 36.104 - Definition of Service Animal  
Revised to read:

Assistance animal means an assistance dog, and may include other animals specifically trained to perform physical tasks to mitigate an individual's disability. Assistance dogs include: guide dogs that guide individuals who are legally blind; hearing dogs that alert individuals who are deaf or hard of hearing to specific sounds; and, service dogs for individuals with disabilities other than blindness or deafness. Service dogs are trained to perform a variety of physical tasks including but not limited to pulling a wheelchair, lending balance support, picking up dropped objects or providing assistance in a medical crisis. The presence of an animal for comfort, protection or personal defense does not qualify an animal as being trained to mitigate an individual's disability and therefore does not qualify said animal as an assistance animal.

The undersigned organizations seek to preserve the right of an individual with a disability to obtain and work with an assistance animal to mitigate a disability as defined above. Members of all organizations involved in the Assistance

Animal Coalition have reported considerable public confusion as to the role and function of an assistance animal and the role responsible representation and handling of said animal plays in access for an individual with a disability. The coalition believes this confusion will gravely undermine efforts by the Department of Justice and undersigned organizations to gain compliance in the public and private sector with federal and state laws that give access rights to disabled individuals. The Coalition believes that rights to public access and other provision of state and federal law regarding assistance animals belong to the individual with a disability, not the assistance animal.

The coalition does not oppose the responsible development of future methods to mitigate a disability which may include a species of animal other than canine. The Coalition believes strongly that any entity developing and/or implementing regulations regarding assistance animals must consider the impact of sanitation, public health and safety, and the welfare of the animal when granting public access to individuals using other species of animals or reptiles to mitigate a disability. The coalition promotes the responsible training and handling of assistance animals with minimal disruption to places of public accommodation, employers and other entities. We appreciate the interest and responsiveness of the Department of Justice and other federal regulatory agencies.

Debbie Grubb, President  
Guide Dog Users Inc.

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[Return to IAADP home page](#)

[Return to IAADP Advocacy](#)

36.104

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items

Comment fed (ang)



*From Dianne*

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# Legislative Briefs

from the Legislative Reference Bureau

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Legislative Brief 06-8

June 2006

JUN 06 2006

## SERVICE ANIMALS

2005 Wisconsin Acts 353 and 354, passed by the legislature and signed by Governor Jim Doyle on May 2, 2006, both concern the treatment of service animals and their owners in Wisconsin. Act 353 makes it a crime to harass a service dog and provides penalties. Act 354 amends the Wisconsin public accommodations law to conform to the federal Americans with Disabilities Act and provide for the full and equal enjoyment of places of public accommodation by persons using or training service animals.

### 2005 WISCONSIN ACT 353

Act 353 was introduced as 2005 Senate Bill 181 by Senator Fred Risser and co-sponsored by Representative Terese Berceau. It is known as "Casey's Law" in recognition of the unfortunate experience of a service dog and her owner. Casey, a boxer who assisted a woman with impaired vision, was attacked by loose dogs three separate times during a walk. Her owner had no legal recourse to keep dogs from interfering with Casey's work.

Act 353, Casey's Law, creates new crimes related to the harassment of service dogs and requires a person convicted of harassing a service dog to pay restitution for any pecuniary loss, as defined in the act, suffered as a result of the crime. The act defines a "service dog" as a dog that is trained for the purpose of assisting a person with a sensory, mental, or physical disability or accommodating such a disability (Section 951.01 (5), Wisconsin Statutes).

The new law allows any person to provide notice to another person that his or her behavior is interfering with the use of a service dog and to request that the behavior stop. The

notice may be given in any manner. After receiving that notice and request, a person may not recklessly or intentionally interfere with the use of the service dog by obstructing or intimidating the dog or otherwise jeopardizing the safety of the dog or its user. In addition, the act prohibits recklessly or intentionally allowing one's dog to interfere with the use of a service dog. Recklessly interfering is a Class B misdemeanor, which is punishable by a fine of \$1,000 or imprisonment for 90 days or both. Intentionally interfering is a Class A misdemeanor, which is punishable by a maximum fine of \$10,000 or imprisonment for 9 months or both. If a person recklessly injures a service dog or recklessly allows his or her dog to injure a service dog, he or she is also guilty of a Class A misdemeanor.

Under the act, a person who intentionally injures a service dog or intentionally allows his or her dog to injure a service dog is guilty of a Class I felony, which is punishable by a fine of \$10,000 or a sentence of imprisonment and extended supervision for 3.5 years or both. Recklessly causing the death of a service dog is also a Class I felony.

Finally, the act makes it a Class H felony to intentionally cause the death of a service dog, which is punishable by a fine of \$10,000 or imprisonment and extended supervision for 6 years or both. A person who unlawfully takes possession of or exerts control over a service dog with the intent to deprive someone of the use of the dog is also guilty of a Class H felony.

In addition to imposing criminal penalties, Act 353 directs a sentencing court to require a violator to pay restitution for any pecuniary loss suffered as a result of the crime.

The act defines "pecuniary loss" to mean any of the following:

- all special damages, including the loss resulting from property taken, destroyed, broken, or otherwise harmed and out-of-pocket losses such as medical expenses;
- reasonable out-of-pocket expenses resulting from the filing of charges or cooperating in the investigation and prosecution of an offense;
- expenses in keeping any animal involved in the crime;
- the value of a replacement animal, the cost of training a replacement animal, or the cost of retraining the affected animal;
- all related veterinary and care expenses; and
- the medical expenses of the animal's user, the cost of training the user, and compensation for income lost by the user.

#### **2005 WISCONSIN ACT 354**

Act 354 was introduced as 2005 Senate Bill 157 by Senator Mark Miller. Act 354 conforms the state public accommodations law to the federal Americans with Disabilities Act by providing for equal access to a public accommodation by a person with a disability who is accompanied by a service animal. A "service animal" is defined in the act as a guide dog, signal dog, or other animal that is individually trained or being trained to do work or perform tasks for the benefit of a person with a disability. Public accommodations are places such as lodging establishments, restaurants, and other places of business or recreation.

Previous law prohibited a public accommodation from refusing to permit entrance into, or use of, the accommodation by a person with a disability who is accompanied by a specially trained dog or by a trainer of such a dog if the dog is wearing a harness or leash and special cape, and if the person presents credentials issued by a school for training dogs. Act 354, in addition, prohibits a public accommodation from otherwise denying the full and

equal enjoyment of the accommodation to a person with a disability or to a service animal trainer because he or she is accompanied by a service animal, charging a higher price for the enjoyment of the accommodation, and distributing written communications to make it known that patronage by a person with a disability or a trainer who is accompanied by a service animal is unwelcome or will be denied.

The act also provides that, while a person accompanied by an animal may be asked whether the animal is a service animal, a person with a disability is not required to produce documentation on him- or herself or the animal. Under the act, a service animal is required to wear a harness or leash and special cape only when accompanied by a trainer and only a trainer may be required to produce documentation for a service animal.

The only time a service animal may be excluded from a public accommodation is when accommodation of the animal would result in a "fundamental alteration" in the nature of the accommodation or would jeopardize its safe operation. If the animal must be separated from its user, the user is responsible for arranging care and supervision for the animal during the separation.

Finally, Act 354 requires a public accommodation to modify its policies, practices, and procedures to ensure that a person using a service animal is not separated from the animal, that the animal may accompany the person to all areas that are open to the general public, and that the person is not segregated from other patrons.

#### **EFFECTIVE DATE**

2005 Wisconsin Acts 353 and 354 took effect May 3, 2006.

#### **FOR FURTHER INFORMATION**

View a copy of 2005 Wisconsin Acts 353 and 354 at [www.legis.state.wi.us](http://www.legis.state.wi.us).

8/1/06

phone call to marcia Carlson:

fed law: "protect" interpreted differently  
- shouldn't cover guard dogs!

- just enhancing well-being is not a service dog

- therapy dogs are not service dogs - not trained to go into general public;  
for ex. in traffic or near children

- hard to certify service dogs b/c perform such different functions

- "performing a task" is the key - will exclude non-service dogs such as guard dogs

- marcia wants IAADP definition to apply to public accommodation & harassment crime

- IAADP definition is in conformance with federal definition - further explains it

AGs have an initiative on service dogs - see website

can keep term service animal vs. dog  
& use in s. 951.01(5) as well as  
s. 106.52(1)(tm)



## Malaise, Gordon

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**From:** Ryan, Robin  
**Sent:** Monday, August 07, 2006 3:04 PM  
**To:** Malaise, Gordon  
**Subject:** FW: addendum

-----Original Message-----

From: Cieslewicz, Dianne  
Sent: Monday, August 07, 2006 2:16 PM  
To: Ryan, Robin  
Subject: FW: addendum

-----Original Message-----

From: mmjc [mailto:mmjc@tds.net]  
Sent: Monday, August 07, 2006 12:33 PM  
To: Cieslewicz, Dianne; Bill L; Johnson, Richard; cwitz@cityofmadison.com  
Subject: addendum

After writing the previous email, for which I merely scanned the EOC report, I read the EOC report and discovered that the EOC did find the dog to not meet the statutory definition of a service dog. I also erred in stating that IAADP requires 9 months of training - it is 6 months, although most of us would rather see 9 months. I trained my own dog and it took only 6 months, but he'd had significant obedience training, some training to do tricks and other things over and above his obedience training, and considerable training on being in public places prior to my getting him. He's very, very smart, a fast learner, the easiest dog to train that I've ever come in contact with, yet it took a bit longer than 6 months before I could truly call him a service dog. Additionally (for those not familiar with assistance dogs), the training never ends. To keep an assistance dog in top shape and ready to perform duties that he doesn't perform every day, and to keep him from forgetting, continuous training is required. Personally, I work with (train) my dog daily, only rarely taking a day off - and usually that's when he's working out of the house for a long day.

Marcia

## Malaise, Gordon

---

**From:** Ryan, Robin  
**Sent:** Monday, August 07, 2006 3:04 PM  
**To:** Malaise, Gordon  
**Subject:** FW: Letter to Editor - Service dog article

-----Original Message-----

From: Cieslewicz, Dianne  
Sent: Monday, August 07, 2006 2:16 PM  
To: Ryan, Robin  
Subject: FW: Letter to Editor - Service dog article

Hi Robin,

Since I alerted you to the Isthmus article I thought I would send you Marcia Carlson's response to Isthmus. I found it helpful in further understanding the difference between service dogs and therapy-type dogs.

Dianne

-----Original Message-----

From: mmjc [mailto:mmjc@tds.net]  
Sent: Monday, August 07, 2006 12:23 PM  
To: blueders@isthmus.com  
Cc: Cieslewicz, Dianne; Johnson, Richard; cwick@cityofmadison.com  
Subject: Letter to Editor - Service dog article

The article on Michael Nichols and his dogs (Isthmus, 8/4/06, Vol. 31, No. 31, page 8) presents some misconceptions and half truths that must be addressed. I feel I am qualified to be the person that responds to the article. I've trained dogs for approaching 40 years, have handled dogs professionally in AKC (American Kennel Club) sanctioned events, and most importantly am active in the assistance dog world and have had significant training in service dog laws and the ADA (Americans with Disabilities Act), including training by the USDOJ (United States Department of Justice). Now retired, I worked in disability services at UW-Madison and was the university's point person on service dogs. I am the person who proposed the new service dog law, Casey's Law, and am currently working with Sen. Risser on a new statute that would address the situation that Buck's Madison Square Garden had to deal with. I am partnered with a service dog and am a member of the International Association of Assistance Dog Partners (IAADP.org). I have lived with a disability since I contracted polio at the age of 15 months.

According to the EOC's findings, Nichols's dog Precious had behaved in a disruptive manner on a previous visit. Staff at Buck's had every reason to believe the dog would again be disruptive. Any disruptive dog, even a service dog trained by a bona fide service dog training program, has no right being in a public place and a handler of a disruptive dog does not have the right to bring such a dog into a place of public accommodation. When employed at UW-Madison I personally ejected more than one program-trained service dog off campus when the dog became disruptive. The dog's human partner was given instructions on steps to take to make the dog again welcome on campus.

The Dane County sheriff's deputy showed an appalling lack of knowledge about dogs assisting people with disabilities other than blindness. In my opinion, the Sheriff's Department needs to set up training of all their staff on assistance dogs.

The most notable finding by the EOC was that Nichols's dogs were not service dogs under the law. That should have ended the matter then and there. The ADA gives those of us with disabilities the right to screw up just like everyone else, and the right to bear the consequences like everyone else. The EOC stated that Nichols was discriminated against due to his disability. I disagree. Nichols was pushing the limits, or as Lueders stated, working the system. He was clearly in the wrong to bring a pet into a public place and pass it off as a service dog. What ensued was merely the consequences of violating a law. From reading Lueders's article and the EOC findings, I have come to the conclusion that



Nichols was using his disability as an excuse or crutch to get sympathy and money.

Nichols claimed to have papers showing his dogs were "certified service animals." There is no such thing as a certified service animal at either the federal or state level. Some people with service dogs trained by a program carry a certificate that states that this dog was trained by our program. It does not certify that the dog is a service dog, only that it was trained by a program that trains service dogs. To date, everyone I've had contact with that claimed he or she had a certified service dog did not have a dog that met the statutory definition of a service dog.

What is a business owner to do when a person enters with a dog? The business owner may (and should) ask what the dog does for the person. The answer should be a physical task of some sort. Under the law, the dog is not required to wear a cape or vest and the business owner cannot ask for identification or certification. When in doubt, the best way to deal with the situation is to allow the dog in. However, if the dog is disruptive, the business owner has every right to kick the dog (and his human partner) out and to not allow the dog back in until the human partner can show the dog has received additional training and is no longer disruptive. Similarly, a business owner may refuse entrance to a human dog partnership when the dog is clearly ill, dirty or foul smelling.

The bill that Sen. Risser is drafting merely changes the wording of the current statutory definition of service dog to more easily understood terminology. It would give business owners and managers another tool to use in identifying true service dogs. The bill will state that a dog who helps a person cope by just being there is a therapy dog and is not a service dog under the ADA.

Business owners can find information on service animals at [www.ada.gov](http://www.ada.gov), under ADA Regulations and Technical Assistance Materials. Of note is the Attorneys General Initiative, cosponsored by then Wisconsin AG Jim Doyle, <http://www.usdoj.gov/crt/ada/animal.htm> the ADA Business Brief: Service Animals, <http://www.ada.gov/svcanimb.htm> and the Commonly Asked Questions About Service Animals in Places of Business <http://www.usdoj.gov/crt/ada/qasrvc.htm>

Additionally, many business and trade organizations have produced excellent informational materials specific to their unique trade. These materials were produced for the US Department of Justice with ADA grants. One example is the packet of materials produced for the Food Service industry by the National Restaurant Association.

People partnered with service dogs will find a huge amount of information from the International Association of Assistance Dog Partners, <http://www.iaadp.org> The IAADP website lists what those of us in the service dog world generally accept as being a service dog, such as a minimum of 30 hours training a dog to be in public places and training to meet an individual's specific needs during a minimum of 6 months of training above and beyond a solid foundation of obedience training. The site contains more information and tools for people with or thinking of getting a service dog.

Marcia Carlson  
Madison

2506 Commonwealth Avenue  
Madison, WI 53711  
608.238.1367 voice/TTY/fax  
[mmjc@tds.net](mailto:mmjc@tds.net)