

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 16-1426

BY REPRESENTATIVE(S) Primavera and Willett, Becker K., Brown, Conti, Court, Duran, Fields, Ginal, Kagan, Klingenschmitt, Lontine, Melton, Moreno, Priola, Rosenthal, Ryden, Saine, Williams, Young, Hullinghorst, Danielson, Esgar, Hamner, Lawrence, Windholz; also SENATOR(S) Tate and Jahn, Heath, Merrifield, Newell, Todd.

CONCERNING INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Service animals that are properly trained to assist persons with disabilities play a vital role in establishing independence for such persons;

(b) The term "service animal" has a distinct meaning in the law. A service animal means a dog or miniature horse trained to do work or perform tasks for the benefit of an individual with a disability and whose work or task is directly related to the individual's disability. Under the law, the provision of emotional support, well-being, comfort, or companionship does not constitute the work or tasks of a service animal.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) No vest, other marking, or documentation is required for an animal to qualify as a service animal, nor are such vests, markings, or documentation a reliable indication of whether an animal is, by law, a service animal. People sometimes erroneously think that a therapy animal, an emotional support animal, or any animal wearing a vest or having any other type of marking is a service animal as defined by law.

(d) There are an increasing number of occurrences where people exploit the confusion related to service animals and attempt to bring an animal into a place that it would otherwise not be allowed to enter by passing off a pet, therapy animal, or emotional support animal as a service animal or a service-animal-in-training, either by oral misrepresentation, placing a vest or other marking on the animal, or presenting a "certificate", despite knowing that it is not a service animal;

(e) Some companies mislead individuals into believing that they will be entitled to the rights or privileges for individuals with disabilities with service animals if only they buy the company's vests or obtain some type of certificate. These misrepresentations, in some cases, are unlawful deceptive trade practices and compound the confusion around service animals.

(f) Commendably, federal and state laws require places of public accommodation, including restaurants, theaters, stores, hospitals, and more, to allow any animal that is presented as a service animal or a service-animal-in-training into the place of public accommodation. These same places of public accommodation face a dilemma when someone enters the premises and intentionally misrepresents his or her animal as a service animal or service-animal-in-training.

(g) To respect the privacy of individuals with disabilities, regulations sensibly allow businesses and other places of public accommodation to ask only two questions of a person who is being assisted by an animal in such a place:

(I) Is the dog [or miniature horse] a service animal required because of a disability?

(II) What work or task has the dog [or miniature horse] been trained

to perform?

(h) False answers to these two questions harm not only the place of public accommodation and its patrons, but also individuals with disabilities who legitimately rely on service animals. If an animal is not properly trained, the place of public accommodation and its clientele may suffer damages, health issues, injury, or other problems. When people try to falsely represent a non-service animal as a service animal or a service-animal-in-training, business owners and other places of public accommodation become increasingly distrustful that an animal being represented to them as a service animal or service-animal-in-training is, in fact, a service animal or service-animal-in-training. Misrepresentation of service animals delegitimizes the program and makes it harder for persons with disabilities to gain unquestioned acceptance of their legitimate, properly trained, and essential service animals.

(2) Therefore, the general assembly finds that the state of Colorado needs to enact a crime of intentional misrepresentation of a service animal for a person with a disability.

SECTION 2. In Colorado Revised Statutes, **add** 12-36-142 as follows:

12-36-142. Licensee duties relating to assistance animals - definitions. (1) A LICENSEE WHO IS APPROACHED BY A PATIENT SEEKING AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION IN HOUSING SHALL EITHER:

(a) MAKE A WRITTEN FINDING REGARDING WHETHER THE PATIENT HAS A DISABILITY AND, IF A DISABILITY IS FOUND, A SEPARATE WRITTEN FINDING REGARDING WHETHER THE NEED FOR THE ANIMAL IS RELATED TO THAT DISABILITY; OR

(b) MAKE A WRITTEN FINDING THAT THERE IS INSUFFICIENT INFORMATION AVAILABLE TO MAKE A FINDING REGARDING DISABILITY OR THE DISABILITY-RELATED NEED FOR THE ANIMAL.

(2) THIS SECTION DOES NOT:

(a) CHANGE ANY LAWS OR PROCEDURES RELATED TO A SERVICE

ANIMAL UNDER TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.;

(b) AFFECT IN ANY WAY THE RIGHT OF PET OWNERSHIP IN PUBLIC HOUSING ESTABLISHED IN 42 U.S.C. SEC. 1437z-3, AS AMENDED; OR

(c) LIMIT THE MEANS BY WHICH A PERSON WITH A DISABILITY MAY DEMONSTRATE, PURSUANT TO STATE OR FEDERAL LAW, THAT THE PERSON HAS A DISABILITY OR THAT THE PERSON HAS A DISABILITY-RELATED NEED FOR AN ASSISTANCE ANIMAL.

(3) A LICENSEE SHALL NOT MAKE A DETERMINATION RELATED TO SUBSECTION (1) OF THIS SECTION UNLESS THE LICENSEE:

(a) HAS MET WITH THE PATIENT IN PERSON OR BY TELEMEDICINE;

(b) IS SUFFICIENTLY FAMILIAR WITH THE PATIENT AND THE DISABILITY; AND

(c) IS LEGALLY AND PROFESSIONALLY QUALIFIED TO MAKE THE DETERMINATION.

(4) FOR PURPOSES OF THIS SECTION:

(a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL THAT QUALIFIES AS A REASONABLE ACCOMMODATION UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED, OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED.

(b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS AND INCLUDES A HANDICAP AS THAT TERM IS DEFINED IN THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED, AND 24 CFR 100.201.

(c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.

12101 ET SEQ.

SECTION 3. In Colorado Revised Statutes, **add** 12-38-132.5 as follows:

12-38-132.5. Licensee duties relating to assistance animals - definitions. (1) A LICENSEE WHO IS APPROACHED BY A PATIENT SEEKING AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION IN HOUSING SHALL EITHER:

(a) MAKE A WRITTEN FINDING REGARDING WHETHER THE PATIENT HAS A DISABILITY AND, IF A DISABILITY IS FOUND, A SEPARATE WRITTEN FINDING REGARDING WHETHER THE NEED FOR THE ANIMAL IS RELATED TO THAT DISABILITY; OR

(b) MAKE A WRITTEN FINDING THAT THERE IS INSUFFICIENT INFORMATION AVAILABLE TO MAKE A FINDING REGARDING DISABILITY OR THE DISABILITY-RELATED NEED FOR THE ANIMAL.

(2) THIS SECTION DOES NOT:

(a) CHANGE ANY LAWS OR PROCEDURES RELATED TO A SERVICE ANIMAL UNDER TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.;

(b) AFFECT IN ANY WAY THE RIGHT OF PET OWNERSHIP IN PUBLIC HOUSING ESTABLISHED IN 42 U.S.C. SEC. 1437Z-3, AS AMENDED; OR

(c) LIMIT THE MEANS BY WHICH A PERSON WITH A DISABILITY MAY DEMONSTRATE, PURSUANT TO STATE OR FEDERAL LAW, THAT THE PERSON HAS A DISABILITY OR THAT THE PERSON HAS A DISABILITY-RELATED NEED FOR AN ASSISTANCE ANIMAL.

(3) A LICENSEE SHALL NOT MAKE A DETERMINATION RELATED TO SUBSECTION (1) OF THIS SECTION UNLESS THE LICENSEE:

(a) HAS MET WITH THE PATIENT IN PERSON;

(b) IS SUFFICIENTLY FAMILIAR WITH THE PATIENT AND THE DISABILITY; AND

(c) IS LEGALLY AND PROFESSIONALLY QUALIFIED TO MAKE THE DETERMINATION.

(4) FOR PURPOSES OF THIS SECTION:

(a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL THAT QUALIFIES AS A REASONABLE ACCOMMODATION UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED, OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED.

(b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS AND INCLUDES A HANDICAP AS THAT TERM IS DEFINED IN THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED, AND 24 CFR 100.201.

(c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

SECTION 4. In Colorado Revised Statutes, **add** 12-43-226.5 as follows:

12-43-226.5. Licensee duties relating to assistance animals - definitions. (1) A LICENSEE WHO IS APPROACHED BY A PATIENT SEEKING AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION IN HOUSING SHALL EITHER:

(a) MAKE A WRITTEN FINDING REGARDING WHETHER THE PATIENT HAS A DISABILITY AND, IF A DISABILITY IS FOUND, A SEPARATE WRITTEN FINDING REGARDING WHETHER THE NEED FOR THE ANIMAL IS RELATED TO THAT DISABILITY; OR

(b) MAKE A WRITTEN FINDING THAT THERE IS INSUFFICIENT INFORMATION AVAILABLE TO MAKE A FINDING REGARDING DISABILITY OR THE DISABILITY-RELATED NEED FOR THE ANIMAL.

(2) THIS SECTION DOES NOT:

(a) CHANGE ANY LAWS OR PROCEDURES RELATED TO A SERVICE ANIMAL UNDER TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.;

(b) AFFECT IN ANY WAY THE RIGHT OF PET OWNERSHIP IN PUBLIC HOUSING ESTABLISHED IN 42 U.S.C. SEC. 1437Z-3, AS AMENDED; OR

(c) LIMIT THE MEANS BY WHICH A PERSON WITH A DISABILITY MAY DEMONSTRATE, PURSUANT TO STATE OR FEDERAL LAW, THAT THE PERSON HAS A DISABILITY OR THAT THE PERSON HAS A DISABILITY-RELATED NEED FOR AN ASSISTANCE ANIMAL.

(3) A LICENSEE SHALL NOT MAKE A DETERMINATION RELATED TO SUBSECTION (1) OF THIS SECTION UNLESS THE LICENSEE:

(a) HAS MET WITH THE PATIENT IN PERSON;

(b) IS SUFFICIENTLY FAMILIAR WITH THE PATIENT AND THE DISABILITY; AND

(c) IS LEGALLY AND PROFESSIONALLY QUALIFIED TO MAKE THE DETERMINATION.

(4) FOR PURPOSES OF THIS SECTION:

(a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL THAT QUALIFIES AS A REASONABLE ACCOMMODATION UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED, OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED.

(b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS AND INCLUDES A HANDICAP AS THAT TERM IS DEFINED IN THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED, AND 24 CFR 100.201.

(c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

SECTION 5. In Colorado Revised Statutes, **add** 18-13-107.3 and 18-13-107.7 as follows:

18-13-107.3. Intentional misrepresentation of entitlement to an assistance animal - penalty - definitions. (1) A PERSON COMMITS INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL IF:

(a) THE PERSON INTENTIONALLY MISREPRESENTS ENTITLEMENT TO AN ANIMAL IN HIS OR HER POSSESSION AS AN ASSISTANCE ANIMAL FOR THE PURPOSE OF OBTAINING ANY OF THE RIGHTS OR PRIVILEGES SET FORTH IN STATE OR FEDERAL LAW FOR AN INDIVIDUAL WITH A DISABILITY AS A REASONABLE ACCOMMODATION IN HOUSING;

(b) THE PERSON WAS PREVIOUSLY GIVEN A WRITTEN OR VERBAL WARNING REGARDING THE FACT THAT IT IS ILLEGAL TO INTENTIONALLY MISREPRESENT ENTITLEMENT TO AN ASSISTANCE ANIMAL.

(c) THE PERSON KNOWS THAT:

(I) THE ANIMAL IS NOT AN ASSISTANCE ANIMAL WITH REGARD TO THAT PERSON; OR

(II) THE PERSON DOES NOT HAVE A DISABILITY.

(2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION, SHALL BE PUNISHED AS FOLLOWS:

(a) FOR A FIRST OFFENSE, A FINE OF TWENTY-FIVE DOLLARS;

(b) FOR A SECOND OFFENSE, A FINE OF NOT LESS THAN FIFTY DOLLARS BUT NOT MORE THAN TWO HUNDRED DOLLARS; AND

(c) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT LESS THAN

ONE HUNDRED DOLLARS BUT NOT MORE THAN FIVE HUNDRED DOLLARS.

(3) (a) A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT FOR BASIC IDENTIFYING INFORMATION.

(b) IF A PETITION IS FILED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) FOR THE SEALING OF A RECORD OF CONVICTION FOR INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL, THE COURT SHALL ORDER THE RECORD SEALED IF THE FOLLOWING CRITERIA ARE MET:

(I) THE PETITION IS FILED;

(II) THE FILING FEE IS PAID OR THE DEFENDANT HAS FILED A MOTION TO FILE WITHOUT PAYMENT WITH A SUPPORTING FINANCIAL AFFIDAVIT AND THE COURT HAS GRANTED THE MOTION;

(III) THE DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL WAS AT LEAST THREE YEARS PRIOR TO THE DATE OF THE FILING OF THE PETITION; AND

(IV) THE DEFENDANT HAS NOT HAD A SUBSEQUENT CONVICTION FOR INTENTIONAL MISREPRESENTATION OF ENTITLEMENT TO AN ASSISTANCE ANIMAL.

(c) AN ORDER ENTERED PURSUANT TO THIS SUBSECTION (3) MUST BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS PURSUANT TO THIS SUBSECTION (3), THE DEFENDANT SHALL PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU UNLESS THE COURT HAS GRANTED THE MOTION SPECIFIED IN SUBPARAGRAPH (II) OF

PARAGRAPH (b) OF THIS SUBSECTION (3). THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE SEALED.

(4) A WRITTEN FINDING MADE PURSUANT TO SECTION 12-36-142 (1) (a), 12-38-132.5 (1) (a), OR 12-43-226.5 (1) (a), C.R.S., IS AN AFFIRMATIVE DEFENSE TO THE OFFENSE ESTABLISHED BY THIS SECTION. THE LACK OF SUCH A FINDING IS NOT PROOF OF THE OFFENSE ESTABLISHED BY THIS SECTION, AND NOTHING IN THIS SECTION OR IN SECTIONS 12-36-142, 12-38-132.5, OR 12-43-226.5, C.R.S., LIMITS THE MEANS BY WHICH A PERSON WITH A DISABILITY MAY DEMONSTRATE, PURSUANT TO STATE OR FEDERAL LAW, THAT THE PERSON HAS A DISABILITY OR THAT THE PERSON HAS A DISABILITY-RELATED NEED FOR AN ASSISTANCE ANIMAL.

(5) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ASSISTANCE ANIMAL" MEANS AN ANIMAL THAT QUALIFIES AS A REASONABLE ACCOMMODATION UNDER THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED OR SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED.

(b) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS AND INCLUDES A HANDICAP AS THAT TERM IS DEFINED IN THE FEDERAL "FAIR HOUSING ACT", 42 U.S.C. SEC. 3601 ET SEQ., AS AMENDED, AND 24 CFR 100.201.

(c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

(d) "STATE AND FEDERAL LAW" INCLUDES SECTION 24-34-803, C.R.S., THE FEDERAL LAWS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (5), AND RULES AND REGULATIONS IMPLEMENTING THOSE LAWS.

18-13-107.7. Intentional misrepresentation of a service animal for a person with a disability - penalty - sealing of conviction records - definitions. (1) A PERSON COMMITS INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL IF:

(a) THE PERSON INTENTIONALLY MISREPRESENTS AN ANIMAL IN HIS OR HER POSSESSION AS HIS OR HER SERVICE ANIMAL OR SERVICE-ANIMAL-IN-TRAINING FOR THE PURPOSE OF OBTAINING ANY OF THE RIGHTS OR PRIVILEGES SET FORTH IN SECTION 24-34-803, C.R.S.;

(b) THE PERSON WAS PREVIOUSLY GIVEN A WRITTEN OR VERBAL WARNING REGARDING THE FACT THAT IT IS ILLEGAL TO INTENTIONALLY MISREPRESENT A SERVICE ANIMAL.

(c) THE PERSON KNOWS THAT THE ANIMAL IN QUESTION IS NOT A SERVICE ANIMAL OR SERVICE-ANIMAL-IN-TRAINING.

(2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION, SHALL BE PUNISHED AS FOLLOWS:

(a) FOR A FIRST OFFENSE, A FINE OF TWENTY-FIVE DOLLARS;

(b) FOR A SECOND OFFENSE, A FINE OF NOT LESS THAN FIFTY DOLLARS BUT NOT MORE THAN TWO HUNDRED DOLLARS; AND

(c) FOR A THIRD OR SUBSEQUENT OFFENSE, A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS BUT NOT MORE THAN FIVE HUNDRED DOLLARS.

(3) (a) A DEFENDANT MAY PETITION THE DISTRICT COURT OF THE DISTRICT IN WHICH ANY CONVICTION RECORDS PERTAINING TO THE DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL, AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, ARE LOCATED FOR THE SEALING OF THE CONVICTION RECORDS, EXCEPT FOR BASIC IDENTIFYING INFORMATION.

(b) IF A PETITION IS FILED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) FOR THE SEALING OF A RECORD OF CONVICTION FOR INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL, THE COURT SHALL ORDER THE RECORD SEALED IF THE FOLLOWING CRITERIA ARE MET:

(I) THE PETITION IS FILED;

(II) THE FILING FEE IS PAID OR THE DEFENDANT HAS FILED A MOTION TO FILE WITHOUT PAYMENT WITH A SUPPORTING FINANCIAL AFFIDAVIT AND THE COURT HAS GRANTED THE MOTION;

(III) THE DEFENDANT'S FIRST CONVICTION FOR INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL WAS AT LEAST THREE YEARS PRIOR TO THE DATE OF THE FILING OF THE PETITION; AND

(IV) THE DEFENDANT HAS NOT HAD A SUBSEQUENT CONVICTION FOR INTENTIONAL MISREPRESENTATION OF A SERVICE ANIMAL.

(c) AN ORDER ENTERED PURSUANT TO THIS SUBSECTION (3) MUST BE DIRECTED TO EACH CUSTODIAN WHO MAY HAVE CUSTODY OF ANY PART OF THE CONVICTION RECORDS THAT ARE THE SUBJECT OF THE ORDER. WHENEVER A COURT ENTERS AN ORDER SEALING CONVICTION RECORDS PURSUANT TO THIS SUBSECTION (3), THE DEFENDANT SHALL PROVIDE THE COLORADO BUREAU OF INVESTIGATION AND EACH CUSTODIAN OF THE CONVICTION RECORDS WITH A COPY OF THE ORDER AND SHALL PAY TO THE BUREAU ANY COSTS RELATED TO THE SEALING OF HIS OR HER CRIMINAL CONVICTION RECORDS THAT ARE IN THE CUSTODY OF THE BUREAU UNLESS THE COURT HAS GRANTED THE MOTION SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (3). THEREAFTER, THE DEFENDANT MAY REQUEST AND THE COURT MAY GRANT AN ORDER SEALING THE CIVIL CASE IN WHICH THE CONVICTION RECORDS WERE SEALED.

(4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS.

(b) "QUALIFIED INDIVIDUAL WITH A DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS.

(c) "SERVICE ANIMAL" HAS THE SAME MEANING AS SET FORTH IN THE IMPLEMENTING REGULATIONS OF TITLE II AND TITLE III OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

(d) "SERVICE-ANIMAL-IN-TRAINING" MEANS A DOG OR MINIATURE HORSE THAT IS BEING INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF A QUALIFIED INDIVIDUAL WITH A DISABILITY.

(e) "TRAINER OF A SERVICE ANIMAL" MEANS A PERSON WHO IS INDIVIDUALLY TRAINING A SERVICE ANIMAL TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF A QUALIFIED INDIVIDUAL WITH A DISABILITY.

SECTION 6. In Colorado Revised Statutes, **add 24-34-309** as follows:

24-34-309. Public education - service and assistance animals - form used in housing. (1) THE DIVISION IS AUTHORIZED TO EDUCATE THE PUBLIC ABOUT THE DEFINITIONS OF ASSISTANCE AND SERVICE ANIMALS, AS THOSE TERMS ARE DEFINED IN SECTIONS 18-13-107.3 AND 18-13-107.7, C.R.S., AND THE RIGHTS THAT ACCOMPANY PEOPLE WITH DISABILITIES WHO USE THOSE ANIMALS. THE DIVISION MAY:

(a) USE ITS WEBSITE TO INCLUDE INFORMATION ON HOW A PERSON WITH A DISABILITY CAN COMPLAIN ABOUT DISCRIMINATION ENCOUNTERED IN PLACES OF PUBLIC ACCOMMODATION AND HOUSING;

(b) CREATE AND PUBLICIZE PUBLIC SERVICE ANNOUNCEMENTS ABOUT THE DEFINITIONS OF ASSISTANCE AND SERVICE ANIMALS AND LINKS TO THE DIVISION'S WEBSITE;

(c) CREATE AND PUBLICIZE UNIFORM SIGNAGE FOR ALL PLACES OF PUBLIC ACCOMMODATION TO DISPLAY TO INFORM THE PUBLIC OF THE RULES SURROUNDING SERVICE AND ASSISTANCE ANIMALS;

(d) CREATE AND PUBLICIZE ONE OR MORE FORMS THAT LANDLORDS, QUALIFIED INDIVIDUALS WITH A DISABILITY, AND HEALTH CARE PROVIDERS MAY USE IN MAKING A DETERMINATION CONTEMPLATED BY SECTION 12-36-142, 12-38-132.5, OR 12-43-226.5, C.R.S.; AND

(e) ESTABLISH AN EDUCATION PROGRAM FOR LAW ENFORCEMENT OFFICERS IN COLORADO ABOUT SERVICE AND ASSISTANCE ANIMALS AND HOW TO PROVIDE EFFECTIVE COMMUNICATION TO PEOPLE WITH DISABILITIES WHEN MAKING INQUIRIES UNDER APPLICABLE LAW.

(2) IF A LANDLORD REQUIRES A TENANT TO PROVIDE DOCUMENTATION IN CONNECTION WITH THE TENANT'S ASSISTANCE ANIMAL, AS THAT TERM IS DEFINED IN SECTION 18-13-107.3, C.R.S., THE LANDLORD SHALL PROVIDE THE TENANT WITH THE FORM SPECIFIED IN PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION IF THE DIVISION HAS POSTED THE FORM ON ITS WEBSITE. THE TENANT NEED NOT USE THE FORM.

SECTION 7. Act subject to petition - effective date - applicability. (1) This act takes effect January 1, 2017; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on January 1, 2017, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO