

## Misrepresentation of a Service Animal

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### Issue

Summarize the Massachusetts' proposed bill about misrepresenting a service animal. Has Connecticut or any other state enacted a similar law?

### Summary

Massachusetts is considering a bill that would make it a civil infraction for anyone to misrepresent a pet dog as a service dog ([H. 2277](#)). Under the bill, a violation is punishable by 30 hours of community service, a fine of up to \$500, or both. The legislature's Judiciary Committee held a public hearing on the bill on September 12, 2017. There has been no action on the bill since that date.

Connecticut does not have a similar law. However, 19 other states have enacted laws that make it unlawful for a person to misrepresent an animal as a service animal or otherwise fraudulently represent oneself as having a right to be accompanied by a service animal. These states are California, Colorado, Florida, Idaho, Kansas, Maine, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Texas, Utah, Virginia, and Washington. Most of these states classify an offense as a misdemeanor.

For more information about service animals, see the following resources: (1) [Table of State Assistance Animal Laws](#), Michigan State University College of Law's Animal Legal and Historical Center; (2) Service Dogs and the Law, [OLR Report 2014-R-0025](#); and (3) Harassing Service Animals, [OLR Report 2010-R-0048](#).

## Massachusetts Bill

Massachusetts [House Bill 2277](#) makes it a civil infraction for anyone to misrepresent a pet dog as a service dog. A person does this when he or she (1) expressly or impliedly represents that a dog in his or her possession is a service dog, or in training to become one, to obtain the rights and privileges afforded an individual with disabilities who is accompanied by a service dog and (2) knew or should have known that the dog in question does not meet the definition of a service dog or one in training.

Under the bill, it is an intentional misrepresentation and a violation of the bill for a person to take a dog into a place of public accommodation where pets are not permitted wearing a cape, vest, special leash, or other form of identification that states or implies that it is a service dog, even if the person makes no affirmative statements.

Any police or animal control officer may investigate allegations of violations. An officer may ask questions to the person accompanied by the dog in question. The person's refusal to answer the questions creates a presumption that the dog is not a service dog, and the officer may issue a citation and require the person to remove the dog from the place of public accommodation.

Anyone who misrepresents a service dog commits a civil infraction that is punishable by 30 hours of community service, a fine of up to \$500, or both. Community service must be for an organization serving individuals with disabilities, or another entity at the court's discretion, and completed within six months.

Additionally, the bill requires the Executive Office of Labor and Workforce Development Business to prepare and make available to businesses upon request:

1. a decal suitable for posting in a window or door stating that service dogs are welcome and that misrepresentation of a service dog is a violation of Massachusetts law and
2. a brochure detailing permissible questions a business owner may ask to determine if a dog is a service dog, proper answers to the questions, and guidelines for defining unacceptable behavior.

## State Laws

Nineteen states have laws making it unlawful to misrepresent an animal as a service animal or fraudulently represent oneself as having a right to be accompanied by a service animal, as described below.

## ***California***

Anyone who knowingly and fraudulently represents himself or herself, through verbal or written notice, to be the owner or trainer of a dog licensed as, to be qualified as, or identified as, a guide, signal, or service dog is guilty of a misdemeanor, punishable by imprisonment for up to six months, a fine of up to \$1,000, or both ([Cal. Penal Code § 365.7](#)).

## ***Colorado***

A person commits intentional misrepresentation of a service animal if he or she:

1. intentionally misrepresents an animal as a service animal, or one in training, to obtain the rights and privileges of an individual with a disability who is accompanied by a service animal;
2. was previously given a written or verbal warning that it is illegal to intentionally misrepresent a service animal; and
3. knows that the animal in question is not a service animal or one in training.

A first offense is punishable by a \$25 fine. A second offense is punishable by a fine of between \$50 and \$200. A third or subsequent offense is punishable by a fine of between \$100 and \$500.

A defendant may petition the court to have the conviction record sealed if certain criteria are met ([Colo. Rev. Stat. Ann. § 18-13-107.7](#)).

## ***Florida***

Anyone who knowingly or willingly misrepresents himself or herself, through conduct or verbal or written notice, as training or using and being qualified to use a service animal commits a 2<sup>nd</sup> degree misdemeanor, punishable by imprisonment of up to 60 days, a fine of up to \$500, or both. Additionally, the person must perform 30 hours of community service for an organization that serves individuals with disabilities, or for another entity at the court's discretion, to be completed within six months (Fla. Stat. Ann. §§ [413.08\(9\)](#), [775.082](#), and [775.083](#)).

## ***Idaho***

Anyone who is not an individual with a disability or is not being trained to assist an individual with a disability who uses an assistance device or dog in an attempt to gain treatment or benefits as an individual with a disability is guilty of a misdemeanor, punishable by imprisonment of up to six months, a fine of up to \$1,000, or both (Idaho Code §§ [18-5811A](#) and [18-113](#)).

## ***Kansas***

A person commits a class A misdemeanor if the person represents that he or she has a (1) right to be accompanied by an assistance dog or professional therapy dog without having that right or (2) disability for the purpose of acquiring an assistance dog unless he or she in fact has a disability. A class A misdemeanor is punishable by imprisonment of up to one year, a fine of up to \$2,500, or both (Kan. Stat. Ann. §§ [39-1112](#), [21-6602](#), and [21-6611](#)).

## ***Maine***

A person who knowingly misrepresents a service or assistance animal commits a civil violation, punishable by a fine of up to \$1,000 for each occurrence. Misrepresentation includes knowingly:

1. creating documents that falsely represent that an animal is a service or assistance animal;
2. providing another person with documents falsely stating an animal is a service or assistance animal;
3. fitting an animal that is not a service animal with a harness, collar, vest, or sign commonly used by an individual with a disability to indicate the animal is a service animal; or
4. representing that an animal is a service animal when it has not completed training to perform disability-related tasks or work for an individual with a disability ([Me. Rev. Stat. Ann. tit. 17, § 1314-A](#)).

## ***Michigan***

It is unlawful for a person to falsely represent that he or she is in possession of a service animal or one in training in any public place. A person who knowingly violates this law is guilty of a misdemeanor, punishable by one or more of the following: imprisonment of up to 90 days, a fine of up to \$500, or up to 30 days of community service. The Department of Civil Rights must operate a complaint hotline to receive reports of violations. The department may refer allegations to the appropriate law enforcement agency for investigation ([Mich. Comp. Laws Ann. §§ 752.61 through 752.64](#)).

## ***Missouri***

Anyone who knowingly impersonates a person with a disability to receive the accommodations regarding service dogs permitted under the Americans with Disabilities Act is guilty of a class C misdemeanor (punishable by imprisonment of up to 15 days, a fine of up to \$750, or both) and is also liable for any actual damages resulting from the impersonation. A subsequent violation is a class B misdemeanor (punishable by imprisonment of up to six months, a fine of up to \$1,000, or both) (Mo. Rev. Stat. §§ [209.204](#), [558.011](#), and [558.002](#)).

## ***Nebraska***

A person who carries, displays, or uses a white cane or guide dog when he or she is not blind commits a class III misdemeanor, punishable by imprisonment of up to three months, a fine of up to \$500, or both (Neb. Rev. Stat. §§ [28-1313](#) and [28-106](#)).

## ***Nevada***

Anyone other than a person who is blind, deaf, or has a disability who uses a service animal is guilty of a misdemeanor, punishable by imprisonment of up to six months, a fine of up to \$1,000, or both (Nev. Rev. Stat. §§ 426.510 and 193.150). Additionally, a person who fraudulently misrepresents an animal as a service animal or one in training commits a misdemeanor, punishable by a fine of up to \$500 ([Nev. Rev. Stat. § 426.805](#)).

## ***New Hampshire***

It is unlawful for a person to (1) fit an animal with a collar, leash, vest, sign, harness, or service animal tag to represent the animal as a service animal when it is not one or (2) request a service animal tag for an animal that is not one. It is also unlawful for a person to impersonate, by word or action, an individual with a disability to receive service dog accommodations or accessories (e.g., collar, leash, vest, sign, harness, or tag). A violation is a misdemeanor punishable by a fine of up to \$1,200 (N.H. Rev. Stat. Ann. §§ [167-D:8](#), [167-D:10](#), [625:9](#), and [651:2](#)).

## ***New Jersey***

Anyone who fits a dog with a harness of the type commonly used by blind persons to represent that the dog is a guide dog when the dog has not been trained as a guide dog is subject to a \$100 to \$500 fine ([N.J. Stat. Ann. § 10:5-29.5](#)).

## ***New Mexico***

It is unlawful for a person to knowingly present as a qualified service animal any animal that is not one. A violation is a misdemeanor, punishable by imprisonment for less than one year, a fine of up to \$1,000, or both. A “qualified service animal” is any dog or miniature horse that has been or is being trained to provide assistance to an individual with a disability who has a physical or mental impairment that substantially limits one or more major life activities. It excludes a pet and an emotional support, comfort, or therapy animal (N.M. Stat. Ann. §§ [28-11-2](#), [28-11-6](#), and [31-19-1](#)).

## ***New York***

It is unlawful for a person to knowingly affix to any dog any false or improper identification tag identifying the dog as a guide, service, or hearing dog. A violation is punishable by a fine of at least \$25 for a first offense and \$50 for a second offense within five years. A third or subsequent offense within five years is punishable by imprisonment of up to 15 days, a fine of at least \$100, or both ([N.Y. Agric. & Mkts. Law § 118](#)).

## ***North Carolina***

A person who disguises an animal as a service animal or one in training commits a class 3 misdemeanor ([N.C. Gen. Stat. § 168-4.5](#)). A person convicted of a class 3 misdemeanor who has no more than three prior convictions will be subject to a fine of up to \$200 ([N.C. Gen. Stat. § 15A-1340.23](#)).

## ***Texas***

A person who uses an animal with a harness or leash of the type commonly used by individuals with disabilities to represent that his or her animal is a specially trained service animal when it is not one is guilty of a misdemeanor, punishable by a fine of up to \$300 and 30 hours of community service. Community service must be performed for a governmental entity or nonprofit organization that primarily serves people with visual impairments or other disabilities, or another entity at the court's discretion, within one year ([Tex. Hum. Res. Code Ann. § 121.006](#)).

## ***Utah***

A person who intentionally and knowingly (1) falsely represents that an animal is a service animal or (2) misrepresents a material fact to a health care provider to obtain documentation needed to designate an animal as a service animal, is guilty of a class B misdemeanor, punishable by imprisonment of up to six months, a fine of up to \$1,000, or both (Utah Code Ann. §§ [62A-5b-106](#), [76-3-204](#), and [76-3-301](#)).

## ***Virginia***

A person who knowingly and willfully fits a dog with a harness, collar, vest, or sign, or uses an identification card commonly used by an individual with a disability, to represent the dog as a service or hearing dog to fraudulently gain public access for the dog is guilty of a class 4 misdemeanor, punishable by a fine of up to \$250 (Va. Code Ann. §§ [51.5-44.1](#) and [18.2-11](#)).

## ***Washington***

It is unlawful for any pedestrian who is not totally or partially blind, hearing impaired, or otherwise disabled to use a guide dog or service animal in any public place, accommodation, or conveyance to secure the rights and privileges afforded individuals with disabilities. A violation is a misdemeanor, punishable by imprisonment of up to 90 days, a fine of up to \$1,000, or both (Wash. Rev. Code Ann. §§ [70.84.060](#), [70.84.070](#), and [9A.20.010](#)).

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