

HUMAN RESOURCES CODE

TITLE 8. RIGHTS AND RESPONSIBILITIES OF PERSONS WITH DISABILITIES

CHAPTER 121. PARTICIPATION IN SOCIAL AND ECONOMIC ACTIVITIES

Sec. 121.001. STATE POLICY. The policy of the state is to encourage and enable persons with disabilities to participate fully in the social and economic life of the state, to achieve maximum personal independence, to become gainfully employed, and to otherwise fully enjoy and use all public facilities available within the state.

Acts 1979, 66th Leg., p. 2425, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 2, eff. Sept. 1, 1997.

Sec. 121.0014. VISION STATEMENT. (a) The Health and Human Services Commission, each health and human services agency, and each state agency that administers a workforce development program shall adopt the following statement of vision:

The State of Texas shall ensure that all Texans with disabilities have the opportunity and support necessary to work in individualized, competitive employment in the community and to have choices about their work and careers.

(b) In this section, "health and human services agency" means an agency listed by Section 531.001(4), Government Code. Added by Acts 1995, 74th Leg., ch. 655, Sec. 6.02(a), eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.415, eff. April 2, 2015.

Sec. 121.002. DEFINITIONS. In this chapter:

(1) "Assistance animal" and "service animal" mean a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability.

(2) "Harass" means any conduct that:

(A) is directed at an assistance animal that

impedes or interferes with, or is intended to impede or interfere with, the animal's performance of its duties; or

(B) places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

(3) "Housing accommodations" means 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.

(4) "Person with a disability" means a person who has:

(A) a mental or physical disability;

(B) an intellectual or developmental disability;

(C) a hearing impairment;

(D) deafness;

(E) a speech impairment;

(F) a visual impairment;

(G) post-traumatic stress disorder; or

(H) any health impairment that requires special ambulatory devices or services.

(5) "Public facility" includes a street, highway, sidewalk, walkway, common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or any other public conveyance or mode of transportation; a hotel, motel, or other place of lodging; a public building maintained by any unit or subdivision of government; a retail business, commercial establishment, or office building to which the general public is invited; a college dormitory or other educational facility; a restaurant or other place where food is offered for sale to the public; and any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

(6) "White cane" means a cane or walking stick that is metallic or white in color, or white tipped with a contrasting color, and that is carried by a blind person to assist the blind

person in traveling from place to place.

Acts 1979, 66th Leg., p. 2425, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 1, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 1, eff. June 5, 1985; Acts 1995, 74th Leg., ch. 890, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 2, eff. January 1, 2014.

Sec. 121.003. DISCRIMINATION PROHIBITED. (a) Persons with disabilities have the same right as persons without disabilities to the full use and enjoyment of any public facility in the state.

(b) No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of a service animal, wheelchair, crutches, or other device used to assist a person with a disability in travel.

(c) No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance.

(d) The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to:

- (1) comply with Chapter 469, Government Code;
- (2) make reasonable accommodations in policies, practices, and procedures; or
- (3) provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

(e) Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class.

(f) It is the policy of the state that persons with disabilities be employed by the state, by political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as persons without disabilities, unless it is shown that there is no reasonable accommodation that would enable a person with a disability to perform the essential elements of a job.

(g) Persons with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(h) A person with a total or partial disability who has or obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and may not be required to pay extra compensation or make a deposit for the animal but is liable for damages done to the premises by the animal except for reasonable wear and tear.

(i) A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

(j) A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal.

(k) Except as provided by Subsection (l), a person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability.

(l) If a person's disability is not readily apparent, for

purposes of admittance to a public facility with a service animal, a staff member or manager of the facility may inquire about:

(1) whether the service animal is required because the person has a disability; and

(2) what type of work or task the service animal is trained to perform.

Acts 1979, 66th Leg., p. 2426, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 2, eff. Aug. 31, 1981; Acts 1983, 68th Leg., 1st C.S., p. 57, ch. 7, Sec. 10.03(c), eff. Sept. 23, 1983; Acts 1985, 69th Leg., ch. 278, Sec. 2, eff. June 5, 1985; Acts 1989, 71st Leg., ch. 249, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 890, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 261, Sec. 1, eff. May 22, 2001; Acts 2003, 78th Leg., ch. 710, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 3, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 4.416, eff. April 2, 2015.

Sec. 121.004. PENALTIES FOR AND DAMAGES RESULTING FROM DISCRIMINATION. (a) A person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates a provision of Section 121.003 commits an offense. An offense under this subsection is a misdemeanor punishable by:

(1) a fine of not more than \$300; and

(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year.

(b) In addition to the penalty provided in Subsection (a), a person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates the provisions of Section 121.003 is deemed to have deprived a

person with a disability of his or her civil liberties. Subject to Section [121.0041](#), if applicable, the person with a disability deprived of his or her civil liberties may maintain an action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$300 to the person with a disability.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 890, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. [489](#)), Sec. 4, eff. January 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 342 (H.B. [1463](#)), Sec. 1, eff. September 1, 2017.

Sec. 121.0041. PROCEDURES FOR CERTAIN ACTIONS; OPPORTUNITY TO CURE. (a) In this section:

(1) "Claimant" means a person filing or intending to file an action under Section [121.004\(b\)](#).

(2) "Respondent" means the person against whom a claimant files or intends to file an action under Section [121.004\(b\)](#).

(b) This section applies only to an action under Section [121.004\(b\)](#) alleging a failure to comply with applicable design, construction, technical, or similar standards required under Chapter [469](#), Government Code, or other applicable state or federal laws that require compliance with specified design, construction, technical, or similar standards, including Internet website accessibility guidelines, to accommodate persons with disabilities.

(c) Not later than the 60th day before the date an action to which this section applies is filed, the claimant must give written notice of the claim to the respondent. The notice may be given in a manner prescribed for service of process in a civil action. The written notice:

(1) must state:

(A) the name of the individual alleging a failure

to comply with applicable design, construction, technical, or similar standards;

(B) in reasonable detail, each alleged violation; and

(C) the date, place, and manner in which the claimant discovered the alleged violation; and

(2) may not demand a sum of damages, request settlement, or offer to settle the claim without a determination of whether a condition stated in the notice is excused by law or may be remedied.

(d) A respondent who has received a written notice under Subsection (c) may correct the alleged violation before the earliest date on which the claimant may file the action.

(e) A respondent who has corrected an alleged violation shall provide a notice of the correction to the claimant that describes each correction and the manner in which the correction addresses the alleged violation. If the respondent concludes that an alleged violation has not occurred and that a correction is not necessary, the respondent shall provide the claimant an explanation of the respondent's conclusion. The notice of correction or explanation may be given in a manner prescribed for service of process in a civil action.

(f) If a claimant files an action to which this section applies, the claimant must establish by a preponderance of the evidence that the respondent has not corrected one or more of the alleged violations stated in the written notice provided under Subsection (c).

(g) If an action is filed, the respondent may file a plea in abatement and request an evidentiary hearing on the plea. The court shall abate the action for a period not to exceed 60 days after the date of the hearing if the court finds by a preponderance of the evidence that:

(1) the respondent initiated action to correct the alleged violation during the time allowed under Subsection (d);

(2) the respondent could not complete the corrections within that time; and

(3) the corrections will be completed by the end of the

period of abatement.

(h) If a respondent has provided the notice of correction or has completed corrections during a period of abatement under Subsection (g):

(1) the claimant may file a motion to dismiss the action without prejudice; or

(2) the respondent may file a motion for summary judgment in accordance with the Texas Rules of Civil Procedure.

Added by Acts 2017, 85th Leg., R.S., Ch. 342 (H.B. 1463), Sec. 2, eff. September 1, 2017.

Sec. 121.005. RESPONSIBILITIES OF PERSONS WITH DISABILITIES. (a) A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

(b) A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 3, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 3, eff. June 5, 1985; Acts 1997, 75th Leg., ch. 649, Sec. 6, eff. Sept. 1, 1997.

Sec. 121.006. PENALTIES FOR IMPROPER USE OF ASSISTANCE ANIMALS. (a) A person who uses a service animal with a harness or leash of the type commonly used by persons with disabilities who use trained animals, in order to represent that his or her animal is a specially trained service animal when training has not in fact been provided, is guilty of a misdemeanor and on conviction shall be punished by:

(1) a fine of not more than \$300; and

(2) 30 hours of community service to be performed for a



governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year.

(b) A person who habitually abuses or neglects to feed or otherwise neglects to properly care for his or her assistance animal is subject to seizure of the animal under Subchapter B, Chapter 821, Health and Safety Code.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3311, ch. 865, Sec. 4, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 4, eff. June 5, 1985; Acts 1997, 75th Leg., ch. 649, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 5, eff. January 1, 2014.

Sec. 121.008. DISSEMINATION OF INFORMATION RELATING TO PERSONS WITH DISABILITIES. (a) To ensure maximum public awareness of the policies set forth in this chapter, the governor shall issue a proclamation each year taking suitable public notice of October 15 as White Cane Safety and Service Animal Recognition Day. The proclamation must contain appropriate comment about the significance of various devices and animals used by persons with disabilities to assist them in traveling, and must call to the attention of the public the provisions of this chapter and of other laws relating to the safety and well-being of this state's citizens with disabilities.

(b) The comptroller, the secretary of state, and other state agencies that regularly mail forms or information to significant numbers of public facilities and businesses operating within the state shall cooperate with state agencies responsible for the rehabilitation of persons with disabilities by sending information about this chapter to those to whom regular mailings are sent. The information, which must be sent at the request of state agencies responsible for the rehabilitation of persons with disabilities and at least once each year, may be included in regular mailings or sent separately. If sent separately, the cost of mailing is borne by

the state rehabilitation agency or agencies requesting the mailing and, regardless of whether sent separately or as part of a regular mailing, the cost of preparing information about this chapter is borne by the state rehabilitation agency or agencies requesting distribution of this information.

Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 6, eff. January 1, 2014.

Sec. 121.009. CONSTRUCTION OF CHAPTER. The provisions of this chapter must be construed in a manner compatible with other state laws relating to persons with disabilities.

Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 10, eff. Sept. 1, 1997.

Sec. 121.010. TESTING ADULTS WITH DISABILITIES. (a) A test that evaluates an adult with a disability for a job position in business, government, or industry, or a test to determine that person's educational level, must measure individual abilities and not specific disabilities.

(b) If an examiner knows that an adult examinee has a disability, the examiner may use an alternate form of testing. The alternate form of testing may assess the aptitude of the examinee by using that person's primary learning mode.

(c) The examiner may use as an alternate form of testing any procedure or adaption that will help ensure the best performance possible by an adult with a disability, including oral or visual administration of the test, oral or manual response to the test, the use of readers, tape recorders, interpreters, large print, or braille text, the removal of time constraints, and multiple testing sessions.

(d) An examiner shall select and administer a test to an examinee who has a disability that impairs sensory, manual, or

speaking skills so that the test accurately reflects the factor the test is intended to measure and does not reflect the examinee's impaired sensory, manual, or speaking skills.

(e) An examiner may not use a test that has a disproportionate, adverse effect on an adult with a disability or a class of adults with disabilities unless:

(1) the test has been validated as a predictor of success in the program or activity for which the adult with a disability is applying; and

(2) alternate tests or alternative forms of testing that have a less disproportionate, adverse effect do not exist or are not available.

Added by Acts 1981, 67th Leg., p. 2482, ch. 645, Sec. 1, eff. Aug. 31, 1981. Amended by Acts 1997, 75th Leg., ch. 649, Sec. 11, eff. Sept. 1, 1997.

Sec. 121.011. ACCESSIBILITY OF EXAMINATION OR COURSE OFFERED BY PRIVATE ENTITY. (a) A private entity that offers an examination or a course related to applications, certification, credentialing, or licensing for secondary or postsecondary education, a profession, or a trade shall:

(1) offer the examination or course in a place and manner that is accessible to persons with disabilities or make alternative accessible arrangements for persons with disabilities;

(2) offer the examination or course to persons with disabilities:

(A) as often as the entity offers the examination or course to persons without disabilities;

(B) at a location that is as convenient as the location at which the entity offers the examination or course to persons without disabilities; and

(C) at a time that is as appropriate as the time when the entity offers the examination or course to persons without disabilities; and

(3) make auxiliary test guides and other resources available in alternative formats.

(b) A private entity that offers an examination or a course

described by Subsection (a) may require persons with disabilities to provide reasonable documentation of their disabilities and reasonable advance notice of any necessary modifications or aids. The deadline for advance notice may not be earlier than the application deadline for the examination or course. The entity may not refuse a request for modifications or aids from a person with a disability on the grounds that the person, because of the person's disability, would not meet other requirements of the profession or occupation for which the course or examination is given.

Added by Acts 1997, 75th Leg., ch. 649, Sec. 12, eff. Sept. 1, 1997.