

**SUBSTITUTE FOR
HOUSE BILL NO. 4910**

A bill to regulate the certification of an individual's need for an emotional support animal by health care providers and requests for reasonable accommodation for emotional support animals in housing; to provide for the powers and duties of certain state and local governmental officers and entities; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "misrepresentation of emotional support animals act".

3 Sec. 2. As used in this act:

4 (a) "Community association" means an incorporation or
5 unincorporated cooperative, condominium association, homeowner's
6 association, or summer resort association.



1 (b) "Dwelling" means a building or structure, or any portion
2 of a building or structure, that is occupied as or designed or
3 intended for occupancy as a residence, including, but not limited
4 to, a building or structure that is part of an apartment,
5 manufactured home, or condominium community, a group home or
6 nursing home, or a seasonal residential facility.

7 (c) "Emotional support animal" means a common domestic animal
8 that a health care provider has determined is necessary to
9 alleviate the disabling effects of a mental, emotional,
10 psychological, or psychiatric condition or illness for a person
11 with a disability who, in the absence of such animal, would
12 otherwise not have the same housing opportunities provided by a
13 housing provider as those provided to a nondisabled person.
14 Emotional support animal does not include a service animal as that
15 term is defined in section 502c of the Michigan penal code, 1931 PA
16 328, MCL 750.502c.

17 (d) "Health care provider" means any of the following:

18 (i) A physician, physician's assistant, nurse practitioner, or
19 certified nurse specialist licensed under article 15 of the public
20 health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a
21 physician, physician's assistant, nurse practitioner, or certified
22 nurse specialist licensed in another state.

23 (ii) A mental health professional as that term is defined in
24 section 100b of the mental health code, 1974 PA 258, MCL 333.1100b,
25 or a mental health professional licensed in another state.

26 (iii) A health facility or agency licensed under article 17 of
27 the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

28 (iv) A local health department as that term is defined in
29 section 1105 of the public health code, 1978 PA 368, MCL 333.1105.



1 (e) "Housing provider" means a person, including a community
2 association or a private or public business, that is subject to
3 fair housing laws and that offers, provides, or regulates the use
4 of a dwelling.

5 (f) "Person with a disability" means an individual who has a
6 disability as that term is defined in section 3 of the Americans
7 with disabilities act of 1990, 42 USC 12102 and 28 CFR 36.105.

8 Sec. 3. (1) An individual shall not falsely represent to a
9 housing provider that he or she is a person with a disability or is
10 in possession of and requires the assistance of an emotional
11 support animal.

12 (2) Unless a disability and a disability-related need for an
13 emotional support animal is readily apparent, a housing provider
14 may require an individual seeking a reasonable accommodation for an
15 emotional support animal to sign a valid authorization consistent
16 with the privacy provisions of the health insurance portability and
17 accountability act of 1996, Public Law 104-191, so that the housing
18 provider may request documentation from an individual's health care
19 provider to confirm that the individual is a person with a
20 disability and to specifically explain the relationship between the
21 individual's disability and the need for an emotional support
22 animal.

23 (3) A health care provider that determines an individual's
24 need for an emotional support animal shall not falsely represent
25 that an individual has been diagnosed with a disabling mental,
26 emotional, psychological, or psychiatric condition or illness and
27 requires the use of an emotional support animal to alleviate the
28 disabling effects of that condition or illness.

29 (4) All of the following apply to a health care provider that



1 determines an individual's need for an emotional support animal:

2 (a) The health care provider must be licensed in this state or
3 in another state.

4 (b) The health care provider must maintain a physical office
5 space where patients are regularly treated and where the individual
6 seeking certification of the need for an emotional support animal
7 has been examined and treated.

8 (c) If the health care provider's primary office is located in
9 another state, the health care provider must have provided
10 treatment to the individual seeking an emotional support animal for
11 at least the previous 180 days.

12 (d) The health care provider shall not receive a fee or any
13 other form of compensation solely in exchange for determining an
14 individual's need for an emotional support animal. Emotional
15 support animal documentation issued by a health care provider who
16 received compensation from any source solely for providing the
17 documentation is invalid.

18 (e) Upon receipt of a valid authorization under subsection
19 (2), the health care provider shall provide documentation
20 establishing the following:

21 (i) That the health care provider and the individual have a
22 bona fide provider-patient relationship. As used in this
23 subparagraph, "bona fide provider-patient relationship" means a
24 treatment or counseling relationship in which a health care
25 provider does all of the following:

26 (A) Reviews the patient's relevant medical records and
27 completes a full assessment of the patient's medical history and
28 current medical condition, including a relevant, in-person, medical
29 evaluation of the patient.



1 (B) Creates and maintains records of the patient's condition
2 in accordance with medically accepted standards.

3 (C) Reasonably expects that he or she will provide follow-up
4 care to the patient to monitor the efficacy of the use of an
5 emotional support animal as a treatment of the patient's
6 disability.

7 (ii) The dates and locations where the health care provider
8 provided treatment to the individual.

9 (iii) That the individual is a person with a disability.

10 (iv) The disabling effects of the condition or illness.

11 (v) The relationship between the disabling effects of the
12 condition or illness described by the health care provider under
13 subparagraph (iv) and the need for the emotional support animal.

14 (vi) The manner in which the emotional support animal provides
15 the person with a disability with the same opportunity to use and
16 enjoy the dwelling as would a nondisabled person.

17 (vii) That the health care provider did not receive a fee or
18 any other compensation solely in exchange for determining an
19 individual's need for an emotional support animal.

20 (f) The documentation required under subdivision (e) must be
21 in the form of a letter or a completed questionnaire, and is
22 subject to the privacy provisions of the health insurance
23 portability and accountability act of 1996, Public Law 104-191.

24 (g) If requested by a housing provider, the health care
25 provider shall provide the letter or completed questionnaire
26 described in subdivision (f) on an annual basis.

27 (5) An emotional support animal registration of any kind,
28 including, but not limited to, an identification card, patch, or
29 certificate, or a similar registration that is obtained for a



1 service animal under 2015 PA 146, MCL 37.301 to 37.307, does not
2 satisfy the documentation requirements of this act.

3 Sec. 5. (1) An individual or health care provider that
4 knowingly violates this act is guilty of a misdemeanor punishable
5 by 1 or more of the following:

6 (a) Imprisonment for not more than 90 days.

7 (b) A fine of not more than \$500.00.

8 (c) Community service for not more than 30 days.

9 (2) If an individual who resides in a dwelling leased or
10 otherwise provided or regulated by a housing provider falsely
11 represents that an animal kept on the leased premises is an
12 emotional support animal, the housing provider may terminate the
13 lease, or otherwise terminate the tenancy of the individual, and
14 recover possession of the premises under section 5714(1)(c)(iv) or
15 section 5775(2)(l) of the revised judicature act of 1961, 1961 PA
16 236, MCL 600.5714 and 600.5775.

17 Sec. 7. (1) The department of civil rights shall establish a
18 telephone complaint hotline, either currently existing or
19 specifically created for the purposes of this act, to receive any
20 of the following:

21 (a) Reports of an individual who is falsely representing that
22 he or she is in possession of an emotional support animal.

23 (b) Reports of a health care provider that is falsely
24 representing that an individual is in need of an emotional support
25 animal.

26 (c) Complaints from a tenant or prospective tenant in regard
27 to obtaining permission from a housing provider to keep an
28 emotional support animal on the leased premises.

29 (2) The department may refer an alleged violation of this act



- 1 to the appropriate law enforcement agency for investigation.
- 2 Enacting section 1. This act does not take effect unless House
- 3 Bill No. 4911 of the 100th Legislature is enacted into law.

