

SENATE BILL NO. 610

October 24, 2019, Introduced by Senators ZORN and MACGREGOR and referred to the Committee on Local Government.

A bill to regulate the prescription of emotional support animals 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:

1 (a) "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 (b) "Emotional support animal" means a common domestic animal
8 that is prescribed to a person with a disability, by a health care
9 provider that has determined that the animal's presence and the
10 animal's provision of emotional support, well-being, comfort, or
11 companionship is necessary to alleviate the disabling effects of a
12 mental, emotional, psychological, or psychiatric condition or
13 illness that otherwise would prevent the person with a disability
14 from having the same housing opportunities as a nondisabled person.
15 Emotional support animal does not include a service animal as that
16 term is defined in section 502c of the Michigan penal code, 1931 PA
17 328, MCL 750.502c.

18 (c) "Health care provider" means any of the following:

19 (i) A health professional licensed or registered under article
20 15 of the public health code, 1978 PA 368, MCL 333.16101 to
21 333.18838.

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

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

26 (d) "Housing provider" means a person, including a private or
27 public business, that is subject to fair housing laws that offers,
28 provides, or regulates the use of a dwelling.

29 (e) "Person with a disability" means an individual who has a

1 disability as that term is defined in section 12102 of the
2 Americans with disabilities act of 1990, 42 USC 12102 and 28 CFR
3 36.104.

4 Sec. 3. (1) An individual shall not falsely represent to a
5 housing provider that he or she is a person with a disability or is
6 in possession of an emotional support animal.

7 (2) Unless a disability and a disability-related need for an
8 emotional support animal is readily apparent, a housing provider
9 may request reliable documentation from an individual's health care
10 provider to confirm that the individual is a person with a
11 disability and to indicate the relationship between the
12 individual's disability and the need for an emotional support
13 animal.

14 (3) A health care provider that prescribes an emotional
15 support animal shall not falsely represent that an individual has
16 been diagnosed with a disabling mental, emotional, psychological,
17 or psychiatric condition or illness and requires the use of an
18 emotional support animal to alleviate the disabling effects of that
19 condition or illness.

20 (4) All of the following apply to a health care provider that
21 prescribes an emotional support animal:

22 (a) The health care provider must be licensed in this state or
23 in the state in which the individual resides or resided during the
24 previous 180 days.

25 (b) The health care provider must maintain a physical office
26 space where patients are regularly treated and where the individual
27 for whom an emotional support animal is prescribed has received
28 treatment during the previous 180 days.

29 (c) Upon request by a housing provider, the health care

1 provider must provide documentation establishing the following:

2 (i) That the health care provider has treated the individual
3 for a period of not less than 6 months immediately preceding the
4 date on which the housing provider requests the documentation.

5 (ii) That the individual is a person with a disability.

6 (iii) The disabling effects of the condition or illness.

7 (iv) The relationship between the disabling effects of the
8 condition or illness described by the health care provider under
9 subparagraph (iii) and the need for the emotional support animal.

10 (v) The manner in which the emotional support animal provides
11 the person with a disability with the same opportunity to use and
12 enjoy the dwelling as would a nondisabled person.

13 (d) The documentation required under subdivision (c) must be
14 in the form of a notarized letter or a completed and notarized
15 questionnaire.

16 (e) If requested by a housing provider, the health care
17 provider must provide the notarized letter or completed
18 questionnaire described in subdivision (d) on an annual basis.

19 (5) An emotional support animal registration of any kind,
20 including, but not limited to, an identification card, patch, or
21 certificate, or a similar registration that is obtained for a
22 service animal under 2015 PA 146, MCL 37.301 to 37.307, does not
23 satisfy the documentation requirements of this act.

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

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

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

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

1 (2) If an individual who resides in a dwelling leased or
2 otherwise provided or regulated by a housing provider falsely
3 represents that an animal kept on the leased premises is an
4 emotional support animal, the housing provider may terminate the
5 lease, or otherwise terminate the tenancy of the individual, and
6 recover possession of the premises under section 5714(1)(c)(iv) or
7 section 5775(2)(l) of the revised judicature act of 1961, 1961 PA
8 264, MCL 600.5714 and 600.5775.

9 Sec. 7. The department of civil rights shall use a telephone
10 complaint hotline, either currently existing or specifically
11 created for the purposes of this act, to receive reports of an
12 individual who is falsely representing that he or she is in
13 possession of an emotional support animal or of a health care
14 provider that is falsely representing that an individual is in need
15 of an emotional support animal. The department may refer an alleged
16 violation of this act to the appropriate law enforcement agency for
17 investigation.

18 Enacting section 1. This act does not take effect unless
19 Senate Bill No. 608 of the 100th Legislature is enacted into
20 law.