

**SUBSTITUTE FOR
HOUSE BILL NO. 4910**

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:

4 (a) "Dwelling" means a building or structure, or any portion
5 of a building or structure, that is occupied as or designed or
6 intended for occupancy as a residence, including, but not limited
7 to, a building or structure that is part of an apartment,



1 manufactured home, or condominium community, a group home or
2 nursing home, or a seasonal residential facility.

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

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

14 (i) A mental health professional licensed under the mental
15 health code, 1974 PA 258, MCL 330.1001 to 330.2106, or a mental
16 health professional licensed in another state.

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

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

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

24 (e) "Person with a disability" means an individual who has a
25 disability as that term is defined in section 12102 of the
26 Americans with disabilities act of 1990, 42 USC 12102 and 28 CFR
27 36.104.

28 Sec. 3. (1) An individual shall not falsely represent to a
29 housing provider that he or she is a person with a disability or is



1 in possession of and requires the assistance of an emotional
2 support animal.

3 (2) Unless a disability and a disability-related need for an
4 emotional support animal is readily apparent, a housing provider
5 may request reliable documentation from an individual's health care
6 provider to confirm that the individual is a person with a
7 disability and to specifically explain the relationship between the
8 individual's disability and the need for an emotional support
9 animal.

10 (3) A health care provider that determines an individual's
11 need for an emotional support animal shall not falsely represent
12 that an individual has been diagnosed with a disabling mental,
13 emotional, psychological, or psychiatric condition or illness and
14 requires the use of an emotional support animal to alleviate the
15 disabling effects of that condition or illness.

16 (4) All of the following apply to a health care provider that
17 determines the need for an emotional support animal:

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

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

24 (c) If the health care provider's primary office is located in
25 another state, the health care provider must have provided
26 treatment to the individual seeking an emotional support animal
27 during the previous 180 days.

28 (d) The health care provider shall not receive a fee or any
29 other form of compensation from any source solely for certifying an



1 individual's need for an emotional support animal. Emotional
2 support animal documentation issued by a health care provider who
3 received compensation from any source solely for providing the
4 documentation is invalid.

5 (e) Upon request by a housing provider, the health care
6 provider shall provide documentation establishing the following:

7 (i) That the health care provider has treated the individual
8 and meets the conditions for a bona fide physician-patient
9 relationship provided in section 3(a)(1) and (2) of the Michigan
10 Medical Marihuana Act, 2008 IL 1, MCL 333.26423.

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

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

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

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

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

21 (vii) That the health care provider did not receive a fee or
22 any other compensation from any source solely for providing the
23 documentation.

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

28 (g) If requested by a housing provider, the health care
29 provider shall provide the letter or completed questionnaire



1 described in subdivision (f) on an annual basis.

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

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

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

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

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

13 (2) If an individual who resides in a dwelling leased or
14 otherwise provided or regulated by a housing provider falsely
15 represents that an animal kept on the leased premises is an
16 emotional support animal, the housing provider may terminate the
17 lease, or otherwise terminate the tenancy of the individual, and
18 recover possession of the premises under section 5714(1)(c)(iv) or
19 section 5775(2)(l) of the revised judicature act of 1961, 1961 PA
20 264, MCL 600.5714 and 600.5775.

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

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

27 (b) Reports of a health care provider that is falsely
28 representing that an individual is in need of an emotional support
29 animal.



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

4 (2) The department may refer an alleged violation of this act
5 to the appropriate law enforcement agency for investigation.

6 Enacting section 1. This act does not take effect unless House
7 Bill No. 4911 of the 100th Legislature is enacted into law.

