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BILL



ANALYSIS

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Senate Bill 663 (as introduced 11-28-18)
Sponsor: Senator Peter MacGregor
Committee: Local Government

Date Completed: 12-3-18

CONTENT

The bill would amend Public Act 82 of 1981, which prohibits a person from representing that he or she is in possession of a service animal, unless the person has a disability, to do the following:

- Prohibit a person who certified the need for a person with a disability to possess an emotional support animal or a service animal from falsely representing that need and satisfy certain criteria for certification.**
- Require a landlord to evict a tenant who knowingly violated the Act.**
- Define "emotional support animal" and "health care provider".**

The bill would take effect 90 days after its enactment.

Under the Act, a person may not falsely represent that he or she is in possession of a service animal, or a service animal in training, in any public place. The bill also would prohibit a person from falsely representing that he or she was in possession of an emotional support animal. In addition, a person could not falsely represent that he or she were in possession of an emotional support animal, a service animal, or a service animal in training to a current or prospective landlord or other housing provider. "Emotional support animal" would mean an assistance animal that provides emotional support to a person with a disability who has a disability-related need for that support.

Under the bill, a person who certified the need for a person with a disability to possess an emotional support animal or service animal could not falsely represent that need and would have to satisfy all of the following:

- Was a health care provider licensed in the State or in another state.
- Maintain a physical office space where he or she regularly treated patients.
- Document that he or she had treated the person with a disability for at least six months before the date on which a public or private entity requested documentation establishing the validity of the person with a disability's alleged disability and the nexus between that disability and the need for the emotional support animal or service animal.
- Provide, upon request, the person with a disability or a public or private entity requesting the documentation with a notarized letter certifying that the person with a disability was disabled and that the emotional support animal or service animal was necessary to alleviate the effects of the disability that otherwise would prevent the disabled person from having the same opportunities to use a public place or residence as a nondisabled person.
- Provide the documentation on an annual basis, upon request.

"Health care provider" would mean one of the following: a) a health professional licensed or otherwise authorized to engage in the practice of medicine or the practice of osteopathic medicine and surgery under Article 15 (Occupations) of the Public Health Code; b) a health facility or agency licensed under Article 17 (Facilities and Agencies) of the Public Health Code; or c) a local health department as that term is defined in the Public Health Code.

(The Act defines "person with a disability" as a person who has a disability as defined in Section 12102 of the Americans with Disabilities Act and 28 CFR 36.104: a physical or mental impairment that substantially limits one or more major life activities of an individual, a record of such an impairment, or being regarded as having such an impairment. The term includes a veteran who has been diagnosed with post-traumatic stress disorder, traumatic brain injury, or other service-related disabilities.)

Penalties

A person who knowingly violated the Act is guilty of a misdemeanor punishable by one or more of the following: a) imprisonment for not more than 90 days; b) a fine of not more than \$500.00; or c) community service for not more than 30 days.

The bill would require a landlord or other housing service provider who rented housing to a person who knowingly violated the Act to evict that person as provided in the Revised Judicature Act.

Reporting

The Act requires the Department of Civil Rights to use its existing telephone complaint line to receive reports of false representation of a service animal, or a service animal in training. The bill also would require the Department to use the existing telephone complaint line to receive reports of a person falsely representing that he or she was in possession of an emotional support animal, or of a health care provider who was falsely certifying the need for an emotional support animal or service animal.

MCL 752.61 et al.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on the State and could have a negative fiscal impact on local government. To the extent that changes in the bill lead to increased misdemeanor arrests and prosecutions, it could increase resource demands on law enforcement, court systems, and jails. Any increased civil infraction and penal fine revenue would be dedicated to public libraries.

Fiscal Analyst: Abbey Frazier

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.