

SENATE BILL No. 663

November 28, 2017, Introduced by Senator MACGREGOR and referred to the Committee on Local Government.

A bill to amend 1981 PA 82, entitled

"An act to prohibit a person from representing that he or she is in possession of a service animal in public places, unless that person is a person with a disability; and to prescribe penalties,"

by amending sections 1, 2, 3, and 4 (MCL 752.61, 752.62, 752.63, and 752.64), sections 1, 2, and 3 as amended and section 4 as added by 2015 PA 147.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (A) "EMOTIONAL SUPPORT ANIMAL" MEANS AN ASSISTANCE ANIMAL THAT
3 PROVIDES EMOTIONAL SUPPORT TO A PERSON WITH A DISABILITY WHO HAS A
4 DISABILITY-RELATED NEED FOR THAT SUPPORT.

5 (B) "HEALTH CARE PROVIDER" MEANS 1 OF THE FOLLOWING:

1 (i) A HEALTH PROFESSIONAL LICENSED OR OTHERWISE AUTHORIZED TO
2 ENGAGE IN THE PRACTICE OF MEDICINE OR THE PRACTICE OF OSTEOPATHIC
3 MEDICINE AND SURGERY UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE,
4 1978 PA 368, MCL 333.16101 TO 333.18838.

5 (ii) A HEALTH FACILITY OR AGENCY LICENSED UNDER ARTICLE 17 OF
6 THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20101 TO 333.22260.

7 (iii) A LOCAL HEALTH DEPARTMENT AS THAT TERM IS DEFINED IN
8 SECTION 1105 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.1105.

9 (C) ~~(a)~~—"Person with a disability" means a person who has a
10 disability as defined in section 12102 of the Americans with
11 disabilities act of 1990, 42 USC 12102 and 28 CFR 36.104.

12 (D) ~~(b)~~—As used in subdivision ~~(a)~~, ~~(C)~~, "person with a
13 disability" includes a veteran who has been diagnosed with 1 or
14 more of the following:

15 (i) Post-traumatic stress disorder.

16 (ii) Traumatic brain injury.

17 (iii) Other service-related disabilities.

18 (E) ~~(e)~~—"Service animal" means all of the following:

19 (i) That term as defined in 28 CFR 36.104.

20 (ii) A miniature horse that has been individually trained to
21 do work or perform tasks as described in 28 CFR 36.104 for the
22 benefit of a person with a disability.

23 (F) ~~(d)~~—"Veteran" means any of the following:

24 (i) A person who performed military service in the armed
25 forces for a period of more than 90 days and separated from the
26 armed forces in a manner other than a dishonorable discharge.

27 (ii) A person discharged or released from military service

1 because of a service-related disability.

2 (iii) A member of a reserve branch of the armed forces at the
3 time he or she was ordered to military service during a period of
4 war, or in a campaign or expedition for which a campaign badge is
5 authorized, and was released from military service in a manner
6 other than a dishonorable discharge.

7 Sec. 2. (1) A person shall not falsely represent that he or
8 she is in possession of **AN EMOTIONAL SUPPORT ANIMAL**, a service
9 animal, or a service animal in training, in any public place **OR TO**
10 **A CURRENT OR PROSPECTIVE LANDLORD OR OTHER HOUSING PROVIDER.**

11 (2) **A PERSON WHO CERTIFIES THE NEED FOR A PERSON WITH A**
12 **DISABILITY TO POSSESS AN EMOTIONAL SUPPORT ANIMAL OR A SERVICE**
13 **ANIMAL SHALL NOT FALSELY REPRESENT THAT NEED AND SHALL SATISFY ALL**
14 **OF THE FOLLOWING:**

15 (A) **THE PERSON SHALL BE A HEALTH CARE PROVIDER LICENSED IN**
16 **THIS STATE OR IN ANOTHER STATE.**

17 (B) **THE PERSON SHALL MAINTAIN A PHYSICAL OFFICE SPACE WHERE HE**
18 **OR SHE REGULARLY TREATS PATIENTS.**

19 (C) **THE PERSON SHALL DOCUMENT THAT HE OR SHE HAS TREATED THE**
20 **PERSON WITH A DISABILITY FOR AT LEAST 6 MONTHS BEFORE THE DATE ON**
21 **WHICH A PUBLIC OR PRIVATE ENTITY REQUESTS DOCUMENTATION**
22 **ESTABLISHING THE VALIDITY OF THE PERSON WITH A DISABILITY'S ALLEGED**
23 **DISABILITY AND THE NEXUS BETWEEN THAT DISABILITY AND THE NEED FOR**
24 **THE EMOTIONAL SUPPORT ANIMAL OR SERVICE ANIMAL.**

25 (D) **THE PERSON SHALL, UPON REQUEST, PROVIDE THE PERSON WITH A**
26 **DISABILITY OR A PUBLIC OR PRIVATE ENTITY REQUESTING THE**
27 **DOCUMENTATION DESCRIBED IN SUBDIVISION (C) WITH A NOTARIZED LETTER**

1 CERTIFYING THAT THE PERSON WITH A DISABILITY IS DISABLED AND THAT
2 THE EMOTIONAL SUPPORT ANIMAL OR SERVICE ANIMAL IS NECESSARY TO
3 ALLEVIATE THE EFFECTS OF THE DISABILITY THAT WOULD OTHERWISE
4 PREVENT THE DISABLED PERSON FROM HAVING THE SAME OPPORTUNITIES TO
5 USE A PUBLIC PLACE OR RESIDENCE AS A NONDISABLED PERSON.

6 (E) THE PERSON SHALL PROVIDE THE DOCUMENTATION DESCRIBED IN
7 SUBDIVISION (D) ON AN ANNUAL BASIS, UPON REQUEST.

8 Sec. 3. (1) A person who knowingly violates this act is guilty
9 of a misdemeanor punishable 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) A LANDLORD OR OTHER HOUSING PROVIDER WHO RENTS HOUSING TO
14 A PERSON WHO KNOWINGLY VIOLATES THIS ACT SHALL EVICT THAT PERSON AS
15 PROVIDED IN SECTION 5714(1)(C)(i) OR 5775(2)(K) OF THE REVISED
16 JUDICATURE ACT OF 1961, 1961 PA 263, MCL 600.5714 AND 600.5775.

17 Sec. 4. The department of civil rights shall use its existing
18 telephone complaint hotline to receive reports of a person falsely
19 representing that he or she is in possession of **AN EMOTIONAL**
20 **SUPPORT ANIMAL**, a service animal, or a service animal in training,
21 **OR REPORTS OF A HEALTH CARE PROVIDER WHO IS FALSELY CERTIFYING THE**
22 **NEED FOR AN EMOTIONAL SUPPORT ANIMAL OR A SERVICE ANIMAL.** The
23 department may refer an alleged violation of this act to the
24 appropriate law enforcement agency for investigation.

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.