

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

**Introduced by Reps. Hall, Chirkun, Hornberger, Markkanen, Sabo, Miller, Bellino, Liberati,
Cambensy, Garza, Brenda Carter and Meerman**

ENROLLED HOUSE BILL No. 4910

AN ACT 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:

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

Sec. 2. As used in this act:

(a) “Bona fide provider-patient relationship” means a treatment or counseling relationship in which a health care provider does all of the following:

(i) Reviews the patient's relevant medical records and completes a full assessment of the patient's medical history and current medical condition, including a relevant medical evaluation of the patient either in person or via telehealth.

(ii) Creates and maintains records of the patient's current medical condition in accordance with medically accepted standards.

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

(b) “Community association” means an incorporation or unincorporated cooperative, condominium association, homeowner's association, or summer resort association.

(c) “Dwelling” means a building or structure, or any portion of a building or structure, that is occupied as or designed or intended for occupancy as a residence, including, but not limited to, a building or structure that is part of an apartment, manufactured home, or condominium community, a group home or nursing home, or a seasonal residential facility.

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

(e) “Health care provider” means any of the following:

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

(ii) A mental health professional as that term is defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b, or a mental health professional licensed in another state.

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

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

(f) “Housing provider” means a person, including a community association or a private or public business, that is subject to fair housing laws and that offers, provides, or regulates the use of a dwelling.

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

(h) “Telehealth” means that term as defined in section 16283 of the public health code, 1978 PA 368, MCL 333.16283.

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

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

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

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

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

(b) The health care provider shall not receive a fee or any other form of compensation solely for the purpose of issuing a certificate or other similar documentation that purports to confirm the benefit of an emotional support animal. A certificate or other similar documentation that purports to confirm the benefit of an emotional support animal that is issued by a health care provider who received compensation from any source solely for providing the certificate or documentation is invalid.

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

(i) That the health care provider and the individual have a bona fide provider-patient relationship.

(ii) The dates and locations, if applicable, where the health care provider provided treatment to the individual.

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

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

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

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

(vii) That the health care provider did not receive a fee or any other compensation solely for the purpose of issuing a certificate or other similar documentation that purports to confirm the benefit of the emotional support animal.

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

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

Sec. 5. (1) An individual or health care provider that knowingly violates this act is guilty of a misdemeanor punishable as follows:

(a) For a first offense, a fine of not more than \$500.00.

(b) For a second or subsequent offense, imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.

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

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

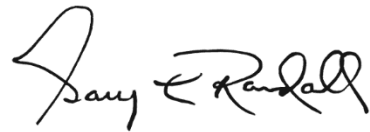
(a) Reports of an individual who is falsely representing that he or she is in possession of an emotional support animal.

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

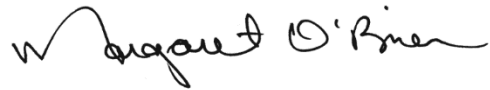
(c) Complaints from a tenant or prospective tenant in regard to obtaining permission from a housing provider to keep an emotional support animal on the leased premises.

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

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



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor