

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 298

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 50a and 502c (MCL 750.50a and 750.502c),
section 50a as added by 1994 PA 42 and section 502c as amended by
1998 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 50a. (1) An individual shall not do either of the
2 following:

3 (a) Willfully and maliciously assault, beat, harass, injure,
4 or attempt to assault, beat, harass, or injure a ~~dog~~ **SERVICE ANIMAL**
5 that he or she knows or has reason to believe is a ~~guide or leader~~
6 ~~dog for a blind individual, a hearing dog for a deaf or audibly~~
7 ~~impaired individual, or a service dog for~~ **ANIMAL USED BY a**
8 ~~physically limited individual.~~ **PERSON WITH A DISABILITY.**

1 (b) Willfully and maliciously impede or interfere with, or
2 attempt to impede or interfere with, duties performed by a ~~dog~~
3 **SERVICE ANIMAL** that he or she knows or has reason to believe is a
4 ~~guide or leader dog for a blind individual, a hearing dog for a~~
5 ~~deaf or audibly impaired individual, or a service dog for~~ **ANIMAL**
6 **USED BY** a ~~physically limited individual.~~ **PERSON WITH A DISABILITY.**

7 (2) An individual who violates subsection (1) is guilty of a
8 misdemeanor punishable by imprisonment for not more than 90 days or
9 a fine of not more than \$500.00, or both.

10 (3) In a prosecution for a violation of subsection (1),
11 evidence that the defendant initiated or continued conduct directed
12 toward a ~~dog~~ **SERVICE ANIMAL** described in subsection (1) after being
13 requested to avoid or discontinue that conduct or similar conduct
14 by a ~~blind, deaf, audibly impaired, or physically limited~~
15 ~~individual~~ **PERSON WITH A DISABILITY** being served or assisted by the
16 ~~dog~~ **SERVICE ANIMAL** shall give rise to a rebuttable presumption that
17 the conduct was initiated or continued maliciously.

18 (4) A conviction and imposition of a sentence under this
19 section does not prevent a conviction and imposition of a sentence
20 under any other applicable provision of law.

21 (5) As used in this section:

22 ~~— (a) "Audibly impaired" means the inability to hear air~~
23 ~~conduction thresholds at an average of 40 decibels or greater in~~
24 ~~the individual's better ear.~~

25 ~~— (b) "Blind" means having a visual acuity of 20/200 or less in~~
26 ~~the individual's better eye with correction, or having a limitation~~
27 ~~of the individual's field of vision such that the widest diameter~~

1 of the visual field subtends an angular distance not greater than
2 20 degrees.

3 ~~— (c) "Deaf" means the individual's hearing is totally impaired~~
4 ~~or the individual's hearing, with or without amplification, is so~~
5 ~~seriously impaired that the primary means of receiving spoken~~
6 ~~language is through other sensory input, including, but not limited~~
7 ~~to, lip reading, sign language, finger spelling, or reading.~~

8 (A) ~~(d)~~ "Harass" means to engage in any conduct directed
9 toward a ~~guide, leader, hearing, or service dog~~ **SERVICE ANIMAL**
10 **DESCRIBED IN SUBSECTION (1)** that is likely to impede or interfere
11 with the ~~dog's~~ **SERVICE ANIMAL'S** performance of its duties or that
12 places the ~~blind, deaf, audibly impaired, or physically limited~~
13 ~~individual~~ **PERSON WITH A DISABILITY** being served or assisted by the
14 ~~dog~~ **SERVICE ANIMAL** in danger of injury.

15 (B) ~~(e)~~ "Injure" means to cause any physical injury to a ~~dog~~
16 **SERVICE ANIMAL** described in subsection (1).

17 (C) ~~(f)~~ "Maliciously" means any of the following:

18 (i) With intent to assault, beat, harass, or injure a ~~dog~~
19 **SERVICE ANIMAL** described in subsection (1).

20 (ii) With intent to impede or interfere with duties performed
21 by a ~~dog~~ **SERVICE ANIMAL** described in subsection (1).

22 (iii) With intent to disturb, endanger, or cause emotional
23 distress to a ~~blind, deaf, audibly impaired, or physically limited~~
24 ~~individual~~ **PERSON WITH A DISABILITY** being served or assisted by a
25 ~~dog~~ **SERVICE ANIMAL** described in subsection (1).

26 (iv) With knowledge that the individual's conduct will ~~,~~ or is
27 likely to harass or injure a ~~dog~~ **SERVICE ANIMAL** described in

1 subsection (1).

2 (v) With knowledge that the individual's conduct will ~~or~~ is
3 likely to impede or interfere with duties performed by a ~~dog~~
4 **SERVICE ANIMAL** described in subsection (1).

5 (vi) With knowledge that the individual's conduct will ~~or~~ is
6 likely to disturb, endanger, or cause emotional distress to a
7 ~~blind, deaf, audibly impaired, or physically limited individual~~
8 **PERSON WITH A DISABILITY** being served or assisted by a ~~dog~~ **SERVICE**
9 **ANIMAL** described in subsection (1).

10 ~~—— (g) "Physically limited" means having limited ambulatory~~
11 ~~abilities and includes but is not limited to having a temporary or~~
12 ~~permanent impairment or condition that does 1 or more of the~~
13 ~~following:~~

14 ~~—— (i) Causes the individual to use a wheelchair or walk with~~
15 ~~difficulty or insecurity.~~

16 ~~—— (ii) Affects sight or hearing to the extent that an individual~~
17 ~~is insecure or exposed to danger.~~

18 ~~—— (iii) Causes faulty coordination.~~

19 ~~—— (iv) Reduces mobility, flexibility, coordination, or~~
20 ~~perceptiveness.~~

21 (D) "PERSON WITH A DISABILITY" MEANS A PERSON WHO HAS A
22 DISABILITY AS DEFINED IN SECTION 12102 OF THE AMERICANS WITH
23 DISABILITIES ACT OF 1990, 42 USC 12102, AND 28 CFR 36.104.

24 (E) AS USED IN SUBDIVISION (D), "PERSON WITH A DISABILITY"
25 INCLUDES A VETERAN WHO HAS BEEN DIAGNOSED WITH 1 OR MORE OF THE
26 FOLLOWING:

27 (i) POST-TRAUMATIC STRESS DISORDER.

1 (ii) TRAUMATIC BRAIN INJURY.

2 (iii) OTHER SERVICE-RELATED DISABILITIES.

3 (F) "SERVICE ANIMAL" MEANS ALL OF THE FOLLOWING:

4 (i) THAT TERM AS DEFINED IN 28 CFR 36.104.

5 (ii) A MINIATURE HORSE THAT HAS BEEN INDIVIDUALLY TRAINED TO
6 DO WORK OR PERFORM TASKS AS DESCRIBED IN 28 CFR 36.104 FOR THE
7 BENEFIT OF A PERSON WITH A DISABILITY.

8 (G) "VETERAN" MEANS ANY OF THE FOLLOWING:

9 (i) A PERSON WHO PERFORMED MILITARY SERVICE IN THE ARMED
10 FORCES FOR A PERIOD OF MORE THAN 90 DAYS AND SEPARATED FROM THE
11 ARMED FORCES IN A MANNER OTHER THAN A DISHONORABLE DISCHARGE.

12 (ii) A PERSON DISCHARGED OR RELEASED FROM MILITARY SERVICE
13 BECAUSE OF A SERVICE-RELATED DISABILITY.

14 (iii) A MEMBER OF A RESERVE BRANCH OF THE ARMED FORCES AT THE
15 TIME HE OR SHE WAS ORDERED TO MILITARY SERVICE DURING A PERIOD OF
16 WAR, OR IN A CAMPAIGN OR EXPEDITION FOR WHICH A CAMPAIGN BADGE IS
17 AUTHORIZED, AND WAS RELEASED FROM MILITARY SERVICE IN A MANNER
18 OTHER THAN A DISHONORABLE DISCHARGE.

19 ~~Sec. 502c. (1) A person who is an owner, lessee, proprietor,~~
20 ~~manager, superintendent, agent, or employee of any place of public~~
21 ~~or private housing, accommodation, amusement, or recreation,~~
22 ~~including but not limited to any inn, hotel, motel, apartment~~
23 ~~building, trailer park, restaurant, barbershop, billiard parlor,~~
24 ~~store, public conveyance on land or water, theater, motion picture~~
25 ~~house, public or private educational institution, or elevator, who~~
26 ~~refuses to permit a person with disabilities to enter or use the~~
27 ~~place when the place is available because the person with~~

~~1 disabilities is being led or accompanied by a guide or leader dog,
2 hearing dog, or service dog is guilty of a misdemeanor if the guide
3 or leader dog is wearing a harness or if the hearing dog or service
4 dog is wearing a blaze orange leash and collar, hearing dog cape,
5 or service dog backpack, and the person with disabilities being led
6 or accompanied has in his or her possession a pictured
7 identification card certifying that the dog was trained by a
8 qualified organization or trainer. The department of labor shall
9 maintain a list of organizations or trainers that train guide or
10 leader dogs, hearing dogs, and service dogs.~~

~~11 ——— (2) A person who is an owner, lessee, proprietor, manager,
12 superintendent, agent, or employee of any place of public or
13 private housing, accommodation, amusement, or recreation,
14 including, but not limited to, the places listed in subsection (1),
15 who refuses to permit a trainer of guide or leader dogs, hearing
16 dogs, or service dogs to enter or use the place when the place is
17 available because the trainer is being led or accompanied by a
18 guide or leader dog, hearing dog, or service dog is guilty of a
19 misdemeanor if the guide or leader dog is wearing a harness or if
20 the hearing dog or service dog is wearing a hearing dog cape or
21 service dog backpack, if the trainer is being led or accompanied by
22 an adult dog for the purpose of training the dog, and if the
23 trainer has in his or her possession picture identification and
24 identification stating that he or she is a representative or
25 employee of an organization or trainer, or is a trainer, included
26 on the department of labor list of organizations or trainers that
27 train guide or leader dogs, hearing dogs, or service dogs.~~

1 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), A PUBLIC
2 ACCOMMODATION SHALL MODIFY ITS POLICIES, PRACTICES, AND PROCEDURES
3 TO PERMIT THE USE OF A SERVICE ANIMAL BY A PERSON WITH A
4 DISABILITY. IF THE SERVICE ANIMAL IS A MINIATURE HORSE, A PUBLIC
5 ACCOMMODATION MAY USE THE FOLLOWING ASSESSMENT FACTORS TO DETERMINE
6 WHETHER THE MINIATURE HORSE CAN BE ACCOMMODATED IN ITS FACILITY:

7 (A) THE TYPE, SIZE, AND WEIGHT OF THE MINIATURE HORSE AND
8 WHETHER THE FACILITY CAN ACCOMMODATE THESE FEATURES.

9 (B) WHETHER THE HANDLER HAS SUFFICIENT CONTROL OF THE
10 MINIATURE HORSE.

11 (C) WHETHER THE MINIATURE HORSE IS HOUSEBROKEN.

12 (D) WHETHER THE MINIATURE HORSE'S PRESENCE IN A SPECIFIC
13 FACILITY COMPROMISES LEGITIMATE SAFETY REQUIREMENTS THAT ARE
14 NECESSARY FOR SAFE OPERATION.

15 (2) A PUBLIC ACCOMMODATION SHALL NOT ASK A PERSON WITH A
16 DISABILITY TO REMOVE A SERVICE ANIMAL FROM THE PREMISES DUE TO
17 ALLERGIES OR FEAR OF THE ANIMAL. A PUBLIC ACCOMMODATION MAY ONLY
18 ASK A PERSON WITH A DISABILITY TO REMOVE HIS OR HER SERVICE ANIMAL
19 FROM THE PREMISES IF EITHER OF THE FOLLOWING APPLIES:

20 (A) THE SERVICE ANIMAL IS OUT OF CONTROL AND ITS HANDLER DOES
21 NOT TAKE EFFECTIVE ACTION TO CONTROL IT.

22 (B) THE SERVICE ANIMAL IS NOT HOUSEBROKEN.

23 (3) IF A PUBLIC ACCOMMODATION PROPERLY EXCLUDES A SERVICE
24 ANIMAL UNDER SUBSECTION (2), IT SHALL GIVE THE PERSON WITH A
25 DISABILITY THE OPPORTUNITY TO OBTAIN GOODS, SERVICES, OR
26 ACCOMMODATIONS WITHOUT HAVING THE SERVICE ANIMAL ON THE PREMISES.

27 (4) A SERVICE ANIMAL SHALL BE UNDER THE CONTROL OF ITS

1 HANDLER, AND SHALL HAVE A HARNESS, LEASH, OR OTHER TETHER, UNLESS
2 THE HANDLER IS UNABLE BECAUSE OF A DISABILITY TO USE A HARNESS,
3 LEASH, OR OTHER TETHER OR THE USE OF A HARNESS, LEASH, OR OTHER
4 TETHER WOULD INTERFERE WITH THE SERVICE ANIMAL'S SAFE AND EFFECTIVE
5 PERFORMANCE OF WORK OR TASKS, IN WHICH CASE THE SERVICE ANIMAL
6 SHALL BE OTHERWISE UNDER THE HANDLER'S CONTROL. AS USED IN THIS
7 SUBSECTION, "OTHERWISE UNDER THE HANDLER'S CONTROL" INCLUDES, BUT
8 IS NOT LIMITED TO, VOICE CONTROL OR SIGNALS.

9 (5) A PUBLIC ACCOMMODATION IS NOT RESPONSIBLE FOR THE CARE OR
10 SUPERVISION OF A SERVICE ANIMAL.

11 (6) IF IT IS NOT OBVIOUS WHAT SERVICE A SERVICE ANIMAL
12 PROVIDES, STAFF OF A PUBLIC ACCOMMODATION SHALL NOT ASK ABOUT A
13 PERSON WITH A DISABILITY'S DISABILITY, REQUIRE MEDICAL
14 DOCUMENTATION, REQUIRE A SPECIAL IDENTIFICATION CARD OR TRAINING
15 DOCUMENTATION FOR THE SERVICE ANIMAL, OR ASK THAT THE SERVICE
16 ANIMAL DEMONSTRATE ITS ABILITY TO PERFORM WORK OR A TASK. SUBJECT
17 TO SUBSECTION (7), STAFF MAY MAKE THE FOLLOWING 2 INQUIRIES TO
18 DETERMINE WHETHER AN ANIMAL QUALIFIES AS A SERVICE ANIMAL:

19 (A) WHETHER THE SERVICE ANIMAL IS REQUIRED BECAUSE OF A
20 DISABILITY.

21 (B) WHAT WORK OR TASK THE SERVICE ANIMAL HAS BEEN TRAINED TO
22 PERFORM.

23 (7) A PUBLIC ACCOMMODATION SHALL NOT DO EITHER OF THE
24 FOLLOWING:

25 (A) REQUIRE DOCUMENTATION WHEN MAKING AN INQUIRY UNDER
26 SUBSECTION (6).

27 (B) MAKE AN INQUIRY UNDER SUBSECTION (6) IF IT IS READILY

1 APPARENT THAT THE SERVICE ANIMAL IS TRAINED TO DO WORK OR PERFORM
2 TASKS FOR AN INDIVIDUAL WITH A DISABILITY.

3 (8) A PERSON WITH A DISABILITY SHALL BE PERMITTED TO BE
4 ACCOMPANIED BY HIS OR HER SERVICE ANIMAL IN ALL AREAS OF A PLACE OF
5 PUBLIC ACCOMMODATION WHERE MEMBERS OF THE PUBLIC, PROGRAM
6 PARTICIPANTS, CLIENTS, CUSTOMERS, PATRONS, OR INVITEES ARE
7 PERMITTED TO GO, INCLUDING PUBLIC AREAS OF ESTABLISHMENTS THAT SELL
8 OR PREPARE FOOD, EVEN IF STATE OR LOCAL HEALTH CODES PROHIBIT
9 ANIMALS ON THE PREMISES. A PUBLIC ACCOMMODATION MAY EXCLUDE A
10 SERVICE ANIMAL FROM A FACILITY IF THE SERVICE ANIMAL'S PRESENCE
11 INTERFERES WITH LEGITIMATE SAFETY REQUIREMENTS OF THE FACILITY SUCH
12 AS A SURGERY OR BURN UNIT IN A HOSPITAL IN WHICH A STERILE FIELD IS
13 REQUIRED.

14 (9) A PUBLIC ACCOMMODATION SHALL NOT ISOLATE A PERSON WITH A
15 DISABILITY ACCOMPANIED BY HIS OR HER SERVICE ANIMAL, TREAT A PERSON
16 WITH A DISABILITY ACCOMPANIED BY HIS OR HER SERVICE ANIMAL LESS
17 FAVORABLY THAN OTHER PATRONS, OR CHARGE A FEE TO A PERSON WITH A
18 DISABILITY ACCOMPANIED BY HIS OR HER SERVICE ANIMAL THAT IS NOT
19 CHARGED TO OTHER PATRONS WITHOUT SERVICE ANIMALS. A PUBLIC
20 ACCOMMODATION SHALL NOT ASK OR REQUIRE A PERSON WITH A DISABILITY
21 TO PAY A SURCHARGE, REGARDLESS OF WHETHER PEOPLE ACCOMPANIED BY
22 PETS ARE REQUIRED TO PAY A SURCHARGE, OR TO COMPLY WITH OTHER
23 REQUIREMENTS THAT ARE NOT APPLICABLE TO PEOPLE WITHOUT PETS. IF A
24 PUBLIC ACCOMMODATION NORMALLY CHARGES PEOPLE FOR DAMAGE CAUSED, THE
25 PUBLIC ACCOMMODATION MAY CHARGE A PERSON WITH A DISABILITY FOR
26 DAMAGE CAUSED BY HIS OR HER SERVICE ANIMAL.

27 (10) A PUBLIC ACCOMMODATION THAT VIOLATES SUBSECTIONS (1),

1 (3), OR (6) TO (9) IS GUILTY OF A MISDEMEANOR.

2 (11) ~~(3)~~ As used in this section:

3 ~~—— (a) "Adult dog" means a domestic dog of the species canis~~
4 ~~familiaris that is 12 months of age or older.~~

5 ~~—— (b) "Audibly impaired" means audibly impaired as defined in~~
6 ~~section 1 of 1981 PA 82, MCL 752.61.~~

7 ~~—— (c) "Blind person" means a blind person as defined in section~~
8 ~~1 of 1978 PA 260, MCL 393.351.~~

9 ~~—— (d) "Deaf person" means a deaf person as defined in section 1~~
10 ~~of 1981 PA 82, MCL 752.61.~~

11 (A) "FACILITY" MEANS THAT TERM AS DEFINED IN 28 CFR 36.104.

12 (B) ~~(e)~~ "Person with disabilities" **A DISABILITY** means a
13 person who is audibly impaired, blind, deaf, or otherwise
14 physically limited. **HAS A DISABILITY AS DEFINED IN SECTION 12102 OF**
15 **THE AMERICANS WITH DISABILITIES ACT OF 1990, 42 USC 12102, AND 28**
16 **CFR 36.104.**

17 ~~—— (f) "Physically limited" means physically limited as defined~~
18 ~~in section 1 of 1966 PA 1, MCL 125.1351.~~

19 (C) AS USED IN SUBDIVISION (B), "PERSON WITH A DISABILITY"
20 INCLUDES A VETERAN WHO HAS BEEN DIAGNOSED WITH 1 OR MORE OF THE
21 FOLLOWING:

22 (i) POST-TRAUMATIC STRESS DISORDER.

23 (ii) TRAUMATIC BRAIN INJURY.

24 (iii) OTHER SERVICE-RELATED DISABILITIES.

25 (D) "PLACE OF PUBLIC ACCOMMODATION" MEANS THAT TERM AS DEFINED
26 IN 28 CFR 36.104.

27 (E) "PUBLIC ACCOMMODATION" MEANS THAT TERM AS DEFINED IN

1 SECTION 12181 OF THE AMERICANS WITH DISABILITIES ACT OF 1990, 42
2 USC 12181, AND 28 CFR 36.104.

3 (F) "SERVICE ANIMAL" MEANS ALL OF THE FOLLOWING:

4 (i) THAT TERM AS DEFINED IN 28 CFR 36.104.

5 (ii) A MINIATURE HORSE THAT HAS BEEN INDIVIDUALLY TRAINED TO
6 DO WORK OR PERFORM TASKS AS DESCRIBED IN 28 CFR 36.104 FOR THE
7 BENEFIT OF A PERSON WITH A DISABILITY.

8 (G) "VETERAN" MEANS ANY OF THE FOLLOWING:

9 (i) A PERSON WHO PERFORMED MILITARY SERVICE IN THE ARMED
10 FORCES FOR A PERIOD OF MORE THAN 90 DAYS AND SEPARATED FROM THE
11 ARMED FORCES IN A MANNER OTHER THAN A DISHONORABLE DISCHARGE.

12 (ii) A PERSON DISCHARGED OR RELEASED FROM MILITARY SERVICE
13 BECAUSE OF A SERVICE-RELATED DISABILITY.

14 (iii) A MEMBER OF A RESERVE BRANCH OF THE ARMED FORCES AT THE
15 TIME HE OR SHE WAS ORDERED TO MILITARY SERVICE DURING A PERIOD OF
16 WAR, OR IN A CAMPAIGN OR EXPEDITION FOR WHICH A CAMPAIGN BADGE IS
17 AUTHORIZED, AND WAS RELEASED FROM MILITARY SERVICE IN A MANNER
18 OTHER THAN A DISHONORABLE DISCHARGE.

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

21 Enacting section 2. This amendatory act does not take effect
22 unless all of the following bills of the 98th Legislature are
23 enacted into law:

24 (a) Senate Bill No. 299.

25 (b) House Bill No. 4521.

26 (c) House Bill No. 4527.