

Act No. 144  
Public Acts of 2015  
Approved by the Governor  
October 19, 2015  
Filed with the Secretary of State  
October 20, 2015  
EFFECTIVE DATE: January 18, 2016

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2015**

**Introduced by Senators Knezek, Jones, Bieda, Hood, O'Brien, Hertel, Brandenburg, Schuitmaker, Hopgood, Schmidt, Emmons, Knollenberg, Proos, Ananich, Nofs, Horn, Young, Warren, Hildenbrand, Zorn, Rocca, Marleau, Robertson, Booher, Gregory, Casperson, Colbeck, Green, Hansen, Hune, Johnson, Kowall, MacGregor, Meekhof, Pavlov, Shirkey, Smith and Stamas**

# **ENROLLED SENATE BILL No. 298**

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at criminal trials; to provide for liability for damages; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," 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:*

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

(a) Willfully and maliciously assault, beat, harass, injure, or attempt to assault, beat, harass, or injure a service animal that he or she knows or has reason to believe is a service animal used by a person with a disability.

(b) Willfully and maliciously impede or interfere with, or attempt to impede or interfere with, duties performed by a service animal that he or she knows or has reason to believe is a service animal used by a person with a disability.

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

(3) In a prosecution for a violation of subsection (1), evidence that the defendant initiated or continued conduct directed toward a service animal described in subsection (1) after being requested to avoid or discontinue that conduct or similar conduct by a person with a disability being served or assisted by the service animal shall give rise to a rebuttable presumption that the conduct was initiated or continued maliciously.

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

(5) As used in this section:

(a) "Harass" means to engage in any conduct directed toward a service animal described in subsection (1) that is likely to impede or interfere with the service animal's performance of its duties or that places the person with a disability being served or assisted by the service animal in danger of injury.

(b) "Injure" means to cause any physical injury to a service animal described in subsection (1).

(c) "Maliciously" means any of the following:

(i) With intent to assault, beat, harass, or injure a service animal described in subsection (1).

(ii) With intent to impede or interfere with duties performed by a service animal described in subsection (1).

(iii) With intent to disturb, endanger, or cause emotional distress to a person with a disability being served or assisted by a service animal described in subsection (1).

(iv) With knowledge that the individual's conduct will or is likely to harass or injure a service animal described in subsection (1).

(v) With knowledge that the individual's conduct will or is likely to impede or interfere with duties performed by a service animal described in subsection (1).

(vi) With knowledge that the individual's conduct will or is likely to disturb, endanger, or cause emotional distress to a person with a disability being served or assisted by a service animal described in subsection (1).

(d) "Person with a disability" means a person who has a disability as defined in section 12102 of the Americans with Disabilities Act of 1990, 42 USC 12102, and 28 CFR 36.104.

(e) As used in subdivision (d), "person with a disability" includes a veteran who has been diagnosed with 1 or more of the following:

(i) Post-traumatic stress disorder.

(ii) Traumatic brain injury.

(iii) Other service-related disabilities.

(f) "Service animal" means all of the following:

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

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

(g) "Veteran" means any of the following:

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

(ii) A person discharged or released from military service because of a service-related disability.

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

Sec. 502c. (1) Except as otherwise provided in subsection (2), a public accommodation shall modify its policies, practices, and procedures to permit the use of a service animal by a person with a disability. If the service animal is a miniature horse, a public accommodation may use the following assessment factors to determine whether the miniature horse can be accommodated in its facility:

(a) The type, size, and weight of the miniature horse and whether the facility can accommodate these features.

(b) Whether the handler has sufficient control of the miniature horse.

(c) Whether the miniature horse is housebroken.

(d) Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

(2) A public accommodation shall not ask a person with a disability to remove a service animal from the premises due to allergies or fear of the animal. A public accommodation may only ask a person with a disability to remove his or her service animal from the premises if either of the following applies:

(a) The service animal is out of control and its handler does not take effective action to control it.

(b) The service animal is not housebroken.

(3) If a public accommodation properly excludes a service animal under subsection (2), it shall give the person with a disability the opportunity to obtain goods, services, or accommodations without having the service animal on the premises.

(4) A service animal shall be under the control of its handler, and shall have a harness, leash, or other tether, unless the handler is unable because of a disability to use a harness, leash, or other tether or the use of a harness, leash, or other tether would interfere with the service animal's safe and effective performance of work or tasks, in which case the service animal shall be otherwise under the handler's control. As used in this subsection, "otherwise under the handler's control" includes, but is not limited to, voice control or signals.

(5) A public accommodation is not responsible for the care or supervision of a service animal.

(6) If it is not obvious what service a service animal provides, staff of a public accommodation shall not ask about a person with a disability's disability, require medical documentation, require a special identification card or training documentation for the service animal, or ask that the service animal demonstrate its ability to perform work or a task.

Subject to subsection (7), staff may make the following 2 inquiries to determine whether an animal qualifies as a service animal:

- (a) Whether the service animal is required because of a disability.
- (b) What work or task the service animal has been trained to perform.

(7) A public accommodation shall not do either of the following:

- (a) Require documentation when making an inquiry under subsection (6).
- (b) Make an inquiry under subsection (6) if it is readily apparent that the service animal is trained to do work or perform tasks for an individual with a disability.

(8) A person with a disability shall be permitted to be accompanied by his or her service animal in all areas of a place of public accommodation where members of the public, program participants, clients, customers, patrons, or invitees are permitted to go, including public areas of establishments that sell or prepare food, even if state or local health codes prohibit animals on the premises. A public accommodation may exclude a service animal from a facility if the service animal's presence interferes with legitimate safety requirements of the facility such as a surgery or burn unit in a hospital in which a sterile field is required.

(9) A public accommodation shall not isolate a person with a disability accompanied by his or her service animal, treat a person with a disability accompanied by his or her service animal less favorably than other patrons, or charge a fee to a person with a disability accompanied by his or her service animal that is not charged to other patrons without service animals. A public accommodation shall not ask or require a person with a disability to pay a surcharge, regardless of whether people accompanied by pets are required to pay a surcharge, or to comply with other requirements that are not applicable to people without pets. If a public accommodation normally charges people for damage caused, the public accommodation may charge a person with a disability for damage caused by his or her service animal.

(10) A public accommodation that violates subsections (1), (3), or (6) to (9) is guilty of a misdemeanor.

(11) As used in this section:

(a) "Facility" means that term as defined in 28 CFR 36.104.

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

(c) As used in subdivision (b), "person with a disability" includes a veteran who has been diagnosed with 1 or more of the following:

(i) Post-traumatic stress disorder.

(ii) Traumatic brain injury.

(iii) Other service-related disabilities.

(d) "Place of public accommodation" means that term as defined in 28 CFR 36.104.

(e) "Public accommodation" means that term as defined in section 12181 of the Americans with disabilities act of 1990, 42 USC 12181, and 28 CFR 36.104.

(f) "Service animal" means all of the following:

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

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

(g) "Veteran" means any of the following:

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

(ii) A person discharged or released from military service because of a service-related disability.

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

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

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

(a) Senate Bill No. 299.

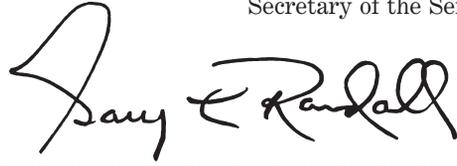
(b) House Bill No. 4521.

(c) House Bill No. 4527.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

.....  
Governor