



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 608, 609, and 610 (as introduced 10-24-19)
Sponsor: Senator Dale W. Zorn
Committee: Local Government

Date Completed: 10-30-19

CONTENT

Senate Bill 610 would enact the "Misrepresentation of Emotional Support Animals Act" to do the following:

- Prohibit an individual from falsely representing to a housing provider that he or she was disabled or was in possession of an emotional support animal.
- Allow a housing provider to request reliable documentation from an individual's health care provider to confirm an individual's disability.
- Prohibit a health provider that prescribed an emotional support animal from falsely representing that an individual had been diagnosed with a disability and required the use of an emotional support animal.
- Establish certain requirements for health providers that prescribed an emotional support animal.
- Specify that an individual who knowingly violated the proposed Act would be guilty of a misdemeanor, and prescribe penalties for a violation.
- Allow a housing provider to terminate the tenancy of an individual who falsely represented that an animal kept on the premises was an emotional support animal and to recover the premises through summary proceedings.

Senate Bill 608 would amend Chapter 57 (Summary Proceedings to Recover Possession of Premises) of the Revised Judicature Act to allow a housing provider to recover possession of a premises by summary proceedings after termination of a lease under the proposed Misrepresentation of Emotional Support Animals Act.

Senate Bill 609 would amend the Michigan Penal Code to modify the definition of "service animal".

Senate Bills 608 and 610 are tie-barred.

Senate Bill 610

Definitions

"Emotional support animal" means a common domestic animal that is prescribed to a person with a disability, by a health care provider that has determined that the animal's presence and the animal's provision of emotional support, well-being, comfort, or companionship is necessary to alleviate the disabling effect of a mental emotional, psychological, or psychiatric condition or illness that otherwise would prevent the person with a disability from having the

same housing opportunities as a nondisabled person. The term does not include a service animal as defined in Section 502c of the Penal Code.

"Housing provider" means a person, including a private or public business, that is subject to fair housing laws that offers, provides, or regulates the use of a dwelling. "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, nursing home, or condominium community, a group home or nursing home, or a seasonal residential facility.

Prohibit Misrepresentation of Disability & Need for Support Animal

The proposed Misrepresentation of Emotional Support Animals Act would prohibit an individual from falsely representing to a housing provider that he or she was a person with a disability or was in possession of an emotional support animal.

Unless a disability and a disability-related need for an emotional support animal were apparent, a housing provider could request reliable documentation from an individual's health care provider to confirm the individual's disability and to indicate the relationship between the disability and the need for an emotional support animal. ("Health care provider" would mean any of the following: a) a health professional licensed or registered 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.)

The Act would prohibit a health care provider that prescribed an emotional support animal from falsely representing that an individual had been diagnosed with a disabling mental, emotional, psychological, or psychiatric condition or illness and would require the use of an emotional support animal.

Health Care Provider Requirements

A health care provider that prescribed an emotional support animal would have to meet all of the following conditions:

- The health care provider would have to be licensed in Michigan or in the state in which the individual resided or had resided during the previous 180 days.
- The health care provider would have to maintain a physical office space where patients were regularly treated and where the individual for whom the emotional support animal was prescribed had received treatment during the previous 180 days.

Upon request by a housing provider, a health care provider would have to provide documentation establishing the following:

- That the health care provider had treated the individual for a period of at least six months immediately before the date on which the housing provider requested the documentation.
- That the individual had a disability.
- The disabling effects of the condition or illness.
- The relationship between the disabling effects of the condition or illness and the need for an emotional support animal.
- The manner in which the emotional support animal provided the disabled individual with the same opportunity to use the dwelling as would a nondisabled person.

The documentation would have to be in the form of a notarized letter or a completed and notarized questionnaire. If requested by the housing provider, the health care provider would

have to provide the documentation on an annual basis. An emotional support animal registration of any kind, including an identification card, patch, or certificate, or a similar registration that was obtained for a service animal would not satisfy the documentation requirements of the Act.

Penalties

An individual or health care provider that knowingly violated the Act would be guilty of a misdemeanor punishable by one or more of the following: a) imprisonment for up to 90 days; b) a fine of up to \$500; or c) community service for no more than 30 days.

If an individual who resided in a dwelling leased or otherwise provided or regulated by a housing provider falsely represented that an animal was an emotional support animal, the housing provider could terminate the lease or otherwise terminate the tenancy of the individual, and could recover possession of the premises under Sections 5714 or 5775 of the Revised Judicature Act (which allow for recovery of a premises through summary proceedings, and termination of a tenancy in a mobile home park, respectively).

Telephone Hotline

The Department of Civil Rights would have to use a telephone complaint hotline, either currently existing or specifically created for the purposes of the proposed Act, to receive reports of an individual who was falsely representing that he or she was in possession of an emotional support animal, or of a health care provider that was falsely representing that an individual needed an emotional support animal.

The Department could refer an alleged violation of the Act to the appropriate law enforcement agency for investigation.

Senate Bill 608

Chapter 57 of the Revised Judicature Act allows a person entitled to possession of premises to recover possession by summary proceedings (i.e., a civil action filed in a district court to recover the premises and obtain other relief, as appropriate) under certain circumstances, including when a person holds over premises after termination or expiration of a lease, or for failing or refusing to pay rent under a lease. The bill also would allow a person entitled to possession of premises to recover possession through summary proceedings after termination of a lease under the proposed Misrepresentation of Emotional Support Animals Act.

Chapter 57 also prohibits the tenancy of a tenant in a mobile home park from being terminated unless there is just cause for the termination. "Just cause" is defined as one or more of a list of circumstances, for example, the use of a mobile home site by the tenant for an unlawful purpose. Under the bill, "just cause" would include a violation by the tenant or a member of the tenant's household of the Misrepresentation of Emotional Support Animals Act.

Senate Bill 609

Under the Penal Code, "service animal" means the following: a) that term as defined in 28 CFR 36.104, or b) 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.

The bill specifies, within the definition, that an animal would not be a service animal unless it had been individually trained to do work or perform tasks for the benefit of a person with a

disability. The provision of emotional support, well-being, comfort, or companionship would not constitute work or tasks for the purposes of the definition.

(Under Federal regulations, "service animal" refers to any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The definition excludes other species of animals.)

MCL 600.5714 & 600.5775 (S.B. 608)
750.502c (S.B. 609)

Legislative Analyst: Dana Adams

FISCAL IMPACT

Senate Bill 608

The bill would not have a fiscal impact on the State. The bill would have a minimal, negative impact on district courts throughout the State. The addition of a cause of action for summary proceedings matters could increase filings at the district court level, which, in turn, could have the potential to use court resources and time. However, the number of additional filings the bill would allow for likely would be minimal, and any additional costs likely would be absorbed by local units.

Senate Bill 609

The bill would have no fiscal impact on State or local government.

Senate Bill 610

The bill would have a negative fiscal impact on State and local government. New misdemeanor arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people would be prosecuted under the bill's provisions. Any additional revenue from imposed fines would go to local libraries.

The bill also would require the Department of Civil Rights to maintain a telephone complaint hotline. The Department has indicated that its current toll-free hotline should be sufficient to comply with the bill's requirement. Any additional costs are expected to be minimal and likely would be absorbed within current appropriations. However, should the Department be required to do more than forward the information to local law enforcement (e.g., investigations or enforcement) there could be additional costs, which would require additional funding. These potential additional costs are indeterminate and would depend on the nature of any additional responsibilities beyond reporting to local law enforcement.

Fiscal Analyst: Joe Carrasco
Michael Siracuse

SAS\S1920\s608sa

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.