



SF 341 – Service Animals (LSB1035SV.1)

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Fiscal Note Version – Final Action

Requested by Representative Mary Wolfe

Description

[Senate File 341](#) relates to assistance animals and service animals in housing and to the misrepresentation of an animal as a service animal or a service-animal-in-training, and establishes related penalties and applicability provisions.

[Senate File 341](#) creates new Iowa Code section 216.8B, which provides several definitions related to assistance animals and service animals. The Bill defines “assistance animal” as an animal that qualifies as a reasonable accommodation under the federal [Fair Housing Act](#), 42 U.S.C. §3601 et seq., as amended, or section 504 of the federal [Rehabilitation Act of 1973](#), 29 U.S.C. §794, as amended. “Service animal” is defined as a dog or a miniature horse as set forth in the implementing regulations of Tit. II and Tit. III of the federal [Americans with Disabilities Act of 1990](#), 42 U.S.C. §12101 et seq. A service animal is considered a “service-animal-in-training” if that animal is undergoing a course of development and training to do work or perform tasks for the benefit of an individual that directly relate to the disability of the individual.

New Iowa Code section 216.8B provides that a landlord shall waive lease restrictions on the keeping of animals as assistance or service animals for a person with a disability. However, under the Bill’s provision, a landlord is allowed to deny a request for the accommodation of a service animal or service-animal-in-training if the requestor fails to provide sufficient documentation indicating the existence of a disability and the disability-related need for an assistance animal or service animal. [Senate File 341](#) also provides in new Iowa Code section 216.8B that a renter is liable for any damage to any dwelling by an assistance or service animal. The new Iowa Code section also provides that a person who knowingly denies or interferes with the right of a person with a disability constitutes an unfair practice or discriminatory practice as defined in Iowa Code section [216.2](#) and commits a simple misdemeanor. A person who knowingly misrepresents an animal as a service animal or service-animal-in-training, or a person who assists in controlling a person with a disability’s service animal or service-animal-in-training, commits a simple misdemeanor.

Additionally, the Bill criminalizes the intentional misrepresentation of an animal as a service animal or service-animal-in-training if all of the following elements are established:

- For the purpose of obtaining any of the rights or privileges set forth in federal or state law, a person intentionally misrepresents an animal as a service animal or service-animal-in-training, or a person intentionally misrepresents a service animal or service-animal-in-training by controlling the animal on behalf of the disabled individual;
- The person has been previously warned verbally, or in a written notice, that it is illegal to misrepresent a service animal or service-animal-in-training;
- The person knows that the animal in question is not a service animal or service-animal-in-training.

If all elements are present, the person has committed a simple misdemeanor.

[Senate File 341](#) also creates new Iowa Code section 216.8C, which provides a process for a patient or client with a disability to request the assistance of a professional licensed under certain Iowa Code chapters in seeking a finding that the patient or client with a disability needs an assistance or service animal as a reasonable accommodation in housing. Such a licensed professional must be legally and professionally qualified to make a finding of disability, must be sufficiently familiar with the patient or client and the disability, and is required to meet with the patient or client requesting an assistance or service animal in person or via telemedicine. The licensed professional is also required to provide a written copy of any finding regarding the patient or client's disability and whether the need for a service or assistance animal is related to the disability. The Bill authorizes the Iowa Civil Rights Commission (ICRC), in consultation with the Consumer Protection Division of the Office of the Attorney General, to adopt rules regarding written findings of professionals under this new Iowa Code section. Such rules are required to comply with the federal [Fair Housing Act](#) and the federal [Rehabilitation Act of 1973](#).

[Senate File 341](#) establishes new Iowa Code section 216C.12, which provides that an owner of real property is not liable for any injury or damage caused by a service animal or service-animal-in-training if the owner believes in good faith that the animal is a service animal or a service-animal-in-training and that the person using the animal is a person with a disability or an individual assisting a person with a disability by controlling or training a service animal or service-animal-in-training; and if the injury or damage is not caused by the property owner's negligence, recklessness, or willful misconduct.

Background

A simple misdemeanor is punishable by confinement for no more than 30 days or a fine of at least \$65 but not more than \$625, or both.

The ICRC receives substantial federal funding from the U.S. Department of Housing and Urban Development (HUD). In some cases, this funding is dependent on compliance with federal statute. If a state enacts legislation that amends existing state law so as to be out of compliance with federal law, the state may lose federal HUD funding. The state of Missouri recently lost federal HUD funding due to amendments to the state's civil rights law, and lost its certification as a Fair Housing Assistance Program (FHAP) participant.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.
- The ICRC assumes an increase in the amount of complaints related to assistance animals, service animals, service-animals-in-training, or the misrepresentation of such due to the raised awareness of rights and responsibilities of individuals with disabilities, medical professionals, and landlords across the State. According to the ICRC, 45.0% to 50.0% of housing discrimination complaints filed in fiscal years 2016 through 2018 were related to service and assistance animal issues.

Correctional Impact

The correctional impact of [SF 341](#) cannot be determined. The Bill establishes a new criminal offense, and the number of convictions cannot be estimated. A conviction of a simple misdemeanor does not result in any time served in a prison but does carry the possibility of confinement for up to 30 days. Marginal county jail costs are estimated to be \$50 per day, but there is insufficient information to determine any costs related to length of stay. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 8, 2019, for information related to the correctional system.

Minority Impact

The minority impact of [SF 341](#) is unknown. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 7, 2019, for information related to minorities in the criminal justice system.

Fiscal Impact

The fiscal impact of [SF 341](#) cannot be estimated. The Bill establishes a new criminal offense, and the resulting number of convictions and cost to the justice system cannot be estimated. **Table 1** contains an estimate for the average State cost for a single conviction of a simple misdemeanor. The estimate includes operating costs incurred by the Judicial Branch and the State Public Defender.

Table 1 — Estimated Cost for One Conviction Under [SF 341](#)

Offense Class	Total Minimum Cost	Total Maximum Cost
Simple Misdemeanor	\$33	\$330

It is likely that some revenue may be generated from the criminal fines associated with the conviction of a simple misdemeanor, but such fiscal impact is expected to be minimal.

Although the ICRC cannot determine the increase in the number of complaints it will receive related to service and assistance animals, the ICRC believes it will be able to cover any costs associated with such an increase through its existing budget. However, as some of the agency's existing funding is provided by the federal HUD as a participant of the FHAP, the [Iowa Civil Rights Act](#), as amended by the provisions of [SF 341](#), must be in substantial equivalence with the federal Fair Housing Act (Title VIII). If the federal government determines that the provisions of [SF 341](#) amend the Iowa Civil Rights Act so as to be out of compliance with Title VIII, the ICRC may lose up to approximately \$507,000 in federal funding. At this time, no determination of noncompliance has been made.

Sources

Iowa Civil Rights Commission
Division of Criminal and Juvenile Justice Planning, Iowa Department of Human Rights
LSA analysis

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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