

Senate File 341 - Enrolled

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AN ACT

RELATING TO ASSISTANCE ANIMALS AND SERVICE ANIMALS IN HOUSING,
SERVICE ANIMALS AND SERVICE-ANIMALS-IN-TRAINING IN PUBLIC
ACCOMMODATIONS, AND MISREPRESENTATION OF AN ANIMAL AS A
SERVICE ANIMAL OR A SERVICE-ANIMAL-IN-TRAINING, PROVIDING
PENALTIES, AND INCLUDING EFFECTIVE DATE AND APPLICABILITY
PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 216.2, subsection 15, Code 2019, is amended to read as follows:

15. *“Unfair practice”* or *“discriminatory practice”* means those practices specified as unfair or discriminatory in sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.8B, 216.9, 216.10, 216.11, and 216.11A.

Sec. 2. NEW SECTION. 216.8B Assistance animals and service animals in housing — penalty.

1. For purposes of this section, unless the context otherwise requires:

a. *“Assistance animal”* means 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.

b. *“Service animal”* means a dog or 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.

2. A landlord shall waive lease restrictions and additional payments normally required for pets on the keeping of animals for the assistance animal or service animal of a person with a disability.

3. A renter is liable for damage done to any dwelling by an assistance animal or service animal.

4. A person who knowingly denies or interferes with the right of a person with a disability under this section is, upon conviction, guilty of a simple misdemeanor.

Sec. 3. NEW SECTION. **216.8C Finding of disability and need for an assistance animal or service animal in housing.**

1. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D whose assistance is requested by a patient or client seeking a finding that an assistance animal or service animal as defined in section 216.8B, subsection 1, is a reasonable accommodation in housing shall make a written finding regarding whether the patient or client has a disability and, if a disability is found, a separate written finding regarding whether the need for an assistance animal or service animal is related to the disability.

2. A licensee under chapter 148, 148C, 152, 154B, 154C, or 154D shall not make a finding under subsection 1 unless all of the following circumstances are present:

a. The licensee has met with the patient or client in person or by telemedicine.

b. The licensee is sufficiently familiar with the patient or client and the disability.

c. The licensee is legally and professionally qualified to make the finding.

3. The commission, in consultation with the consumer protection division of the office of the attorney general, shall adopt rules regarding the making of a written finding by licensees under this section. The rules shall include a form for licensees to document the licensees' written finding. The form shall recite this section's requirements and comply with the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as amended, and section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended. The form must contain only two questions regarding the qualifications of the patient or

client, which shall be whether a person has a disability and whether the need for an assistance animal or service animal is related to the disability. The form must indicate that the responses must be limited to "yes" or "no". The form must not allow for additional detail.

4. A person who, in the course of employment, is asked to make a finding of disability and disability-related need for an assistance animal or service animal shall utilize the form created by the commission to document the person's written finding.

5. A landlord may deny a request for an exception to a pet policy if a person, who does not have a readily apparent disability, or a disability known to the landlord, fails to provide documentation indicating that the person has a disability and the person has a disability-related need for an assistance animal or service animal.

6. This section does not limit the means by which a person with a disability may demonstrate, pursuant to state or federal law, that the person has a disability or that the person has a disability-related need for an assistance animal or service animal.

Sec. 4. NEW SECTION. 216C.1A Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "*Disability*" means the physical or mental condition of a person which constitutes a substantial disability, and the condition of a person with a positive human immunodeficiency virus test result, a diagnosis of acquired immune deficiency syndrome, a diagnosis of acquired immune deficiency syndrome-related complex, or any other condition related to acquired immune deficiency syndrome. The inclusion of a condition related to a positive human immunodeficiency virus test result in the meaning of "disability" under the provisions of this chapter does not preclude the application of the provisions of this chapter to conditions resulting from other contagious or infectious diseases.

2. "*Service animal*" means a dog or 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.

3. "~~Service-animal-in-training~~" means a dog or miniature horse that 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.

Sec. 5. Section 216C.11, Code 2019, is amended to read as follows:

216C.11 ~~Service dogs and assistive animals~~ Service animals and service-animals-in-training — penalty.

~~1. For purposes of this section, "service dog" means a dog specially trained to assist a person with a disability, whether described as a service dog, a support dog, an independence dog, or otherwise. "Assistive animal" means a simian or other animal specially trained or in the process of being trained to assist a person with a disability.~~

~~2. 1. A person with a disability, a person assisting a person with a disability by controlling a service dog or an assistive animal or a service-animal-in-training, or a person training a service dog or an assistive animal has the right to be accompanied by a service dog or an assistive animal or service-animal-in-training, under control, in any of the places listed in sections 216C.3 and 216C.4 without being required to make additional payment for the service dog or assistive animal or service-animal-in-training. A landlord shall waive lease restrictions on the keeping of animals for the service dog or assistive animal of a person with a disability. The person is liable for damage done to any premises or facility by a service dog or assistive animal or a service-animal-in-training.~~

~~3. 2. A person who knowingly denies or interferes with the right of a person under this section is, upon conviction, guilty of a simple misdemeanor.~~

3. a. A person who intentionally misrepresents an animal as a service animal or a service-animal-in-training is, upon conviction, guilty of a simple misdemeanor.

b. A person commits the offense of intentional misrepresentation of an animal as a service animal or a service-animal-in-training if all of the following elements are established:

(1) For the purpose of obtaining any of the rights or

privileges set forth in state or federal law, the person intentionally misrepresents an animal in one's possession as one's service animal or service-animal-in-training or a person with a disability's service animal or service-animal-in-training whom the person is assisting by controlling.

(2) The person was previously given a written or verbal warning regarding the fact that it is illegal to intentionally misrepresent an animal as a service animal or a service-animal-in-training.

(3) The person knows that the animal in question is not a service animal or a service-animal-in-training.

Sec. 6. NEW SECTION. 216C.12 Immunity from liability for injury or damage caused by service animals and service-animals-in-training.

1. For purposes of this section, unless the context otherwise requires:

a. "Owner" means the owner of real property, a contract for deed vendee, receiver, personal representative, trustee, lessor, lessee, agent, or other person directly or indirectly in control of the real property.

b. "Real property" includes any physical location or portion of real property that federal or state law or local ordinance requires to be accessible to a person with a disability who is using a service animal or a service-animal-in-training, a person assisting a person with a disability by controlling a service animal or a service-animal-in-training, or a person training a service animal.

2. An owner is not liable for any injury or damage caused by a service animal or service-animal-in-training if all of the following criteria are met:

a. The owner believes in good faith that the animal is a service animal or a service-animal-in-training and the person using the animal is a person with a disability, a person assisting a person with a disability by controlling a service animal or a service-animal-in-training, or a person training a service-animal-in-training.

b. The injury or damage is not caused by the owner's negligence, recklessness, or willful misconduct.

Sec. 7. Section 717F.1, subsection 2, Code 2019, is amended to read as follows:

2. *"Assistive animal"* means ~~the same as defined in section 216C.11~~ a simian or other animal specially trained or in the process of being trained to assist a person with a disability.

Sec. 8. EMERGENCY RULES. The Iowa civil rights commission may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the section of this Act enacting section 216.8C and the rules shall be effective immediately upon filing. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 9. EFFECTIVE DATE. The following, being deemed of immediate importance, takes effect upon enactment:

The section of this Act enacting section 216.8C.

Sec. 10. APPLICABILITY. The section of this Act enacting section 216.8C applies once rules are adopted. Prior to the adoption of the rules and creation of a licensee's written finding form, a renter seeking an assistance animal or a service animal as a reasonable accommodation in housing shall otherwise demonstrate pursuant to state or federal law that the person has a disability and that the person has a disability-related need for an assistance animal or service animal.

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 341, Eighty-eighth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2019

KIM REYNOLDS
Governor