

Senate File 2365 - Introduced

SENATE FILE 2365
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO SSB 3148)

A BILL FOR

1 An Act relating to assistance animals, assistive animals, and
2 service dogs and providing penalties for misrepresenting
3 oneself as entitled to an assistance animal or an assistive
4 animal in housing and for misrepresenting an animal
5 as an assistive animal or a service dog and including
6 applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 216.8B Assistance animals,
2 assistive animals, and service dogs in housing.

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

5 a. "*Assistance animal*" means an animal that qualifies as a
6 reasonable accommodation under the federal Fair Housing Act, 42
7 U.S.C. §3601 et seq., as amended, or section 504 of the federal
8 Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

9 b. "*Assistive animal*" means an animal specially trained
10 or in the process of being trained to assist a person with a
11 disability.

12 c. "*Service dog*" means a dog specially trained to assist a
13 person with a disability, whether described as a service dog, a
14 support dog, an independence dog, or otherwise.

15 2. A landlord shall waive lease restrictions on the keeping
16 of animals for the assistance animal, service dog, or assistive
17 animal of a person with a disability.

18 3. A tenant is liable for damage done to any dwelling by an
19 assistance animal, a service dog, or an assistive animal.

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

23 5. a. A person who intentionally misrepresents oneself
24 as entitled to an assistance animal or an assistive animal as
25 a reasonable accommodation in housing is, upon determination
26 by the commission, subject to a civil penalty of one hundred
27 dollars.

28 b. A person commits the violation of intentional
29 misrepresentation of entitlement to an assistance animal or an
30 assistive animal as a reasonable accommodation in housing, if
31 all of the following elements are established:

32 (1) The person intentionally misrepresents the person's
33 entitlement to an animal in one's possession as an assistance
34 animal or an assistive animal for the purpose of obtaining any
35 of the rights or privileges set forth in state or federal law

1 for a person with a disability as a reasonable accommodation
2 in housing.

3 (2) The owner, the landlord, or the landlord's agent
4 previously gave the person a written or verbal warning
5 regarding the fact that it is illegal for a person to
6 intentionally misrepresent oneself as entitled to an assistance
7 animal or an assistive animal.

8 (3) The person knows that at least one of the following is
9 true:

10 (a) The animal is not an assistance animal or an assistive
11 animal with regard to the person.

12 (b) The person does not have a disability.

13 c. A written finding made by a licensee pursuant to
14 section 216.8C is an affirmative defense to the violation of
15 this subsection. However, the lack of such a finding is not
16 proof of a violation of this subsection, and nothing in this
17 subsection or in section 216.8C limits the means by which a
18 person with a disability may demonstrate, pursuant to state
19 or federal law, that the person has a disability or that the
20 person has a disability-related need for an assistance animal
21 or an assistive animal.

22 d. Funds collected under this subsection shall be paid to
23 the treasurer of state for deposit in the general fund of the
24 state.

25 **Sec. 2. NEW SECTION. 216.8C Finding of disability and need**
26 **for an assistance or assistive animal in housing.**

27 1. A licensee under chapter 148, 148C, 152, 154B, 154C,
28 or 154D whose assistance is requested by a patient seeking
29 a finding that an assistance animal or an assistive animal
30 as defined in section 216.8B, subsection 1, is a reasonable
31 accommodation in housing shall do either of the following:

32 a. Make a written finding regarding whether the patient has
33 a disability and, if a disability is found, a separate written
34 finding regarding whether the need for an assistance animal or
35 an assistive animal is related to the disability.

1 *b.* Make a written finding that insufficient information
2 is available to make a finding regarding disability or the
3 disability-related need for an assistance animal or an
4 assistive animal.

5 2. A licensee under chapter 148, 148C, 152, 154B, 154C, or
6 154D shall not make a finding under subsection 1 unless all of
7 the following circumstances are present:

8 *a.* The licensee has met with the patient in person or by
9 telemedicine.

10 *b.* The licensee is sufficiently familiar with the patient
11 and the disability.

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

14 3. The commission shall adopt rules regarding the making of
15 a written finding by licensees under this section. The rules
16 shall include a form for licensees to document the licensees'
17 written finding. The form shall recite this section's
18 requirements and comply with the federal Fair Housing Act,
19 42 U.S.C. §3601 et seq., as amended, and section 504 of the
20 federal Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

21 Sec. 3. Section 216C.11, Code 2018, is amended to read as
22 follows:

23 **216C.11 ~~Service dogs and assistive animals~~ Assistive animals**
24 **and service dogs.**

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

27 *a.* "Assistive animal" means an animal specially trained
28 or in the process of being trained to assist a person with a
29 disability.

30 *b.* "Disability" means the physical or mental condition of
31 a person which constitutes a substantial disability, and the
32 condition of a person with a positive human immunodeficiency
33 virus test result, a diagnosis of acquired immune deficiency
34 syndrome, a diagnosis of acquired immune deficiency
35 syndrome-related complex, or any other condition related to

1 acquired immune deficiency syndrome. The inclusion of a
2 condition related to a positive human immunodeficiency virus
3 test result in the meaning of "disability" under the provisions
4 of this section does not preclude the application of the
5 provisions of this section to conditions resulting from other
6 contagious or infectious diseases.

7 c. "service "Service dog" means a dog specially trained
8 to assist a person with a disability, whether described as a
9 service dog, a support dog, an independence dog, or otherwise.
10 ~~"Assistive animal" means a simian or other animal specially~~
11 ~~trained or in the process of being trained to assist a person~~
12 ~~with a disability.~~

13 2. A person with a disability, a person assisting a person
14 with a disability by controlling a service dog or an assistive
15 animal, or a person training a service dog or an assistive
16 animal has the right to be accompanied by a service dog or an
17 assistive animal, under control, in any of the places listed
18 in [sections 216C.3](#) and [216C.4](#) without being required to make
19 additional payment for the service dog or assistive animal.
20 ~~A landlord shall waive lease restrictions on the keeping of~~
21 ~~animals for the service dog or assistive animal of a person~~
22 ~~with a disability. The person is liable for damage done to any~~
23 ~~premises or facility by a service dog or assistive animal.~~

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

27 4. a. A person who intentionally misrepresents
28 an animal as an assistive animal, a service dog, or a
29 service-dog-in-training is, upon conviction, guilty of a simple
30 misdemeanor.

31 b. A person commits the offense of intentional
32 misrepresentation of an animal as an assistive animal, a
33 service dog, or a service-dog-in-training, if all of the
34 following elements are established:

35 (1) The person intentionally misrepresents an animal in

1 one's possession as one's assistive animal, service dog, or
2 service-dog-in-training, or a person with a disability's
3 assistive animal or service dog whom the person is assisting by
4 controlling, or a service-dog-in-training for the purpose of
5 obtaining any of the rights or privileges set forth in state
6 or federal law.

7 (2) The person was previously given a written or verbal
8 warning regarding the fact that it is illegal to intentionally
9 misrepresent an animal as an assistive animal or a service dog.

10 (3) The person knows that the animal in question is not an
11 assistive animal, a service dog, or a service-dog-in-training.

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

19 Sec. 5. APPLICABILITY. The section of this Act enacting
20 section 216.8C applies once rules are adopted. Prior to the
21 adoption of the rules and creation of a licensee's written
22 finding form, a tenant seeking an assistance animal or an
23 assistive animal as a reasonable accommodation in housing
24 shall otherwise demonstrate pursuant to state or federal law
25 that the person has a disability and that the person has
26 a disability-related need for an assistance animal or an
27 assistive animal.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to assistance animals, assistive animals,
32 and service dogs and provides penalties for misrepresenting
33 oneself as entitled to an assistance animal or an assistive
34 animal in housing and for misrepresenting an animal as an
35 assistive animal or a service dog.

1 The bill creates new Code section 216.8B, titled "assistance
2 animals, assistive animals, and service dogs in housing".
3 The new Code section provides definitions for assistance
4 animal, assistive animal, and service dog, and provides that
5 a landlord shall waive lease restrictions on the keeping of
6 animals for the assistance animal, service dog, or assistive
7 animal of a person with a disability. It also provides that
8 a tenant is liable for damage done to any dwelling by an
9 assistance animal, a service dog, or an assistive animal.
10 It provides that a person commits a simple misdemeanor if a
11 person knowingly denies or interferes with the right of a
12 person with a disability under this Code section. Finally,
13 the new Code section provides that a person is subject to a
14 civil penalty of \$100 if a person intentionally misrepresents
15 oneself as entitled to an assistance animal or an assistive
16 animal as a reasonable accommodation in housing. The bill sets
17 forth the elements of the civil violation. The bill provides
18 that a written finding made by a licensee pursuant to new
19 Code section 216.8C is an affirmative defense to this civil
20 violation. However, the lack of such a finding is not proof
21 of a violation of this civil violation. The bill provides
22 that nothing in this civil violation or in new Code section
23 216.8C limits the means by which a person with a disability may
24 demonstrate, pursuant to state or federal law, that the person
25 has a disability-related need for an assistance animal or an
26 assistive animal.

27 The bill creates new Code section 216.8C, titled "finding
28 of disability and need for an assistance or assistive animal
29 in housing". The bill provides a process for a patient to
30 request the assistance of a professional licensed under
31 certain chapters of the Code in finding that the individual
32 is a person with a disability who needs an assistance animal
33 or an assistive animal as a reasonable accommodation in
34 housing. The bill provides that the licensee shall not
35 make a finding unless the licensee has met with the patient

1 in person or by telemedicine; the licensee is sufficiently
2 familiar with the patient and the disability; and the licensee
3 is legally and professionally qualified to make the finding.
4 The bill provides the licensee shall either make a written
5 finding regarding whether the patient has a disability
6 and, if a disability is found, a separate written finding
7 regarding whether the need for the animal is related to that
8 disability or make a written finding that there is insufficient
9 information available to make a finding regarding disability or
10 the disability-related need for the assistance animal or the
11 assistive animal.

12 The bill requires the Iowa civil rights commission to adopt
13 rules regarding the making of a written finding by licensees.
14 The rules shall include a form for licensees to document the
15 licensee's written finding; the form must recite new Code
16 section 216.8C requirements and comply with the federal Fair
17 Housing Act and the federal Rehabilitation Act of 1973. The
18 bill provides that the commission may adopt emergency rules.
19 New Code section 216.8C applies once rules are adopted. The
20 bill provides that prior to the adoption of the rules and
21 creation of a licensees' written finding form, a tenant seeking
22 an assistance animal or an assistive animal as a reasonable
23 accommodation in housing shall otherwise demonstrate pursuant
24 to state or federal law that the person has a disability and
25 that the person has a disability-related need for an assistance
26 or assistive animal.

27 The bill amends Code section 216C.11. The bill moves housing
28 provisions relating to landlords and tenants from Code section
29 216C.11 to new Code section 216.8B. The bill adds a definition
30 of disability to Code section 216C.11 that is the same as the
31 definition in Code section 216.2(5).

32 In Code section 216C.11, the bill criminalizes the
33 intentional misrepresentation of an animal as an assistive
34 animal, a service dog, or service-dog-in-training. A person
35 commits this public offense if all of the following elements

1 are established: the person intentionally misrepresents
2 an animal in one's possession as one's assistive animal or
3 service dog, or a person with a disability's assistive animal
4 or service dog whom the person is assisting by controlling,
5 or a service-dog-in-training for the purpose of obtaining any
6 of the rights or privileges set forth in state or federal
7 law; the person was previously given a written or verbal
8 warning regarding the fact that it is illegal to intentionally
9 misrepresent an animal as an assistive animal or a service dog;
10 and the person knows that the animal in question is not an
11 assistive animal, a service dog, or a service-dog-in-training.
12 The new public offense is established as a simple misdemeanor.
13 A simple misdemeanor is punishable by confinement for no more
14 than 30 days or a fine of at least \$65 but not more than \$625
15 or by both.