

Senate File 341 - Introduced

SENATE FILE 341
BY COMMITTEE ON VETERANS
AFFAIRS

(SUCCESSOR TO SF 63)

A BILL FOR

1 An Act relating to assistance animals and service animals in
2 housing, service animals and service-animals-in-training in
3 public accommodations, and misrepresentation of an animal as
4 a service animal or a service-animal-in-training, providing
5 penalties, and including effective date and applicability
6 provisions.

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

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

3 15. *“Unfair practice”* or *“discriminatory practice”* means
4 those practices specified as unfair or discriminatory in
5 sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.8B, 216.9,
6 216.10, 216.11, and 216.11A.

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

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

11 a. *“Assistance animal”* means an animal that qualifies as a
12 reasonable accommodation under the federal Fair Housing Act, 42
13 U.S.C. §3601 et seq., as amended, or section 504 of the federal
14 Rehabilitation Act of 1973, 29 U.S.C. §794, as amended.

15 b. *“Service animal”* means a dog or miniature horse as set
16 forth in the implementing regulations of Tit. II and Tit. III
17 of the federal Americans with Disabilities Act of 1990, 42
18 U.S.C. §12101 et seq.

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

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

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

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

30 1. A licensee under chapter 148, 148C, 152, 154B, 154C,
31 or 154D whose assistance is requested by a patient or client
32 seeking a finding that an assistance animal or service animal
33 as defined in section 216.8B, subsection 1, is a reasonable
34 accommodation in housing shall make a written finding regarding
35 whether the patient or client has a disability and, if a

1 disability is found, a separate written finding regarding
2 whether the need for an assistance animal or service animal is
3 related to the disability.

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

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

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

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

13 3. The commission, in consultation with the consumer
14 protection division of the office of the attorney general,
15 shall adopt rules regarding the making of a written finding
16 by licensees under this section. The rules shall include a
17 form for licensees to document the licensees' written finding.
18 The form shall recite this section's requirements and comply
19 with the federal Fair Housing Act, 42 U.S.C. §3601 et seq., as
20 amended, and section 504 of the federal Rehabilitation Act of
21 1973, 29 U.S.C. §794, as amended. The form must contain only
22 two questions regarding the qualifications of the patient or
23 client, which shall be whether a person has a disability and
24 whether the need for an assistance animal or service animal is
25 related to the disability. The form must indicate that the
26 responses must be limited to "yes" or "no". The form must not
27 allow for additional detail.

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

33 5. A landlord may deny a request for an exception to a
34 pet policy if a person, who does not have a readily apparent
35 disability, or a disability known to the landlord, fails

1 to provide documentation indicating that the person has a
2 disability and the person has a disability-related need for an
3 assistance animal or service animal.

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

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

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

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

24 2. "*Service animal*" means a dog or miniature horse as set
25 forth in the implementing regulations of Tit. II and Tit. III
26 of the federal Americans with Disabilities Act of 1990, 42
27 U.S.C. §12101 et seq.

28 3. "*Service-animal-in-training*" means a dog or miniature
29 horse that is undergoing a course of development and training
30 to do work or perform tasks for the benefit of an individual
31 that directly relate to the disability of the individual.

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

34 **216C.11 ~~Service dogs and assistive animals~~ Service animals**
35 **and service-animals-in-training — penalty.**

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

7 ~~2. 1. A person with a disability, a person assisting a~~
8 ~~person with a disability by controlling a service dog or an~~
9 ~~assistive animal or a service-animal-in-training, or a person~~
10 ~~training a service dog or an assistive animal has the right~~
11 ~~to be accompanied by a service dog or an assistive animal or~~
12 ~~service-animal-in-training, under control, in any of the places~~
13 ~~listed in sections 216C.3 and 216C.4 without being required to~~
14 ~~make additional payment for the service dog or assistive animal~~
15 ~~or service-animal-in-training. A landlord shall waive lease~~
16 ~~restrictions on the keeping of animals for the service dog or~~
17 ~~assistive animal of a person with a disability. The person is~~
18 ~~liable for damage done to any premises or facility by a service~~
19 ~~dog or assistive animal or a service-animal-in-training.~~

20 ~~3. 2. A person who knowingly denies or interferes with~~
21 ~~the right of a person under this section is, upon conviction,~~
22 ~~guilty of a simple misdemeanor.~~

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

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

30 ~~(1) For the purpose of obtaining any of the rights or~~
31 ~~privileges set forth in state or federal law, the person~~
32 ~~intentionally misrepresents an animal in one's possession~~
33 ~~as one's service animal or service-animal-in-training~~
34 ~~or a person with a disability's service animal or~~
35 ~~service-animal-in-training whom the person is assisting by~~

1 controlling.

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

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

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

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

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

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

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

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

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

35 Sec. 7. Section 717F.1, subsection 2, Code 2019, is amended

1 to read as follows:

2 2. *"Assistive animal"* means ~~the same as defined in section~~
3 ~~216C.11~~ a simian or other animal specially trained or in the
4 process of being trained to assist a person with a disability.

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

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

14 The section of this Act enacting section 216.8C.

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

24 EXPLANATION

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

27 This bill relates to assistance animals and service animals
28 in housing and misrepresentation of an animal as a service
29 animal or a service-animal-in-training, provides penalties, and
30 includes effective date and applicability provisions.

31 The bill creates new Code section 216.8B, titled "Assistance
32 animals and service animals in housing — penalty". The new
33 Code section provides definitions for assistance animal and
34 service animal by referencing federal law and provides that
35 a landlord shall waive lease restrictions on the keeping of

1 animals for the assistance animal or service animal of a
2 person with a disability. It also provides that a renter
3 is liable for damage done to any dwelling by an assistance
4 animal or service animal. Finally, the new Code section
5 provides that a person commits a simple misdemeanor if a person
6 knowingly denies or interferes with the right of a person with
7 a disability under the Code section. A simple misdemeanor is
8 punishable by confinement of no more than 30 days or a fine
9 of at least \$65 but no more than \$625 or by both. The bill
10 provides that if a person violates Code section 216.8B, it
11 shall constitute an unfair practice or discriminatory practice
12 as defined in Code section 216.2.

13 The bill creates new Code section 216.8C, titled "Finding
14 of disability and need for an assistance animal or service
15 animal in housing". The bill provides a process for a
16 patient or client to request the assistance of a professional
17 licensed under certain chapters of the Code in finding
18 that the individual is a person with a disability who needs
19 an assistance animal or service animal as a reasonable
20 accommodation in housing. The bill provides that the licensee
21 shall not make a finding unless the licensee has met with the
22 patient or client in person or by telemedicine; the licensee
23 is sufficiently familiar with the patient or client and the
24 disability; and the licensee is legally and professionally
25 qualified to make the finding. The bill provides the licensee
26 shall make a written finding regarding whether the patient
27 or client has a disability, and if a disability is found,
28 a separate written finding regarding whether the need for
29 an assistance animal or service animal is related to the
30 disability.

31 The bill requires the Iowa civil rights commission, in
32 consultation with the consumer protection division of the
33 office of the attorney general, to adopt rules regarding
34 the making of a written finding by licensees. The rules
35 must include a form for licensees to document the licensee's

1 written finding, recite the requirements of new Code section
2 216.8C, and comply with the federal Fair Housing Act and the
3 federal Rehabilitation Act of 1973. The bill provides that
4 the commission may adopt emergency rules. New Code section
5 216.8C applies once rules are adopted. The bill provides that
6 prior to the adoption of the rules and creation of a licensee's
7 written findings form, a renter seeking an assistance animal or
8 service animal as a reasonable accommodation shall otherwise
9 demonstrate pursuant to state or federal law that the person
10 has a disability and that the person has a disability-related
11 need for an assistance animal or service animal.

12 Within new Code section 216.8C, the bill also provides that
13 a landlord may deny a request for an exception to a pet policy
14 if a person, who does not have a readily apparent disability,
15 or a disability known to the landlord, fails to provide
16 documentation indicating that the person has a disability or
17 a disability-related need for an assistance animal or service
18 animal.

19 The bill amends Code chapter 216C. The bill adds a
20 Code chapter definition of disability that is similar to
21 the definition in Code section 216.2(5). The bill adds a
22 Code chapter definition of service animal by referencing
23 federal law. The bill adds a Code chapter definition of
24 service-animal-in-training.

25 The bill amends Code section 216C.11. It changes the
26 title of the Code section from "Service dogs and assistive
27 animals" to "Service animals and service-animals-in-training
28 — penalty".

29 The bill moves a housing provision relating to landlords and
30 tenants from Code section 216C.11 to new Code section 216.8B.
31 The bill changes the right in Code section 216C.11 to take
32 animals to places listed in Code sections 216C.3 and 216C.4 to
33 include service animals and service-animals-in-training and
34 removes the right to take service dogs and assistive animals.

35 In Code section 216C.11, the bill criminalizes the

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

18 The bill creates new Code section 216C.12, which is titled
19 "Immunity from liability for injury or damage caused by service
20 animals and service-animals-in-training". The bill provides
21 Code section definitions for "owner" and "real property". The
22 bill provides that an owner is not liable for any injury or
23 damage caused by a service animal or service-animal-in-training
24 if the owner believes in good faith that the animal is a
25 service animal or a service-animal-in-training and the person
26 using the animal is a person with a disability, a person
27 assisting a person with a disability by controlling a service
28 animal or a service-animal-in-training, or a person training
29 a service-animal-in-training and the injury or damage is not
30 caused by the owner's negligence, recklessness, or willful
31 misconduct.