

Senate File 63 - Introduced

SENATE FILE 63

BY DAWSON

A BILL FOR

1 An Act relating to assistance animals and service animals in
2 housing and misrepresentation of an animal as a service
3 animal or a service-animal-in-training, providing penalties,
4 and including effective date and applicability provisions.
5 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. Section 216C.11, Code 2019, is amended to read as
10 follows:

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

13 1. For purposes of **this section**, ~~“service dog” means a dog~~
14 ~~specially trained to assist a person with a disability, whether~~
15 ~~described as a service dog, a support dog, an independence~~
16 ~~dog, or otherwise. “Assistive animal” means a simian or other~~
17 ~~animal specially trained or in the process of being trained to~~
18 ~~assist a person with a disability. unless the context otherwise~~
19 ~~requires:~~

20 a. “Disability” means the physical or mental condition of
21 a person which constitutes a substantial disability, and the
22 condition of a person with a positive human immunodeficiency
23 virus test result, a diagnosis of acquired immune deficiency
24 syndrome, a diagnosis of acquired immune deficiency
25 syndrome-related complex, or any other condition related to
26 acquired immune deficiency syndrome. The inclusion of a
27 condition related to a positive human immunodeficiency virus
28 test result in the meaning of “disability” under the provisions
29 of this section does not preclude the application of the
30 provisions of this section to conditions resulting from other
31 contagious or infectious diseases.

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

1 c. "Service-animal-in-training" means a dog or miniature
2 horse that is undergoing a course of development and training
3 to do work or perform tasks for the benefit of an individual
4 that directly relate to the disability of the individual.

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

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

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

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

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

35 (2) The person was previously given a written or

1 verbal warning regarding the fact that it is illegal to
2 intentionally misrepresent an animal as a service animal or a
3 service-animal-in-training.

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

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

13 Sec. 6. EFFECTIVE DATE. The following, being deemed of
14 immediate importance, takes effect upon enactment:

15 The section of this Act enacting section 216.8C.

16 Sec. 7. APPLICABILITY. The section of this Act enacting
17 section 216.8C applies once rules are adopted. Prior to the
18 adoption of the rules and creation of a licensee's written
19 finding form, a renter seeking an assistance animal or a
20 service animal as a reasonable accommodation in housing
21 shall otherwise demonstrate pursuant to state or federal law
22 that the person has a disability and that the person has a
23 disability-related need for an assistance animal or service
24 animal.

25 EXPLANATION

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

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

32 The bill creates new Code section 216.8B, titled "assistance
33 animals and service animals in housing — penalty". The new
34 Code section provides definitions for assistance animal and
35 service animal by referencing federal law and provides that

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

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

32 The bill requires the Iowa civil rights commission, in
33 consultation with the consumer protection division of the
34 office of the attorney general, to adopt rules regarding
35 the making of a written finding by licensees. The rules

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

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

20 The bill amends Code section 216C.11. It changes the
21 title of the Code section from "service dogs and assistive
22 animals" to "service animals and service-animals-in-training
23 — penalty". The bill adds a definition of disability to Code
24 section 216C.11 that is the same as the definition in Code
25 section 216.2(5). The bill adds a definition of service animal
26 to Code section 216C.11 by referencing federal law. The bill
27 also adds a definition of service-animal-in-training.

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

34 In Code section 216C.11, the bill criminalizes the
35 intentional misrepresentation of an animal as a service animal

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