

SUBSTITUTE FOR
SENATE BILL NO. 298

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 50a and 502c (MCL 750.50a and 750.502c),
section 50a as added by 1994 PA 42 and section 502c as amended by
1998 PA 38.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 50a. (1) An individual shall not do either of the
2 following:

3 (a) Willfully and maliciously assault, beat, harass, injure,
4 or attempt to assault, beat, harass, or injure ~~a dog~~ **AN ANIMAL** that
5 he or she knows or has reason to believe is a ~~guide or leader dog~~
6 ~~for a blind individual, a hearing dog for a deaf or audibly~~
7 ~~impaired individual, or a service dog for~~ **ANIMAL USED BY a**
8 ~~physically limited individual.~~ **PERSON WITH A DISABILITY.**

1 (b) Willfully and maliciously impede or interfere with, or
2 attempt to impede or interfere with, duties performed by a ~~dog~~ **AN**
3 **ANIMAL** that he or she knows or has reason to believe is a ~~guide or~~
4 ~~leader dog for a blind individual, a hearing dog for a deaf or~~
5 ~~audibly impaired individual, or a service dog for~~ **ANIMAL USED BY** a
6 ~~physically limited individual.~~ **PERSON WITH A DISABILITY.**

7 (2) An individual who violates subsection (1) is guilty of a
8 misdemeanor punishable by imprisonment for not more than 90 days or
9 a fine of not more than \$500.00, or both.

10 (3) In a prosecution for a violation of subsection (1),
11 evidence that the defendant initiated or continued conduct directed
12 toward a ~~dog~~ **AN ANIMAL** described in subsection (1) after being
13 requested to avoid or discontinue that conduct or similar conduct
14 by a ~~blind, deaf, audibly impaired, or physically limited~~
15 ~~individual~~ **PERSON WITH A DISABILITY** being served or assisted by the
16 ~~dog~~ **ANIMAL** shall give rise to a rebuttable presumption that the
17 conduct was initiated or continued maliciously.

18 (4) A conviction and imposition of a sentence under this
19 section does not prevent a conviction and imposition of a sentence
20 under any other applicable provision of law.

21 (5) As used in this section:

22 ~~—— (a) "Audibly impaired" means the inability to hear air~~
23 ~~conduction thresholds at an average of 40 decibels or greater in~~
24 ~~the individual's better ear.~~

25 ~~—— (b) "Blind" means having a visual acuity of 20/200 or less in~~
26 ~~the individual's better eye with correction, or having a limitation~~
27 ~~of the individual's field of vision such that the widest diameter~~

1 of the visual field subtends an angular distance not greater than
2 20 degrees.

3 ~~—— (c) "Deaf" means the individual's hearing is totally impaired~~
4 ~~or the individual's hearing, with or without amplification, is so~~
5 ~~seriously impaired that the primary means of receiving spoken~~
6 ~~language is through other sensory input, including, but not limited~~
7 ~~to, lip reading, sign language, finger spelling, or reading.~~

8 (A) ~~(d)~~ "Harass" means to engage in any conduct directed
9 toward a ~~guide, leader, hearing, or service dog~~ **AN ANIMAL DESCRIBED**
10 **IN SUBSECTION (1)** that is likely to impede or interfere with the
11 ~~dog's~~ **ANIMAL'S** performance of its duties or that places the ~~blind,~~
12 ~~deaf, audibly impaired, or physically limited individual~~ **PERSON**
13 **WITH A DISABILITY** being served or assisted by the ~~dog~~ **ANIMAL** in
14 danger of injury.

15 (B) ~~(e)~~ "Injure" means to cause any physical injury to a ~~dog~~
16 **AN ANIMAL** described in subsection (1).

17 (C) ~~(f)~~ "Maliciously" means any of the following:

18 (i) With intent to assault, beat, harass, or injure a ~~dog~~ **AN**
19 **ANIMAL** described in subsection (1).

20 (ii) With intent to impede or interfere with duties performed
21 by a ~~dog~~ **AN ANIMAL** described in subsection (1).

22 (iii) With intent to disturb, endanger, or cause emotional
23 distress to a ~~blind, deaf, audibly impaired, or physically limited~~
24 ~~individual~~ **PERSON WITH A DISABILITY** being served or assisted by a
25 ~~dog~~ **AN ANIMAL** described in subsection (1).

26 (iv) With knowledge that the individual's conduct will ~~,~~ or is
27 likely to harass or injure a ~~dog~~ **AN ANIMAL** described in subsection

1 (1).

2 (v) With knowledge that the individual's conduct will ~~or is~~
 3 likely to impede or interfere with duties performed by a ~~dog~~ **AN**
 4 **ANIMAL** described in subsection (1).

5 (vi) With knowledge that the individual's conduct will ~~or is~~
 6 likely to disturb, endanger, or cause emotional distress to a
 7 ~~blind, deaf, audibly impaired, or physically limited individual~~
 8 **PERSON WITH A DISABILITY** being served or assisted by a ~~dog~~ **AN**
 9 **ANIMAL** described in subsection (1).

10 ~~—— (g) "Physically limited" means having limited ambulatory~~
 11 ~~abilities and includes but is not limited to having a temporary or~~
 12 ~~permanent impairment or condition that does 1 or more of the~~
 13 ~~following:~~

14 ~~—— (i) Causes the individual to use a wheelchair or walk with~~
 15 ~~difficulty or insecurity.~~

16 ~~—— (ii) Affects sight or hearing to the extent that an individual~~
 17 ~~is insecure or exposed to danger.~~

18 ~~—— (iii) Causes faulty coordination.~~

19 ~~—— (iv) Reduces mobility, flexibility, coordination, or~~
 20 ~~perceptiveness.~~

21 (D) "PERSON WITH A DISABILITY" MEANS A PERSON WHO HAS A
 22 DISABILITY AS DEFINED IN SECTION 12102 OF THE AMERICANS WITH
 23 DISABILITIES ACT OF 1990, 42 USC 12102, AND 28 CFR 36.104.

24 (E) AS USED IN SUBDIVISION (D), "PERSON WITH A DISABILITY"
 25 INCLUDES A VETERAN WHO HAS BEEN DIAGNOSED WITH 1 OR MORE OF THE
 26 FOLLOWING:

27 (i) POST-TRAUMATIC STRESS DISORDER.

1 (ii) TRAUMATIC BRAIN INJURY.

2 (iii) OTHER SERVICE-RELATED DISABILITIES.

3 (F) "SERVICE ANIMAL" MEANS ALL OF THE FOLLOWING:

4 (i) THAT TERM AS DEFINED IN 28 CFR 36.104.

5 (ii) A MINIATURE HORSE THAT HAS BEEN INDIVIDUALLY TRAINED TO
6 DO WORK OR PERFORM TASKS AS DESCRIBED IN 28 CFR 36.104 FOR THE
7 BENEFIT OF A PERSON WITH A DISABILITY.

8 (G) "VETERAN" MEANS ANY OF THE FOLLOWING:

9 (i) A PERSON WHO PERFORMED MILITARY SERVICE IN THE ARMED
10 FORCES FOR A PERIOD OF MORE THAN 90 DAYS AND SEPARATED FROM THE
11 ARMED FORCES IN A MANNER OTHER THAN A DISHONORABLE DISCHARGE.

12 (ii) A PERSON DISCHARGED OR RELEASED FROM MILITARY SERVICE
13 BECAUSE OF A SERVICE-RELATED DISABILITY.

14 (iii) A MEMBER OF A RESERVE BRANCH OF THE ARMED FORCES AT THE
15 TIME HE OR SHE WAS ORDERED TO MILITARY SERVICE DURING A PERIOD OF
16 WAR, OR IN A CAMPAIGN OR EXPEDITION FOR WHICH A CAMPAIGN BADGE IS
17 AUTHORIZED, AND WAS RELEASED FROM MILITARY SERVICE IN A MANNER
18 OTHER THAN A DISHONORABLE DISCHARGE.

19 ~~Sec. 502c. (1) A person who is an owner, lessee, proprietor,~~
20 ~~manager, superintendent, agent, or employee of any place of public~~
21 ~~or private housing, accommodation, amusement, or recreation,~~
22 ~~including but not limited to any inn, hotel, motel, apartment~~
23 ~~building, trailer park, restaurant, barbershop, billiard parlor,~~
24 ~~store, public conveyance on land or water, theater, motion picture~~
25 ~~house, public or private educational institution, or elevator, who~~
26 ~~refuses to permit a person with disabilities to enter or use the~~
27 ~~place when the place is available because the person with~~

~~1 disabilities is being led or accompanied by a guide or leader dog,
2 hearing dog, or service dog is guilty of a misdemeanor if the guide
3 or leader dog is wearing a harness or if the hearing dog or service
4 dog is wearing a blaze orange leash and collar, hearing dog cape,
5 or service dog backpack, and the person with disabilities being led
6 or accompanied has in his or her possession a pictured
7 identification card certifying that the dog was trained by a
8 qualified organization or trainer. The department of labor shall
9 maintain a list of organizations or trainers that train guide or
10 leader dogs, hearing dogs, and service dogs.~~

~~11 ——— (2) A person who is an owner, lessee, proprietor, manager,
12 superintendent, agent, or employee of any place of public or
13 private housing, accommodation, amusement, or recreation,
14 including, but not limited to, the places listed in subsection (1),
15 who refuses to permit a trainer of guide or leader dogs, hearing
16 dogs, or service dogs to enter or use the place when the place is
17 available because the trainer is being led or accompanied by a
18 guide or leader dog, hearing dog, or service dog is guilty of a
19 misdemeanor if the guide or leader dog is wearing a harness or if
20 the hearing dog or service dog is wearing a hearing dog cape or
21 service dog backpack, if the trainer is being led or accompanied by
22 an adult dog for the purpose of training the dog, and if the
23 trainer has in his or her possession picture identification and
24 identification stating that he or she is a representative or
25 employee of an organization or trainer, or is a trainer, included
26 on the department of labor list of organizations or trainers that
27 train guide or leader dogs, hearing dogs, or service dogs.~~

1 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), A PUBLIC
2 ACCOMMODATION SHALL MODIFY ITS POLICIES, PRACTICES, AND PROCEDURES
3 TO PERMIT THE USE OF A SERVICE ANIMAL BY A PERSON WITH A DISABILITY
4 AND SHALL MAKE REASONABLE MODIFICATIONS IN ITS POLICIES, PRACTICES,
5 AND PROCEDURES TO PERMIT THE USE OF A MINIATURE HORSE BY A PERSON
6 WITH A DISABILITY IF THE MINIATURE HORSE HAS BEEN INDIVIDUALLY
7 TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF THE PERSON
8 WITH A DISABILITY. IN DETERMINING WHETHER REASONABLE MODIFICATIONS
9 IN ITS POLICIES, PRACTICES, AND PROCEDURES CAN BE MADE TO ALLOW A
10 MINIATURE HORSE INTO A FACILITY, A PUBLIC ACCOMMODATION SHALL
11 CONSIDER ALL OF THE FOLLOWING:

12 (A) THE TYPE, SIZE, AND WEIGHT OF THE MINIATURE HORSE AND
13 WHETHER THE FACILITY CAN ACCOMMODATE THESE FEATURES.

14 (B) WHETHER THE HANDLER HAS SUFFICIENT CONTROL OF THE
15 MINIATURE HORSE.

16 (C) WHETHER THE MINIATURE HORSE IS HOUSEBROKEN.

17 (D) WHETHER THE MINIATURE HORSE'S PRESENCE IN A SPECIFIC
18 FACILITY COMPROMISES LEGITIMATE SAFETY REQUIREMENTS THAT ARE
19 NECESSARY FOR SAFE OPERATION.

20 (2) A PUBLIC ACCOMMODATION MAY ASK A PERSON WITH A DISABILITY
21 TO REMOVE A SERVICE ANIMAL OR A MINIATURE HORSE FROM THE PREMISES
22 IF EITHER OF THE FOLLOWING APPLIES:

23 (A) THE SERVICE ANIMAL OR MINIATURE HORSE IS OUT OF CONTROL
24 AND ITS HANDLER DOES NOT TAKE EFFECTIVE ACTION TO CONTROL IT.

25 (B) THE SERVICE ANIMAL OR MINIATURE HORSE IS NOT HOUSEBROKEN.

26 (3) IF A PUBLIC ACCOMMODATION PROPERLY EXCLUDES A SERVICE
27 ANIMAL OR MINIATURE HORSE UNDER SUBSECTION (2), IT SHALL GIVE THE

1 PERSON WITH A DISABILITY THE OPPORTUNITY TO OBTAIN GOODS, SERVICES,
2 OR ACCOMMODATIONS WITHOUT HAVING THE SERVICE ANIMAL OR MINIATURE
3 HORSE ON THE PREMISES.

4 (4) A SERVICE ANIMAL OR MINIATURE HORSE SHALL BE UNDER THE
5 CONTROL OF ITS HANDLER, AND SHALL HAVE A HARNESS, LEASH, OR OTHER
6 TETHER, UNLESS THE HANDLER IS UNABLE BECAUSE OF A DISABILITY TO USE
7 A HARNESS, LEASH, OR OTHER TETHER OR THE USE OF A HARNESS, LEASH,
8 OR OTHER TETHER WOULD INTERFERE WITH THE SERVICE ANIMAL'S OR
9 MINIATURE HORSE'S SAFE AND EFFECTIVE PERFORMANCE OF WORK OR TASKS,
10 IN WHICH CASE THE SERVICE ANIMAL OR MINIATURE HORSE SHALL BE
11 OTHERWISE UNDER THE HANDLER'S CONTROL. AS USED IN THIS SUBSECTION,
12 "OTHERWISE UNDER THE HANDLER'S CONTROL" INCLUDES, BUT IS NOT
13 LIMITED TO, VOICE CONTROL OR SIGNALS.

14 (5) A PUBLIC ACCOMMODATION IS NOT RESPONSIBLE FOR THE CARE OR
15 SUPERVISION OF A SERVICE ANIMAL OR MINIATURE HORSE.

16 (6) A PUBLIC ACCOMMODATION SHALL NOT ASK ABOUT THE NATURE OR
17 EXTENT OF A PERSON WITH A DISABILITY'S DISABILITY, BUT MAY MAKE THE
18 FOLLOWING 2 INQUIRIES TO DETERMINE WHETHER AN ANIMAL QUALIFIES AS A
19 SERVICE ANIMAL, OR AS A MINIATURE HORSE THAT HAS BEEN INDIVIDUALLY
20 TRAINED TO DO WORK OR PERFORM TASKS FOR THE BENEFIT OF THE PERSON
21 WITH A DISABILITY:

22 (A) WHETHER THE SERVICE ANIMAL OR MINIATURE HORSE IS REQUIRED
23 BECAUSE OF A DISABILITY.

24 (B) WHAT WORK OR TASK THE SERVICE ANIMAL OR MINIATURE HORSE
25 HAS BEEN TRAINED TO PERFORM.

26 (7) A PUBLIC ACCOMMODATION SHALL NOT DO EITHER OF THE
27 FOLLOWING:

1 (A) REQUIRE DOCUMENTATION WHEN MAKING AN INQUIRY UNDER
2 SUBSECTION (6) .

3 (B) MAKE AN INQUIRY UNDER SUBSECTION (6) IF IT IS READILY
4 APPARENT THAT THE SERVICE ANIMAL OR MINIATURE HORSE IS TRAINED TO
5 DO WORK OR PERFORM TASKS FOR AN INDIVIDUAL WITH A DISABILITY.

6 (8) A PERSON WITH A DISABILITY SHALL BE PERMITTED TO BE
7 ACCOMPANIED BY HIS OR HER SERVICE ANIMAL OR MINIATURE HORSE IN ALL
8 AREAS OF A PLACE OF PUBLIC ACCOMMODATION WHERE MEMBERS OF THE
9 PUBLIC, PROGRAM PARTICIPANTS, CLIENTS, CUSTOMERS, PATRONS, OR
10 INVITEES ARE PERMITTED TO GO.

11 (9) A PUBLIC ACCOMMODATION SHALL NOT ASK OR REQUIRE A PERSON
12 WITH A DISABILITY TO PAY A SURCHARGE, REGARDLESS OF WHETHER PEOPLE
13 ACCOMPANIED BY PETS ARE REQUIRED TO PAY A SURCHARGE, OR TO COMPLY
14 WITH OTHER REQUIREMENTS THAT ARE NOT APPLICABLE TO PEOPLE WITHOUT
15 PETS. IF A PUBLIC ACCOMMODATION NORMALLY CHARGES PEOPLE FOR DAMAGE
16 CAUSED, THE PUBLIC ACCOMMODATION MAY CHARGE A PERSON WITH A
17 DISABILITY FOR DAMAGE CAUSED BY HIS OR HER SERVICE ANIMAL OR
18 MINIATURE HORSE.

19 (10) A PUBLIC ACCOMMODATION THAT VIOLATES SUBSECTIONS (1),
20 (3), OR (6) TO (9) IS GUILTY OF A MISDEMEANOR.

21 (11) ~~(3)~~As used in this section:

22 ~~—— (a) "Adult dog" means a domestic dog of the species canis~~
23 ~~familiaris that is 12 months of age or older.~~

24 ~~—— (b) "Audibly impaired" means audibly impaired as defined in~~
25 ~~section 1 of 1981 PA 82, MCL 752.61.~~

26 ~~—— (c) "Blind person" means a blind person as defined in section~~
27 ~~1 of 1978 PA 260, MCL 393.351.~~

1 ~~—— (d) "Deaf person" means a deaf person as defined in section 1~~
2 ~~of 1981 PA 82, MCL 752.61.~~

3 (A) "FACILITY" MEANS THAT TERM AS DEFINED IN 28 CFR 36.104.

4 (B) ~~(e) "Person with disabilities"~~ A DISABILITY" means a
5 person who is ~~audibly impaired, blind, deaf, or otherwise~~
6 ~~physically limited.~~ HAS A DISABILITY AS DEFINED IN SECTION 12102 OF
7 THE AMERICANS WITH DISABILITIES ACT OF 1990, 42 USC 12102, AND 28
8 CFR 36.104.

9 ~~—— (f) "Physically limited" means physically limited as defined~~
10 ~~in section 1 of 1966 PA 1, MCL 125.1351.~~

11 (C) AS USED IN SUBDIVISION (B), "PERSON WITH A DISABILITY"
12 INCLUDES A VETERAN WHO HAS BEEN DIAGNOSED WITH 1 OR MORE OF THE
13 FOLLOWING:

14 (i) POST-TRAUMATIC STRESS DISORDER.

15 (ii) TRAUMATIC BRAIN INJURY.

16 (iii) OTHER SERVICE-RELATED DISABILITIES.

17 (D) "PLACE OF PUBLIC ACCOMMODATION" MEANS THAT TERM AS DEFINED
18 IN 28 CFR 36.104.

19 (E) "PUBLIC ACCOMMODATION" MEANS THAT TERM AS DEFINED IN
20 SECTION 12181 OF THE AMERICANS WITH DISABILITIES ACT OF 1990, 42
21 USC 12181, AND 28 CFR 36.104.

22 (F) "SERVICE ANIMAL" MEANS THAT TERM AS DEFINED IN 28 CFR
23 36.104.

24 (G) "VETERAN" MEANS ANY OF THE FOLLOWING:

25 (i) A PERSON WHO PERFORMED MILITARY SERVICE IN THE ARMED
26 FORCES FOR A PERIOD OF MORE THAN 90 DAYS AND SEPARATED FROM THE
27 ARMED FORCES IN A MANNER OTHER THAN A DISHONORABLE DISCHARGE.

1 (ii) A PERSON DISCHARGED OR RELEASED FROM MILITARY SERVICE
2 BECAUSE OF A SERVICE-RELATED DISABILITY.

3 (iii) A MEMBER OF A RESERVE BRANCH OF THE ARMED FORCES AT THE
4 TIME HE OR SHE WAS ORDERED TO MILITARY SERVICE DURING A PERIOD OF
5 WAR, OR IN A CAMPAIGN OR EXPEDITION FOR WHICH A CAMPAIGN BADGE IS
6 AUTHORIZED, AND WAS RELEASED FROM MILITARY SERVICE IN A MANNER
7 OTHER THAN A DISHONORABLE DISCHARGE.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.

10 Enacting section 2. This amendatory act does not take effect
11 unless all of the following bills of the 98th Legislature are
12 enacted into law:

13 (a) Senate Bill No. 299.

14 (b) House Bill No. 4521.

15 (c) House Bill No. 4527.