

HOUSE BILL NO. 5751

February 15, 2022, Introduced by Reps. Cambensy, Steenland and Hood and referred to the Committee on Regulatory Reform.

A bill to regulate the certification of a person with a disability's need for an emotional support animal by a health care provider; to require certain disclosures; and to prohibit certain acts and prescribe civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "emotional support animal
2 act".

3 Sec. 3. As used in this act:

4 (a) "Emotional support animal" means a common domestic animal
5 that a health care provider has determined is necessary to

1 alleviate the disabling effects of a mental, emotional,
2 psychological, or psychiatric condition or illness for a person
3 with a disability who, in the absence of such animal, would
4 otherwise not have the same housing opportunities provided by a
5 housing provider as those provided to a nondisabled person.

6 Emotional support animal does not include a service animal.

7 (b) "Health care provider" means any of the following:

8 (i) A physician or physician's assistant licensed under article
9 15 of the public health code, 1978 PA 368, MCL 333.16101 to
10 333.18838.

11 (ii) A nurse practitioner licensed as a registered professional
12 nurse under part 172 of the public health code, 1978 PA 368, MCL
13 333.17201 to 333.17242, and granted a specialty certification as a
14 nurse practitioner by the Michigan board of nursing under section
15 17210 of the public health code, 1978 PA 368, MCL 333.17210.

16 (iii) A clinical nurse specialist licensed as a registered
17 professional nurse under part 172 of the public health code, 1978
18 PA 368, MCL 333.17201 to 333.17242, and granted a specialty
19 certification as a clinical nurse specialist by the Michigan board
20 of nursing under section 17210 of the public health code, 1978 PA
21 368, MCL 333.17210.

22 (iv) A mental health professional as that term is defined in
23 section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

24 (c) "Person with a disability" means an individual who has a
25 disability as that term is defined in section 3 of the Americans
26 with disabilities act of 1990, 42 USC 12102, and 28 CFR 36.105.

27 (d) "Provider-patient relationship" means a treatment or
28 counseling relationship in which a health care provider does all of
29 the following:

1 (i) Reviews the patient's relevant medical records and
2 completes a full assessment of the patient's medical history and
3 current medical condition, including a relevant medical evaluation
4 of the patient either in person or via telehealth.

5 (ii) Creates and maintains records of the patient's current
6 medical condition in accordance with medically accepted standards.

7 (iii) Reasonably expects that he or she will provide the patient
8 with follow-up medical care to monitor the efficacy of the use of
9 an emotional support animal as a treatment of the patient's
10 disability.

11 (e) "Service animal" means that term as defined in section
12 502c of the Michigan penal code, 1931 PA 328, MCL 750.502c.

13 (f) "Telehealth" means that term as defined in section 16283
14 of the public health code, 1978 PA 368, MCL 333.16283.

15 Sec. 5. (1) A health care provider may certify a person with a
16 disability's need for an emotional support animal. To certify a
17 person with a disability's need for an emotional support animal, a
18 health care provider shall meet both of the following requirements:

19 (a) The health care provider has an established provider-
20 patient relationship with the person with a disability for at least
21 30 days before the health care provider certifies the person with a
22 disability's need for an emotional support animal.

23 (b) The health care provider determines that the person with a
24 disability has a need for an emotional support animal.

25 (2) A health care provider shall not receive a fee or any
26 other form of compensation solely in exchange for certifying a
27 person with a disability's need for an emotional support animal
28 under subsection (1). A certification issued by a health care
29 provider who receives compensation solely for providing the

1 certification is invalid.

2 (3) A health care provider shall not falsely certify a person
3 with a disability's need for an emotional support animal under
4 subsection (1).

5 (4) The certification issued under subsection (1) must be in
6 the form of a letter or a completed questionnaire and is subject to
7 the privacy provisions of the health insurance portability and
8 accountability act of 1996, Public Law 104-191.

9 Sec. 7. (1) A person that sells or offers for sale a
10 registration of any kind, including, but not limited to, an
11 identification card, patch, tag, vest, harness, or certificate in
12 this state indicating that an animal is an emotional support animal
13 shall provide written notice to a buyer upon purchase that states
14 both of the following:

15 (a) That the registration does not qualify the animal as a
16 service animal.

17 (b) That falsely representing an animal as a service animal or
18 a service animal in training violates 1981 PA 82, MCL 752.61 to
19 752.64.

20 (2) A written notice provided under subsection (1) must be in
21 at least 12-point, bold type.

22 Sec. 9. (1) A person that knowingly violates this act may be
23 ordered to pay a civil fine as follows:

24 (a) For a first offense, a civil fine of not more than
25 \$1,000.00.

26 (b) For a second or subsequent offense, a civil fine of not
27 more than \$2,000.00.

28 (2) A violation of this act may be prosecuted by the
29 prosecutor of the county in which the violation occurred or by the

1 attorney general.