

SENATE BILL NO. 149

INTRODUCED BY D. LOGE, E. BUTTREY, K. SEEKINS-CROWE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE DOCUMENTATION OF EMOTIONAL SUPPORT ANIMALS; PROVIDING SUPPLEMENTAL INFORMATION REQUIREMENTS; REVISING THE DEFINITION OF "EMOTIONAL SUPPORT ANIMAL" DEFINITIONS; AND AMENDING SECTIONS 70-24-114 AND 70-33-110, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 70-24-114, MCA, is amended to read:

**"70-24-114. Emotional support animals -- documentation.** (1) A tenant with a disability or a disability-related need for an emotional support animal may request and be approved by a landlord to keep an emotional support animal as a reasonable accommodation in housing.

(2) Unless otherwise prohibited by federal law, rule, or regulation, a landlord may:

(a) deny a reasonable accommodation request for an emotional support animal if the animal poses a direct threat to the safety or health of others or poses a direct threat of physical damage to the property that cannot be reduced or eliminated by another reasonable accommodation;

(b) if a tenant's disability-related need for an emotional support animal is not readily apparent, request supporting information that reasonably supports the tenant's need for the particular emotional support animal being requested. Supporting information ~~may~~must include:

(i) information from a health care practitioner who has personal knowledge of the tenant's disability and is acting within the scope of the practitioner's practice that identifies the particular assistance or therapeutic emotional support provided by the specific animal. Information submitted under this subsection (2)(b)(i) must include the effective date, license number, and type of professional license held by the health care practitioner; ~~and~~or

(ii) information from any other source that the landlord determines to be reliable in accordance with the federal Fair Housing Act and Title 49, chapter 2; and

(c) require proof of compliance with state and local licensure and vaccination requirements for each emotional support animal.

(3) If a tenant requests to keep more than one emotional support animal, information for each emotional support animal must be provided pursuant to subsection (2).

(4) A landlord:

(a) may not request information under this section that discloses a diagnosis or severity of a tenant's disability or any medical records relating to the disability, but a tenant may voluntarily disclose such information or medical records to the landlord at the tenant's discretion; and

(b) shall issue a written determination after receiving supplemental information required in subsection (2) and notice the determination pursuant to 70-24-108.

(5) An emotional support animal registration of any kind, including but not limited to an identification card, patch, certificate, or similar registration obtained electronically or in person, is not, by itself, sufficient information to reliably establish that a tenant has a disability-related need for an emotional support animal.

(6) A tenant with a disability-related need for an emotional support animal is liable for any damage done to the premises or to another person on the premises by the tenant's emotional support animal.

(7) A health care practitioner may be subject to disciplinary action from the health care practitioner's licensing board for a violation of this section.

(8) This section does not apply to a service animal as defined in 49-4-203.

(9) Nothing in this section may be construed to restrict existing federal law and state law related to a person's right to a reasonable accommodation and equal access to housing, including but not limited to the federal Fair Housing Act, the federal Americans with Disabilities Act of 1990, or Title 49, chapter 2.

(10) As used in this section, the following definitions apply:

(a) "Emotional support animal" means an animal that a health care practitioner has determined provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified. The term does not include service animals as defined in 49-4-203.

(b) "Health care practitioner" means a mental health professional as defined in 53-21-102 WHO IS LICENSED TO PRACTICE IN THIS STATE AND who:

- 1 (i) has established a client-provider relationship with a tenant at least 30 days prior to providing  
2 supporting information requested from a landlord regarding the tenant's need for an emotional support animal;  
3 (ii) completes a clinical evaluation of a tenant regarding the need for an emotional support animal;  
4 and  
5 (iii) is acting within the scope of practice of the person's license or certificate."  
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7 **Section 2.** Section 70-33-110, MCA, is amended to read:

8 **"70-33-110. Emotional support animals -- documentation.** (1) A tenant with a disability or a  
9 disability-related need for an emotional support animal may request and be approved by a landlord to keep an  
10 emotional support animal as a reasonable accommodation in housing.

11 (2) Unless otherwise prohibited by federal law, rule, or regulation, a landlord may:

12 (a) deny a reasonable accommodation request for an emotional support animal if the animal poses  
13 a direct threat to the safety or health of others or poses a direct threat of physical damage to the property that  
14 cannot be reduced or eliminated by another reasonable accommodation;

15 (b) if a tenant's disability-related need for an emotional support animal is not readily apparent,  
16 request supporting information that reasonably supports the tenant's need for the particular emotional support  
17 animal being requested. Supporting information ~~may~~must include:

18 (i) information from a health care practitioner who has personal knowledge of the tenant's  
19 disability and is acting within the scope of the practitioner's practice that identifies the particular assistance or  
20 therapeutic emotional support provided by the specific animal. Information submitted under this subsection  
21 (2)(b)(i) must include the effective date, license number, and type of professional license held by the health  
22 care practitioner; ~~and~~ or

23 (ii) information from any other source that the landlord determines to be reliable in accordance with  
24 the federal Fair Housing Act and Title 49, chapter 2; and

25 (c) require proof of compliance with state and local licensure and vaccination requirements for  
26 each emotional support animal.

27 (3) If a tenant requests to keep more than one emotional support animal, information for each  
28 emotional support animal must be provided pursuant to subsection (2).

(4) A landlord:

(a) may not request information under this section that discloses a diagnosis or severity of a tenant's disability or any medical records relating to the disability, but a tenant may voluntarily disclose such information or medical records to the landlord at the tenant's discretion; and

(b) shall issue a written determination after receiving supplemental information required in subsection (2) and notice the determination pursuant to 70-33-106.

(5) An emotional support animal registration of any kind, including but not limited to an identification card, patch, certificate, or similar registration obtained electronically or in person, is not, by itself, sufficient information to reliably establish that a tenant has a disability-related need for an emotional support animal.

(6) A tenant with a disability-related need for an emotional support animal is liable for any damage done to the premises or to another person on the premises by the tenant's emotional support animal.

(7) A health care practitioner may be subject to disciplinary action from the health care practitioner's licensing board for a violation of this section.

(8) This section does not apply to a service animal as defined in 49-4-203.

(9) Nothing in this section may be construed to restrict existing federal law and state law related to a person's right to a reasonable accommodation and equal access to housing, including but not limited to the federal Fair Housing Act, the federal Americans with Disabilities Act, or Title 49, chapter 2.

(10) THE REQUIRED SUBMISSION OF DOCUMENTATION BY A RENTER TO A LANDLORD VERIFYING THE NEED FOR AN EMOTIONAL SUPPORT ANIMAL MAY NOT BE CONSTRUED TO MANDATE OR COMPEL THE LANDLORD OR A BUSINESS TO PERMIT THE ENTRY OR PRESENCE OF THE EMOTIONAL SUPPORT ANIMAL IF THE LANDLORD OR BUSINESS COMPLIES WITH APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.

~~(10)~~ (11) As used in this section, the following definitions apply:

(a) "Emotional support animal" means an animal that a health care practitioner has determined provides emotional, cognitive, or other similar support to an individual with a disability and does not need to be trained or certified. The term does not include service animals as defined in 49-4-203.

(b) "Health care practitioner" means a mental health professional as defined in 53-21-102 WHO IS LICENSED TO PRACTICE IN THIS STATE AND who:

1 (i) has established a client-provider relationship with a tenant at least 30 days prior to providing  
2 supporting information requested from a landlord regarding the tenant's need for an emotional support animal;

3 (ii) completes a clinical evaluation of a tenant regarding the need for an emotional support animal;

4 and

5 (iii) is acting within the scope of practice of the person's license or certificate."

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