

HOUSE BILL No. 2523

By Committee on Judiciary

1-29

1 AN ACT concerning housing; relating to assistance animals; enacting the
2 Kansas assistance animals in housing act; creating the crimes of
3 misrepresentation of entitlement to an assistance animal and improper
4 denial of an assistance animal.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) This section shall be known as the Kansas assistance
8 animals in housing act.

9 (b) A housing provider who receives a request from a person to make
10 an exception to the housing provider's policy prohibiting or restricting
11 animals on the housing provider's property because the person requires the
12 use of an assistance animal may require such person to produce reliable
13 documentation of the disability and disability-related need for the animal
14 only if the disability or disability-related need is not readily apparent or
15 known to the housing provider. A housing provider may ask a person to
16 make the request on a standardized form, but shall not deny the request
17 because the person did not use the form to submit documentation that
18 meets the requirements described in subsection (c). If the person's need for
19 an assistance animal is not readily apparent or known by the housing
20 provider, a housing provider receiving a request for more than one
21 assistance animal may request documentation under subsection (c)
22 establishing the disability-related need for each animal.

23 (c) Any documentation demonstrating that a person has a disability
24 and requires the use of an assistance animal as a reasonable
25 accommodation in housing under the fair housing act, 42 U.S.C. § 3601 et
26 seq., or the Kansas act against discrimination, K.S.A. 44-1001 et seq., and
27 amendments thereto, shall:

28 (1) Be in writing;
29 (2) be made by a person with whom the individual requesting an
30 accommodation has a supportive relationship; and
31 (3) document the individual's disability and disability-related need for
32 the assistance animal.

33 (d) A housing provider may deny a documented request for
34 accommodation or rescind a granted request under this act if:

35 (1) The accommodation imposes:
36 (A) An undue financial and administrative burden to the housing

1 provider; or

2 (B) a fundamental alteration to the nature of the operations of the
3 housing provider; or

4 (2) after conducting an individualized assessment, there is reliable,
5 objective evidence that the specific assistance animal:

6 (A) Poses a direct threat to the health or safety of others that cannot
7 be reduced or eliminated by another reasonable accommodation;

8 (B) causes substantial physical damage to the property of others that
9 cannot be reduced or eliminated by another reasonable accommodation; or

10 (C) has engaged in a pattern of uncontrolled behavior that the person
11 requesting the accommodation has not taken effective action to correct.

12 (e) If the initial documentation provided does not satisfy the
13 requirements of subsection (c), a housing provider may require additional
14 supporting documentation of such person's disability or need for the
15 assistance animal. If the initial documentation is insufficient to show the
16 existence of the supportive relationship required by subsection (c), a
17 housing provider may request additional information describing the
18 professional relationship between the person and the individual with a
19 disability.

20 (f) A housing provider may consider the documented disabilities and
21 disability-related needs of other residents on the property when evaluating
22 the reasonableness of the request for the assistance animal, but shall not
23 deny an assistance animal solely due to the disabilities and disability-
24 related needs of another resident. A housing provider shall attempt to
25 balance the disability-related needs of all residents.

26 (g) A housing provider may require a resident to pay for the costs of
27 repairs for damage that the assistance animal causes to the resident's
28 dwelling unit or the common areas, except for reasonable wear and tear, in
29 the same manner that the housing provider would for damage caused by
30 any other resident. A housing provider shall not require a resident to pay a
31 pet-related deposit, pet fee or related pet assessment for an assistance
32 animal, even if the housing provider allows pets and requires pet owners to
33 pay such costs. A housing provider shall not require a resident with an
34 assistance animal to procure special liability insurance or coverage for the
35 assistance animal.

36 (h) Nothing in this act shall be construed to:

37 (1) Require documentation of a specific diagnosis regarding a
38 disability or disability-related need; or

39 (2) prohibit a housing provider from verifying the authenticity of the
40 documentation submitted under subsection (c).

41 (i) Notwithstanding any other provision of law, a housing provider
42 shall not be liable for injuries or damages caused by a person's assistance
43 animal permitted on the housing provider's property as a reasonable

1 accommodation to assist the person with a disability under the fair housing
2 act, 42 U.S.C. § 3601 et seq., section 504 of the rehabilitation act of 1973,
3 29 U.S.C. § 701 et seq., the Kansas act against discrimination, K.S.A. 44-
4 1001 et seq., and amendments thereto, or any other federal, state or local
5 law.

6 (j) Nothing in this act shall be construed to:

7 (1) Limit the rights of an individual under the fair housing act, 42
8 U.S.C. § 3601 et seq., section 504 of the rehabilitation act, 29 U.S.C. § 701
9 et seq., the Kansas act against discrimination, K.S.A. 44-1001 et seq., and
10 amendments thereto, or any other federal, state or local law; or

11 (2) limit the liability of housing providers under such laws.

12 (k) For the purposes of this section:

13 (1) "Assistance animal" means an animal that works, provides
14 assistance or performs tasks for the benefit of a person with a disability, or
15 that provides emotional support that alleviates one or more effects of a
16 person's disability. "Assistance animal" does not include a pet.

17 (2) "Disability" means the same as the term is defined in K.S.A. 44-
18 1002, and amendments thereto.

19 (3) "Healthcare provider" means a physician, licensed physician
20 assistant, licensed advanced practice registered nurse or a person licensed,
21 registered, certified or otherwise authorized to practice by the behavioral
22 sciences regulatory board.

23 (4) "Housing provider" means any owner, property management
24 company, property manager, government entity, condominium board,
25 condominium association, cooperative or related entity, and any agent or
26 employee thereof, engaged in the selling, leasing, management, control or
27 governance of residential housing.

28 (5) "Reasonable accommodation" means the same as the term is
29 defined in K.S.A. 44-1002, and amendments thereto.

30 (6) "Supportive relationship" means the provision of healthcare or
31 personal care services in good faith, for and with actual knowledge of an
32 individual's disability and that individual's disability-related need for an
33 assistance animal, by a:

34 (A) Healthcare provider; or

35 (B) non-medical service agency or reliable third party that is in a
36 position to know about the individual's disability.

37 Sec. 2. (a) Misrepresentation of entitlement to an assistance animal in
38 housing is intentionally:

39 (1) Misrepresenting to a housing provider that a person has a
40 disability or disability-related need for an assistance animal in housing; or

41 (2) making materially false statements for the purpose of obtaining
42 documentation for the use of an assistance animal in housing.

43 (b) Misrepresentation of entitlement to an assistance animal in

1 housing is:

2 (1) Upon a first conviction, an unclassified nonperson misdemeanor,
3 punishable by a fine of not less than \$25 and not more than \$100;

4 (2) upon a second conviction, a class C nonperson misdemeanor; and

5 (3) upon a third or subsequent conviction, a class A nonperson
6 misdemeanor.

7 (c) If a person misrepresents an entitlement to an assistance animal,
8 the housing provider may commence an action allowed pursuant to K.S.A.
9 58-2564 or 58-25,120, and amendments thereto.

10 (d) For the purposes of this section:

11 (1) "Assistance animal" means the same as the term is defined in
12 section 1, and amendments thereto.

13 (2) "Conviction" includes being convicted of a violation of a law of
14 another state, or an ordinance of any city, or resolution of any county that
15 prohibits the acts that this section prohibits or entering into a diversion or
16 deferred judgment agreement in lieu of further criminal proceedings in a
17 case alleging a violation of such law, ordinance or resolution.

18 (3) "Housing provider" means the same as the term is defined in
19 section 1, and amendments thereto.

20 (e) This section shall be a part of and supplemental to the Kansas
21 criminal code.

22 Sec. 3. (a) Improper denial of an assistance animal is intentionally:

23 (1) Requesting and obtaining documentation pursuant to section 1,
24 and amendments thereto; and

25 (2) improperly denying the reasonable accommodation request.

26 (b) Improper denial of an assistance animal is:

27 (1) Upon a first conviction, an unclassified nonperson misdemeanor
28 punishable by a fine of not less than \$25 and not more than \$200;

29 (2) upon a second conviction, a class C nonperson misdemeanor; and

30 (3) upon a third or subsequent conviction, a class A nonperson
31 misdemeanor.

32 (c) It shall not be a violation of this section if a denial of an assistance
33 animal satisfies the provisions of section 1, and amendments thereto.

34 (d) For the purposes of this section, "conviction" includes being
35 convicted of a violation of a law of another state, or an ordinance of any
36 city, or resolution of any county that prohibits the acts that this section
37 prohibits or entering into a diversion or deferred judgment agreement in
38 lieu of further criminal proceedings in a case alleging a violation of such
39 law, ordinance or resolution.

40 (e) This section shall be a part of and supplemental to the Kansas
41 criminal code.

42 Sec. 4. This act shall take effect and be in force from and after its
43 publication in the statute book.