

HOUSE BILL 1190

By Terry

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 21; Title 13, Chapter 20; Title 33; Title 39; Title 44, Chapter 17; Title 44, Chapter 8, Part 4; Title 63; Title 66 and Title 68, relative to landlords and tenants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 16, Part 3, is amended by adding the following as a new section:

(a) As used in this section, "service animal" and "support animal" have the same meanings as the terms are defined in SECTION 3(a).

(b) A person commits the offense of misrepresentation of a service or support animal who knowingly:

(1) Misrepresents, as a part of a request to maintain a service or support animal in residential rental property under SECTION 3 or SECTION 5, that the person has a disability or disability-related need for the use of a service or support animal; or

(2) Provides documentation to a landlord under SECTION 3(c) or SECTION 5(c) that falsely states an animal is a service or support animal.

(c) Misrepresentation of a service or support animal is a Class B misdemeanor.

SECTION 2. Tennessee Code Annotated, Section 66-7-109, is amended by deleting subsection (g).

SECTION 3. Tennessee Code Annotated, Title 66, Chapter 7, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Disability" means:

(A) A physical or mental impairment that substantially limits one

(1) or more major life activities;

(B) A record of an impairment described in subdivision (a)(1)(A);

or

(C) Being regarded as having an impairment described in

subdivision (a)(1)(A);

(2) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition;

(3) "Healthcare provider" means a person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession;

(4) "Reliable documentation" means written documentation provided by:

(A) A healthcare provider with actual knowledge of an individual's disability;

(B) An individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities with actual knowledge of an individual's disability; or

(C) A caregiver, reliable third party, or a governmental entity with actual knowledge of an individual's disability;

(5) "Service animal" means a dog or miniature horse that has been individually trained to work or perform tasks for an individual with a disability; and

(6) "Support animal" means an animal selected to accompany an individual with a disability that has been prescribed or recommended by a healthcare provider to work, provide assistance, or perform tasks for the benefit of the individual with a disability, or provide emotional support that alleviates one (1) or more identified symptoms or effects of the individual's disability.

(b) A tenant or prospective tenant with a disability who requires the use of a service or support animal may request an exception to a landlord's policy that prohibits or limits animals or pets on the premises or that requires any payment by a tenant to have an animal or pet on the premises.

(c) A landlord who receives a request made under subsection (b) from a tenant or prospective tenant may ask that the individual, whose disability is not readily apparent or known to the landlord, submit reliable documentation of a disability and the disability-related need for a service or support animal. If the disability is readily apparent or known but the disability-related need for the service or support animal is not, the landlord may ask the individual to submit reliable documentation of the disability-related need for a service or support animal.

(d) A landlord who receives reliable documentation under subsection (c) may authenticate the reliable documentation.

(e) A landlord may deny a request made under subsection (b) if a tenant or prospective tenant fails to provide accurate, reliable documentation that meets the requirements of subsection (c), after the landlord requests the reliable documentation.

(f)

(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:

(A) Misrepresents that there is a disability or disability-related need for the use of a service or support animal; or

(B) Provides documentation under subsection (c) that falsely states an animal is a service or support animal.

(2) In the event of any violation of subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney's fees.

(g) Notwithstanding any other law to the contrary, a landlord is not liable for injuries by a person's service or support animal permitted on the premises as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, (42 U.S.C. §§ 3601 et seq.), the Americans with Disabilities Act of 1990, (42 U.S.C. §§ 12101 et seq.), and Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 701), or any other federal, state, or local law.

(h) Only to the extent it conflicts with federal or state law, this section does not apply to public housing units owned by a governmental entity.

SECTION 4. Tennessee Code Annotated, Section 66-28-505(f), is amended by deleting the subsection and substituting the following:

(f)

(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:

(A) Misrepresents that there is a disability or disability-related need for the use of a service or support animal; or

(B) Provides documentation under SECTION 5(c) that falsely states an animal is a service or support animal.

(2) As used in this subsection (f), "service animal" and "support animal" have the same meanings as the terms are defined in SECTION 5(a).

(3) In the event of any violation of subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney's fees.

- (4) Only to the extent it conflicts with federal or state law, this subsection (f) does not apply to public housing units owned by a governmental entity.

SECTION 5. Tennessee Code Annotated, Title 66, Chapter 28, Part 4, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Disability" means:

(A) A physical or mental impairment that substantially limits one

(1) or more major life activities;

(B) A record of an impairment described in subdivision (a)(1)(A);

or

(C) Being regarded as having an impairment described in

subdivision (a)(1)(A);

(2) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition;

(3) "Healthcare provider" means a person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care in the ordinary course of business or practice of a profession;

(4) "Reliable documentation" means written documentation provided by:

(A) A healthcare provider with actual knowledge of an individual's disability;

(B) An individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities with actual knowledge of an individual's disability; or

(C) A caregiver, reliable third party, or a governmental entity with actual knowledge of an individual's disability;

(5) "Service animal" means a dog or miniature horse that has been individually trained to work or perform tasks for an individual with a disability; and

(6) "Support animal" means an animal selected to accompany an individual with a disability that has been prescribed or recommended by a healthcare provider to work, provide assistance, or perform tasks for the benefit of the individual with a disability, or provide emotional support that alleviates one (1) or more identified symptoms or effects of the individual's disability.

(b) A tenant or prospective tenant with a disability who requires the use of a service or support animal may request an exception to a landlord's policy that prohibits or limits animals or pets on the premises or that requires any payment by a tenant to have an animal or pet on the premises.

(c) A landlord who receives a request made under subsection (b) from a tenant or prospective tenant may ask that the individual, whose disability is not readily apparent or known to the landlord, submit reliable documentation of a disability and the disability-related need for a service or support animal. If the disability is readily apparent or known but the disability-related need for the service or support animal is not, the landlord may ask the individual to submit reliable documentation of the disability-related need for a service or support animal.

(d) A landlord who receives reliable documentation under subsection (c) may authenticate the reliable documentation.

(e) A landlord may deny a request made under subsection (b) if a tenant or prospective tenant fails to provide accurate, reliable documentation that meets the requirements of subsection (c), after the landlord requests the reliable documentation.

(f)

(1) It is deemed to be material noncompliance and default by the tenant with the rental agreement, if the tenant:

(A) Misrepresents that there is a disability or disability-related need for the use of a service or support animal; or

(B) Provides documentation under subsection (c) that falsely states an animal is a service or support animal.

(2) In the event of any violation of subdivision (f)(1), the landlord may terminate the tenancy and recover damages, including, but not limited to, reasonable attorney's fees.

(g) Notwithstanding any other law to the contrary, a landlord is not liable for injuries by a person's service or support animal permitted on the premises as a reasonable accommodation to assist the person with a disability pursuant to the Fair Housing Act, as amended, (42 U.S.C. §§ 3601 et seq.), the Americans with Disabilities Act of 1990, (42 U.S.C. §§ 12101 et seq.), and Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 701), or any other federal, state, or local law.

(h) Only to the extent it conflicts with federal or state law, this section does not apply to public housing units owned by a governmental entity.

SECTION 6. This act shall take effect July 1, 2019, the public welfare requiring it, and shall apply to any rental agreement entered into or renewed on or after that date, and any request for an exception to a landlord's policy that prohibits or limits animals on the property made on or after that date.