

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO FAIR HOUSING REASONABLE ACCOMMODATIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the term "assistance  
2 animal", which is used under the federal and state fair housing  
3 laws, includes a wider category of animals that provide support  
4 to a person with a disability, including emotional support  
5 animals and service animals. The federal Fair Housing Act and  
6 federal Rehabilitation Act protect the rights of people with  
7 disabilities to keep assistance animals, even when a residential  
8 building or landlord policy explicitly restricts pets. When a  
9 person with a disability requests the use of an assistance  
10 animal as a reasonable housing accommodation, the housing  
11 provider may ask for information, including verification from a  
12 treating health care professional, that the person has a  
13 disability and the requested assistance animal is needed to  
14 alleviate one or more symptoms of the person's disability.

15           Concerns have been raised, however, that verification in  
16 support of the use of an assistance animal may be provided by a  
17 health care provider who may not have treated or had any direct



1 examination of the individual making the request. As a result,  
2 this can lead to some tenants or residents easily abusing the  
3 status of their pet as an "assistance animal", and creating an  
4 undue burden on other tenants or residents that may have  
5 purposefully sought out "no pet" buildings due to allergies or  
6 other concerns.

7 Accordingly, the purpose of this Act is to:

8 (1) Require licensed health care providers to make a  
9 written finding regarding whether a patient or client  
10 has a disability and whether the need for an  
11 assistance animal is related to the disability, so  
12 long as:

13 (A) The licensee has met with the patient or client  
14 in person or via telehealth;

15 (B) The licensee is sufficiently familiar with the  
16 patient or client and the disability; and

17 (C) The licensee is legally and professionally  
18 qualified to make the finding; and

19 (2) Require the civil rights commission, in consultation  
20 with the department of the attorney general, to adopt  
21 rules and prescribe forms regarding the making of a



1 written finding by licensees in conformance with this  
2 Act and in accordance with federal law.

3 SECTION 2. Chapter 515, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§515- Housing; licensee written finding of disability  
7 and need for an assistance or service animal related to  
8 disability; form requirements. (a) A licensee under chapter  
9 453, 453D, 457, 459, 465, or 467E whose assistance is requested  
10 by a patient or client seeking a finding that an assistance  
11 animal or service animal is a reasonable accommodation in  
12 housing shall make a written finding attesting that the patient  
13 or client has a disability and, if a disability is found, a  
14 separate written finding attesting that the need for an  
15 assistance animal or service animal is related to the  
16 disability.

17 (b) A licensee under chapter 453, 453D, 457, 459, 465, or  
18 467E shall not make a finding under subsection (a) unless all of  
19 the following circumstances are present:

20 (1) The licensee has met with the patient or client in  
21 person or via telehealth;



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1       (2) The licensee is personally and sufficiently familiar  
2           with the patient or client and the disability; and

3       (3) The licensee is legally and professionally qualified  
4           to make the finding.

5       (c) The commission, in consultation with the department of  
6       the attorney general, shall adopt rules pursuant to chapter 91  
7       regarding the making of a written attested finding by licensees  
8       under this section. The rules shall include a form for  
9       licensees to document the licensees' written findings. The form  
10       shall recite this section's requirements and comply with the  
11       federal Fair Housing Act (42 United States Code 3601, et seq.),  
12       as amended, and section 504 of the Rehabilitation Act of 1973  
13       (29 United States Code section 791), as amended. The form shall  
14       contain only two questions regarding the qualifications of the  
15       patient or client, which shall be:

16           (1) Whether a person has a disability; and

17           (2) Whether the need for an assistance or service animal  
18           is related to the disability.

19       The form shall indicate that the response shall be limited  
20       to "yes" or "no". The form shall not allow for additional  
21       detail.



1        (d) A private entity or landlord may deny a request for an  
2 exception to a pet policy if a person who does not have a  
3 readily apparent disability, or a disability known to the  
4 private entity or landlord, fails to provide documentation  
5 indicating that the person has a disability and the person has a  
6 disability-related need for an assistance animal or service  
7 animal.

8        (e) This section does not limit the means by which a  
9 person with a disability may demonstrate, pursuant to state or  
10 federal law, that the person has a disability or that the person  
11 has a disability-related need for an assistance animal or  
12 service animal.

13        (f) For purposes of this section:

14        "Assistance animal" means an animal that qualifies as a  
15 reasonable accommodation under the federal Fair Housing Act (42  
16 United States Code 3601, et seq.), as amended, and section 504  
17 of the Rehabilitation Act of 1973 (29 United States Code section  
18 791), as amended.

19        "Private entity" means any association of homeowners,  
20 community association, condominium association, cooperative, or  
21 any other non-governmental entity with covenants, bylaws, and



1 administrative provisions with which the homeowner's compliance  
2 is required.

3 "Service animal" shall have the same meaning as that term  
4 is defined in section 347-2.5."

5 SECTION 3. If any provision of this Act, or the  
6 application thereof to any person or circumstance, is held  
7 invalid, the invalidity does not affect other provisions or  
8 applications of the Act that can be given effect without the  
9 invalid provision or application, and to this end the provisions  
10 of this Act are severable.


11 SECTION 4. New statutory material is underscored.

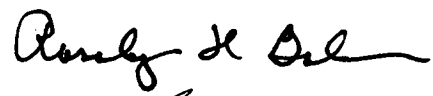
12 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



~~AC. Enders Agnew~~  
















# S.B. NO. 2200

**Report Title:**

Fair Housing; Assistance Animals; Service Animals; Reasonable Accommodations; Written Findings; Telehealth; Health Care Providers; Civil Rights Commission; Department of the Attorney General

**Description:**

Requires licensed health care providers to make written findings whether a patient or client has a disability and whether the need for an assistance animal or service animal is related to the disability so long as certain circumstances are present. Requires the civil rights commission in consultation with the department of the attorney general to adopt rules and prescribe forms.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

