

# Legislative Analysis



## ACCESS TO PLACES OF PUBLIC ACCOMMODATION FOR SERVICE ANIMALS IN TRAINING

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

House Bill 4256 as enacted  
Public Act 75 of 2022  
Sponsor: Rep. Tommy Brann  
House Committee: Regulatory Reform  
Senate Committee: Regulatory Reform  
Complete to 2-13-23

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 4256 amends the Michigan Penal Code to provide similar protections regarding access to places of public accommodation for service animals in training as are provided for service animals that are fully trained. The bill took effect May 12, 2022.

**FISCAL IMPACT:** The bill would have an indeterminate fiscal impact on the judiciary and local corrections. (See **Fiscal Information**, below, for a detailed discussion.)

### **THE APPARENT PROBLEM:**

Service animals (dogs or miniature horses) provide a wide range of assistance to people with disabilities, and their owners rely on that assistance to maintain mobility and a higher quality of life. However, the animals must be trained, which entails basic training and socialization by animal raisers and animal trainers before the custom training begins. To do the training, animal raisers and trainers must take the animals into the types of businesses an owner would frequent. A service animal must be trained not to react to dishes being dropped in a restaurant, being stepped on in a busy store, or being poked or stared at by passersby or other patrons. However, language giving trainers that access to places of public accommodation was inadvertently removed when the relevant section of law was amended several years ago. This has resulted in confusion on the part of shop and restaurant owners as to which animals have lawful standing to be admitted and which must be denied access under health laws. Unfortunately, not only have service animals in training been turned away, but some animals in service, such as those assisting military veterans suffering from post-traumatic stress disorder, have also reportedly been refused access. Legislation was offered to address the concern.

### **THE CONTENT OF THE BILL:**

House Bill 4256 amends the Michigan Penal Code to apply provisions of law to an **animal raiser or trainer** of a **service animal in training** that now apply to the use of a **service animal** by a person with a disability in a public accommodation.

**Animal raiser or trainer** means an individual who raises and socializes a **service animal in training** with the intent that the animal will become a service animal.

**Service animal in training** means an animal accompanied by an animal raiser or trainer with the intent that the animal is being raised, socialized, and trained to become a service animal.

***Service animal*** means either of the following:

- “Service animal” as defined in federal regulations,<sup>1</sup> where it generally means a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability that are directly related to the individual’s disability.
- A miniature horse that has been individually trained to do work or perform tasks as described in the federal regulations cited above.

2015 PA 144 revised requirements in the code for a public accommodation<sup>2</sup> regarding the use of a service animal in, and access to, the public accommodation by a person with a disability.<sup>3</sup> However, the legislation also removed language under which the previous requirements were extended to those who were training the service animals.

House Bill 4256 modifies several provisions regarding the conduct by a public accommodation and the responsibilities of a person with a disability who has a service animal so that those provisions also apply to an animal raiser or trainer who has a service animal in training for the purpose of training or socializing the animal.

### **Public accommodations**

The bill generally requires a public accommodation to modify its policies and procedures to allow the use of a service animal in training by an animal raiser or trainer who is with the animal to train or socialize it. A public accommodation must allow an animal raiser or trainer to be with their service animal in training in all areas where members of the public, customers, clients, patrons, program participants, or invitees are allowed to go, including public areas that sell or prepare food, even if state or local health codes prohibit animals on the premises. (However, a public accommodation may exclude a service animal in training from a facility if the animal’s presence interferes with the facility’s legitimate safety requirements, such as in a hospital surgery or burn unit where a sterile field is required.)

The bill prohibits a public accommodation from doing any of the following with regard to an animal raiser or trainer who is accompanied by a service animal in training:

- Asking them to remove the animal from the premises because of allergies or fear of the animal.
- Isolating them.
- Treating them less favorably than other patrons.
- Charging them a fee that is not charged to patrons who do not have service animals in training.
- Asking them to pay a surcharge (regardless of whether people with pets must pay one).
- Asking them to comply with other requirements that do not apply to people who do not have pets with them.

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<sup>1</sup> <https://www.ecfr.gov/current/title-28/chapter-I/part-36/subpart-A/section-36.104>

Also see <https://www.ada.gov/topics/service-animals/>

<sup>2</sup> **Public accommodation** means that term as defined in the federal Americans with Disabilities Act (ADA) and federal regulations. See <https://www.law.cornell.edu/uscode/text/42/12181> and <https://www.ecfr.gov/current/title-28/chapter-I/part-36/subpart-A/section-36.104>

<sup>3</sup> **Person with a disability** means an individual with a *disability* as defined in the ADA and federal regulations. See <https://www.law.cornell.edu/uscode/text/42/12102> and <https://www.ecfr.gov/current/title-28/chapter-I/part-36/subpart-A/section-36.105>. It also includes a veteran who has been diagnosed with post-traumatic stress disorder, traumatic brain injury, or other service-related disabilities.

A public accommodation can ask an animal raiser or trainer to remove their service animal in training only under either of the following circumstances:

- The animal is out of control and the animal raiser or trainer does not take effective action to control it.
- The animal is not housebroken.

If a service animal in training is excluded from a place under the above provisions, the public accommodation must give the animal raiser or trainer the opportunity to obtain goods, services, or accommodations without having the animal there.

A public accommodation is not responsible for the care or supervision of a service animal in training.

[Note that the provisions in the code that address the use of a service animal by a person with a disability allow a public accommodation to assess specified factors to determine whether its facility can accommodate a service animal that is a miniature horse. These factors include the type, size, and weight of the horse. The bill does not include similar provisions for miniature horses in training.]

#### **Animal raisers or trainers**

A service animal in training must be under the control of the animal raiser or trainer and must have a harness, leash, or other tether. However, if use of a harness, leash, or tether would interfere with the animal's safe and effective performance of its work, tasks, training, or socialization, the animal must be otherwise under the control of the animal raiser or trainer, such as through voice control or hand signals.

An animal raiser or trainer is liable for damage to a public accommodation or injury to an individual caused by the animal raiser's or trainer's service animal in training.

#### **Penalty**

A public accommodation that violates any of the provisions described above is guilty of a misdemeanor punishable by imprisonment for up to 90 days or a fine of up to \$500, or both.

MCL 750.502c

#### ***FISCAL INFORMATION:***

House Bill 4256 would have an indeterminate fiscal impact on the state and on local units of government. The bill would require public accommodations to modify their policies to allow service for the animal raisers and trainers of service animals. An increase in misdemeanor convictions could result due to noncompliance with the new requirements. There is no way to know how many convictions would result under the provisions of the bill. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how the bill affected caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

## **ARGUMENTS:**

### ***For:***

Service animals, which under Michigan law include specially trained dogs and miniature horses, can be trained to meet a wide range of their owners' needs. Service animals accompany their owners everywhere and need the proper socialization and training to handle such challenges as crowded public places; loud or sudden noises; strangers who want to interact with them; having tails, paws, or hooves stepped on; or interference from people's pets. Early socialization and training for the specific needs of a future owner are thus crucial and can be done only in the types of stores, restaurants, doctor's offices, and other places the future owner will frequent.

The code requires service animals accompanying a person with a disability to be allowed access to places of public accommodation, but there is no guarantee that a service animal in training will be allowed entry. The bill addresses this by providing that service animals in both early and custom training sessions (not just fully trained service animals) have a lawful right to access all places of public accommodation. However, a proprietor may refuse access or ask an animal raiser or trainer to leave if they do not have an animal under control or the animal is not housebroken.

Federal law concerning service dogs applies only once they are trained, but protections regarding service animals in training can be added at the state level. According to MSU's Animal Legal and Historical Center, 46 other states now provide those protections.<sup>4</sup> Before enactment of 2015 PA 144, Michigan did so as well. The bill's restoring of service animals in training to the state's laws regarding access to places of public accommodation should enable animal raisers and trainers to provide the type of training necessary to fill the growing need for service animals.

Note that emotional support animals are not service animals under either state or federal law. The code and the bill do not apply to such animals.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

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<sup>4</sup> <https://www.animallaw.info/topic/table-state-assistance-animal-laws>