

Second Regular Session 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 240

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 22-9-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 7. Emotional Support Animals in Housing

Sec. 1. This chapter does not apply to a dwelling that is exempt under IC 22-9.5-3 from the requirements of IC 22-9.5.

Sec. 2. As used in this chapter, "dwelling" means:

- (1) any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families; or
- (2) any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure described in subdivision (1).

The term includes a recreational vehicle (as defined in IC 9-13-2-150).

Sec. 3. As used in this chapter, "family" has the meaning set forth in IC 22-9.5-2-9.

Sec. 4. As used in this chapter, "health service provider" refers to:

- (1) a psychiatrist or physician who is licensed under IC 25-22.5;
- (2) a psychologist who is licensed under IC 25-33;

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- (3) an individual who holds a license under IC 25-23.6; or
- (4) an advanced practice nurse (as defined in IC 25-23-1-1) licensed under IC 25-23;

who provides medical services or treatment to an individual. This definition excludes an individual described in subdivision (1), (2), (3), or (4) whose sole service to the individual is to provide a verification letter for a fee.

Sec. 5. As used in this chapter, "individual with a disability" means an individual:

- (1) with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual; or
- (2) who:
 - (A) has a record of; or
 - (B) is regarded as;
 having an impairment described in subdivision (1).

Sec. 6. As used in this chapter, "emotional support animal" means a companion animal that a health service provider has determined provides a benefit for an individual with a disability, which may include improving at least one (1) symptom of the disability.

Sec. 7. As used in this chapter, "to rent" has the meaning set forth in IC 22-9.5-2-13.

Sec. 8. (a) Emotional support animals may be used by individuals with a range of physical, psychiatric, or intellectual disabilities.

(b) To be prescribed an emotional support animal, the individual seeking an emotional support animal must have a verifiable disability. An animal does not need specific training to become an emotional support animal.

Sec. 9. A person who offers to rent or otherwise make available a dwelling to an individual with a disability that is not readily apparent who seeks a reasonable accommodation for an emotional support animal in a dwelling may require that the individual provide written verification from a health service provider that:

- (1) the individual is an individual with a disability;
- (2) there is a disability related need for the emotional support animal to assist the individual; and
- (3) the emotional support animal assists the individual in managing the individual's disability.

Sec. 10. (a) Except as provided in subsection (b), an individual who moves from another state may provide documentation from:



- (1) a physician;
- (2) a psychiatrist;
- (3) a social worker; or
- (4) another other mental health professional;

licensed in that state, so long as the individual has an ongoing treatment relationship with the health service provider.

(b) This section excludes a health service provider whose sole service to the individual is to provide a verification letter in exchange for a fee.

Sec. 11. If an individual described in section 9 of this chapter submits a request for a reasonable accommodation, a person who offers to rent or otherwise make available a dwelling may evaluate any documents submitted with the request for a reasonable accommodation to verify the individual's disability related need for an emotional support animal.

Sec. 12. This section applies to an individual described in section 9 of this chapter who has a disability that is not readily apparent, and the health service provider that verifies the individual's disability status and need for an emotional support animal. An individual who submits a request to maintain an emotional support animal in a dwelling, or a health service provider who verifies the individual's need for an emotional support animal, and:

- (1) misrepresents to a person who offers to rent or otherwise make available a dwelling that the individual is an individual with a disability or has a disability related need that requires the use of an emotional support animal in a dwelling;
- (2) makes a materially false statement to the individual's health service provider to obtain documentation to substantiate the individual's need for an emotional support animal in a dwelling;
- (3) provides a document to a person who offers to rent or otherwise make available a dwelling that misrepresents that the animal is an emotional support animal;
- (4) fits an animal that is not an emotional support animal with a harness, collar, vest, or sign that would cause a reasonable person to believe the animal is an emotional support animal; or
- (5) in the case of a health service provider:
 - (A) verifies an individual's disability status and need for an emotional support animal without adequate professional knowledge of the individual's condition to provide a reliable verification; or



(B) charges a fee for providing a written verification for an individual's disability status and need for an emotional support animal, and provides no other service to the individual;
commits a Class A infraction.

Sec. 13. A person who offers to rent or otherwise make available a dwelling may not require an individual with a disability to pay a fee to maintain an emotional support animal in the dwelling.

Sec. 14. This chapter does not prohibit a person who offers to rent or otherwise make available a dwelling from requiring an individual with a disability who uses an emotional support animal from:

- (1) complying with the terms of the rental agreement and other rules or regulations applicable to the dwelling on the same terms as other residents;
- (2) paying for the cost of repairs that result from any damages to the dwelling that are caused by an emotional support animal in the same manner as a resident who maintains an animal that is not an emotional support animal in the dwelling; or
- (3) signing an addendum or other agreement that sets forth the responsibilities of the owner of the emotional support animal.

Sec. 15. Subject to any other federal, state, or local law, a person who offers to rent or otherwise make available a dwelling and permits an individual with a disability the use of an emotional support animal on the premises of a dwelling as a reasonable accommodation under:

- (1) the federal Fair Housing Act (42 U.S.C. 3601 et seq.) and any amendments and regulations thereto;
- (2) Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794) and any amendments and regulations thereto;
- (3) the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations thereto; or
- (4) any other applicable state or local law;

is not liable for an injury to another individual caused by an individual's emotional support animal.

SECTION 2. IC 34-30-2-87.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 87.7. IC 22-9-7-15 (Concerning a person who offers to rent or otherwise make available a dwelling**

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to an individual with a disability who uses an emotional support animal as a reasonable accommodation).

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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