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December 9, 2019

Representative Graham Filler
Chair, Judiciary Committee
Michigan House of Representative

Via email: Melissa Sweet, Committee Clerk, msweet@house.mi.gov

Re: Oppose HB 4910 and HB 4911, House Judiciary Committee Meeting, December 10, 2019

Dear Rep. Filler and Committee Members:

Thank you for the opportunity to provide information to the committee. Attorneys for Animals, Inc. (AFA) is a Michigan non-profit and 501(c)(3) organization of legal professionals and animal advocates. The organization's Board of Directors voted to oppose HBs 4910 and 4911.

This bill package creates a new statute, the "Misrepresentation of Emotional Support Animals Act" (HR 4910) and amends the Summary Proceedings to Recover Possession of Premises Act (HR 4911).

We oppose this bill and believe it to be an over-reaction to an issue that recently has garnered much attention nationwide, most often in the context of a service animal being taken aboard an airplane. In response, this bill package and a similar package in the Senate (SBs 608-610) have been introduced, which do not (nor cannot) regulate animals aboard aircraft, and which omit any regulation of those online entities that provide instant, low cost ESA certificates and thus significantly contribute to the problem the legislation seeks to address.

Our opposition is based on its negative impact on the animals, who risk being deprived of home and human companion, and who truly are blameless victims in the proposed legislative scheme. We also oppose because the package does not recognize the human-animal bond. By setting up many roadblocks to getting an Emotional Support Animal (ESA), the bills have the potential of harming powerless people who in fact legitimately have a need for these animals; and of harming the animals who may be left homeless.

The sensational stories of alleged abuses of the need for ESAs offer good "click bait" but ignore the reality: most people who seek animals sincerely and legitimately need their assistance and often simply their presence in order to function in their daily lives. The American Veterinary Medical Association policy states: "Emotional support animals provide therapeutic benefits that alleviate one or more identified symptoms or effects of an individual's disability, or emotional support to a disabled individual who has a disability-related need for such support. An emotional support animal may be a dog, a cat, or many other kinds of animal."ⁱ

The bill package under-regulates in that it does not address the companies who have sprung up to provide "services"; for those individuals seeking ESA (and health care providers) it is punitive and over-reaching. It

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assumes that all individuals who turn to these online entities are doing so for fraudulent reasons. On the other hand, it provides a powerful weapons against persons requiring an ESA by (1) revising the landlord tenant act to authorize evictions based on attempts to obtain a support animal that do not meet the letter of the law; and (2) providing criminal penalties.

In short, it has the very real potential of adding to the homeless crisis, for both people and animals.

As a final indignity, it requires the Michigan Civil Rights Commission to take complaints against individuals alleged to falsely represent he/she is in possession of a service animal. The MCRC may refer complaints to law enforcement for investigationⁱⁱ. This involves an agency that was created by the 1963 Constitution to "carry out the guarantees against discrimination articulated in Article I, Section 2ⁱⁱⁱ. As further stated in Article V, Section 29, the state constitution directs the Commission **to investigate alleged discrimination against any person** because of religion, race, color or national origin and to "secure the equal protection of such civil rights without such discrimination" with subsequent amendments adding sex, age, marital status, height, weight, arrest record, **and physical and mental disabilities** to the original four protected categories."^{iv}

We believe there are better ways to address this concern that are more compassionate and just. We are willing to work with the sponsors on alternative language.

We urge the Committee to not report these bills as written.

Very Truly Yours,



Beatrice M. Friedlander, JD
President

ⁱ <https://www.avma.org/policies/emotional-support-animals>

ⁱⁱ HB 4910, Sec. 7, page 5, lines 9 through 17, <http://legislature.mi.gov/doc.aspx?2019-HB-4910>. It also requires MCRC to take complaints against health care providers.

ⁱⁱⁱ The original constitutional provision reads: "No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin." Physical and mental disabilities, inter alia, were later added.

<http://legislature.mi.gov/doc.aspx?mcl-Article-I-2>

^{iv} <https://www.michigan.gov/mdcr/0,4613,7-138-47782--->

[,00.html#:~:targetText=About%20The%20Commission&targetText=As%20further%20stated%20in%20Article,civil%20Orights%20without%20such%20discrimination%22!](https://www.michigan.gov/mdcr/0,4613,7-138-47782---,00.html#:~:targetText=About%20The%20Commission&targetText=As%20further%20stated%20in%20Article,civil%20Orights%20without%20such%20discrimination%22!); <http://legislature.mi.gov/doc.aspx?mcl-Article-V-29>. (*emphasis added, citations omitted*)