

Lilliann Johnston

Resident - Bismarck, ND

### **Testimony for SB 2193 - In Opposition**

My name is Lilliann Johnston and I am a resident of Bismarck, ND. I am in opposition to SB 2193. SB 2193 aims to address the problem of online retailers who claim to offer emotional support/ assistance animal certificates and trick consumers into believing they have an assistance animal afforded the protections under the Fair Housing Act. By abusing the system, these certificate mills negatively impact those who meet the requirements for an assistance animal under the Fair Housing Act. Proper legislation is needed, but the language in SB 2193 creates barriers that will negatively impact those properly requiring an assistance animal such as myself, medical providers, advocates, and lessors. With the proper amendments, SB 2193 could better protect the rights of all affected.

#### **Section 1 Subsection 4**

*4. "Service animal" means a dog trained to do work, perform tasks, or provide assistance for the benefit of an individual with a disability. The term includes a dog trained to assist an individual with a disability, by pulling a wheelchair, lending balance support, retrieving dropped objects, or providing assistance in a medical crisis.*

This section should be amended to allow for miniature horses which are recognized as service animals under the ADA. Miniature horses are trained as service animals for disabled people requiring a service animal who may be allergic to dogs.

#### **Section 2 Subsection 1: Pg. 2 Line 11**

*1. a. Is actively licensed to practice medicine in the state*

This line should be amended to allow healthcare providers other than medical doctors to produce documentation. The law currently allows physicians, nurse practitioners, psychologists, and licensed therapists/counselors to produce documentation. Medical doctors may not always be the best avenue for diagnosing patients with conditions that may require an assistance animal. Complex conditions such as PTSD and Autism Spectrum Disorder are often referred to a psychologist or therapist for diagnosis and treatment. These mental health professionals are capable of properly assessing a patient's need for an assistance animal and should be allowed to do so. I personally have had documentation produced by a psychiatrist and therapist on separate occasions.

Professionals licensed outside of North Dakota should be allowed to provide documentation. When an individual requiring an assistance animal moves to North Dakota from out of state they are required to provide documentation before signing their lease. I moved to North Dakota from California and depended on documentation from my psychiatrist in California to keep assistance animal with me. It would not have been possible for me to see a provider in North Dakota before my move and there was a six-month wait time before I could see a new health care provider in the state. It would be impossible for people moving to North Dakota to keep their medically necessary assistance animals without allowing providers licensed outside of the state to provide documentation.

**Section 2, Subsections 3 & 4: Pg. 2 Lines 28-30 and Pg. 3 Lines 1-4**

*3. A health care provider may not represent or attempt to represent that an individual has a disability requiring an assistance animal when an individual is not disabled or does not need an assistance animal on account of the individual's disability.*

*4. An individual may not represent or attempt to represent to a third party that the individual has a disability requiring an assistance animal when the individual is not disabled or does not require an assistance animal on account of the individual's disability.*

This section is problematic because it discourages health care providers from representing patients, especially new patients or those with complex diagnoses. Certain conditions such as PTSD can not always be diagnosed in a couple of sessions. Mental health professionals rely on information from patients regarding past diagnoses. A health care provider may be wary to provide documentation for a patient after 2 sessions even if they show a need for an assistance animal and have a diagnosis from a previous provider.

This section would also discourage advocates from representing individuals with an assistance animal who are experiencing housing discrimination. I experienced housing discrimination for requiring an assistance animal when moving into my current apartment in Bismarck. I had a letter from a local licensed therapist stating my need for an assistance animal, which is all the law requires. The rental company illegally insisted my provider sign an invasive form or charge me a nonrefundable \$500 pet deposit and pay pet rent. I could not find any health care provider willing to sign their form. I relied on an advocate from High Plains Fair Housing to get the property management company to back down from their request and allow me to move in. This section may make it so that individuals with service animals are unable to obtain an advocate when they experience housing discrimination. I would propose chapters 3 and 4 of section 2 be amended to include “knowingly represent” to protect health care providers and advocates.

### **Section 3**

I am in support of section 3 of SB 2193 as written. Consumers who may not be aware of the law regarding assistance should be protected from animal sellers who prey on their need or desire to acquire an assistance animal. I have encountered many people who are under the false belief that their assistance animal has the same rights as a service animal. These animals may be disruptive or dangerous in public and negatively impact the views of assistance animals and their owners who obey the law by keeping their animals in designated spaces only.

I strongly urge a do not pass on SB 2193 in its current form.