

2025 SENATE AGRICULTURE AND VETERANS AFFAIRS

SB 2222

2025 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2222
2/13/2025

A bill relating to the certification and sale of assistance animals; and relating to definitions associated with assistance animals and disability documentation for a service or assistance animal in a rental dwelling; and to provide a penalty.

10:31 a.m. Chairman Luick opened the hearing.

Members present: Chairman Luick, Vice-Chair Myrdal, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

Discussion Topics:

- Variation of service animals
- Federal statute alignment
- In-state licensure
- Annual renewal clause
- Anxiety on a scale
- Social worker qualifications
- Property protection
- Definition of a healthcare provider
- Animal behavior and damage concerns
- ND Department of Labor and Human Rights
- Housing discrimination claims
- Housing and Urban Development (HUD)
- Federal Fair Housing Act
- Penalties

10:32 a.m. Senator Paulson, District 3, testified in favor and introduced the bill.

10:37 a.m. Christina Sambor, High Plains Fair Housing Center, testified in opposition and submitted testimony #37638.

10:59 a.m. Micah Olson, Attorney, ND Protection and Advocacy Project, testified in opposition and submitted testimony #36795.

11:11 a.m. Cody J. Schuler, American Civil Liberties Union, testified in opposition and submitted testimony #37549.

11:18 a.m. Carol Two Eagles, testified in opposition.

11:23 a.m. Zachary N. Greenberg, Interim Commissioner of the ND Department of Labor and Human Rights, testified in opposition and submitted testimony #37521.

11:27 a.m. Donna Thronson, ND Medical Association, testified in opposition and submitted testimony #37443.

11:29 a.m. Lilliann Johnston, testified in opposition and submitted testimony #37151.

11:32 a.m. Chairman Luick closed the hearing.

11:32 a.m. Vice-Chair Myrdal moved a Do Not Pass.

11:32 a.m. Senator Weber seconded the motion.

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Randy D. Lemm	Y
Senator Richard Marcellais	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

Senator Myrdal will carry the bill.

Additional written testimony:

Brianna Ozaki, resident of Grand Forks, ND, submitted testimony #37410 in opposition.

Barbara A. Dunn, resident of Fargo, ND, submitted testimony #37462 in opposition.

Kirsten Dvorak, Executive Director of The Arc of ND, submitted testimony #37522 in opposition.

11:33 a.m. Chairman Luick closed the hearing.

Audrey Oswald, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2222 ([25.0815.01000](#))

Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2222 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.



Protection & Advocacy Project

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Senate Agriculture and Veterans Affairs Committee
Senate Bill 2222- February 13, 2025
Testimony of Micah Olson, P&A Position-In Opposition

Mr. Chairman, members of the committee, my name is Micah Olson. I am an attorney at Protection & Advocacy. I am speaking in opposition to Senate Bill No. 2222. I am here today to discuss concerns with this bill.

There are three federal laws that relate to assistance animals and service animals. The Fair Housing Act and Rehabilitation Act of 1973 both relate to housing and allow for reasonable accommodations and modifications for disabilities. One possible accommodation is an assistance animal. Assistance animals can assist disabled individuals with one or more tasks. Emotional support animals are a type of assistance animal. Assistance animals are limited to an individual's home. They do not have a right to be in a public place, hotel, or public transportation. There is no certification to be an assistance or emotional support animal. Assistance animals are often dogs or cats, but there is not a specific limitation on the type of animal an assistance animal can be.

Under the Americans with Disabilities Act (ADA), a service animal is a dog or miniature horse that assists a disabled individual with one or more tasks. Service animals can go anywhere the general public can go, including stores, restaurants, and other public places. Service animals are often trained to become service animals, but the ADA does not have specific training requirements.

Section 2 (1) (a) requires an individual who provides documentation supporting the need for an assistance animal to be licensed to practice medicine in North Dakota. Although "health care provider" is defined in this bill, it is unclear if this subsection permits mental health professionals such as licensed counselors, therapists, and psychologists, who would be qualified to identify the need for an assistance animal, to provide documentation.

Secondly, requiring the medical professional to be licensed in North Dakota would adversely affect individuals moving to the state who require assistance animals. The requirement would not be feasible for new North Dakota residents, as they are unlikely to have established a medical provider immediately upon

moving to North Dakota. Additionally, the individual may not have health insurance immediately upon moving to North Dakota, making it unfeasible to go to the doctor for the required two visits to establish a need for an assistance animal. Also, the need for an assistance animal may not be immediately obvious to a new medical provider, which would cause further delays. A legitimate medical provider in a different state who has an established relationship with the individual should be permitted to provide any documentation needed so the individual may immediately utilize an assistance animal, which may be a necessary accommodation for an individual. Additionally, an individual may see an out-of-state specialist for medical care. Even though such a specialist would be qualified to assess the need for an assistance animal, this bill would not allow the specialist's expertise to be considered.

This requirement also has implications under the Privileges and Immunities Clause of Article IV of the US Constitution. The Privileges and Immunities Clause ensures equal protection under the law, protects fundamental rights, including the right to travel, and discriminates against out-of-state citizens. A requirement the medical provider be licensed in North Dakota has no legitimate purpose and does nothing to protect the citizens of North Dakota.

Section 2(1)(a) is contradicted by Section 4(2), which allows for supporting documentation to be provided by a physician or medical professional who does not operate in this state solely to provide certification for service animals. This subsection does not appear to allow out-of-state medical professionals to provide this documentation for assistance animals. There does not appear to be a rationale for this distinction.

Next, Section 2(3) and (4) prohibits health care providers and individuals in general from misrepresenting an individual has a disability. Protection & Advocacy opposes these subsections, as there is possibility of a health care provider or advocate could be held liable for relying on incorrect information when assisting an individual seeking an assistance animal, unintentionally violating these subsections. Health care providers and advocates should not be penalized for acting in good faith.

Protection & Advocacy also opposes Section 2(5), which requires tenants to renew their documentation annually. A disability is likely to be ongoing, and a presumption an assistance animal will not be needed in a year does not have a basis. This is an unnecessary burden for tenants.

Section 3, regarding the sale of an assistance animals does not appear to accurately reflect the nature of an assistance animal. Assistance animals are generally not certified as assistance animals or typically sold for the specific purpose of being an assistance animal. A seller may not know an individual is using the animal as an assistance animal. This section appears to suggest the sale of all animals should include a notice regarding assistance animals.

Section 4(1) providing a landlord may require reliable supporting documentation if a "tenant asserts a disability requiring a service or assistance animal" is already understood in federal law and guidance from the US Department of Housing and Urban Development (HUD). Housing providers can already request documentation when there is not an apparent connection between the tenant's disability and a requested

accommodation or modification.

Section 4(2) states in part, “A landlord may not require supporting documentation from a tenant if the tenant's disability or disability-related need for a service animal or assistance animal is readily apparent or already known to the landlord. Protection & Advocacy agrees with this sentence, as it reflects HUD guidance.

This bill is unnecessary, as federal law already permits housing providers to request reasonable documentation to support the need for an assistance animal when there is not an apparent nexus between a disability and requested accommodation. This bill adversely affects individuals who rely on assistance animals, particularly those moving to North Dakota from out of state. It can also place a chilling effect on medical providers and advocates who act in good faith. Protection & Advocacy requests a Do Not Pass recommendation and is also providing four fact sheets regarding federal and state law about service animals and assistance animals for reference.

Service Animals

What is a Service Animal?

Under the Americans with Disabilities Act (ADA), a service animal is “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals under the ADA. However, the ADA does include miniature horses in the definition of service animals, providing that the horse has been individually trained to do work or perform tasks for the individual with the disability. There is also a maximum size and weight restriction for a miniature horse that acts as a service animal. The work or tasks performed by a service animal must be directly related to the individual’s disability.” 28 C.F.R. §§ 35.104 and 36.104.

Under North Dakota law, a service animal is “any 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 provide assistance to an individual with a disability, pull a wheelchair, lend balance support, retrieve dropped objects, or provide assistance in a medical crisis.” N.D.C.C. § 25-13-01.1.

What are the Responsibilities of Owning a Service Animal?

The service animal must be under the control of its owner. This can be accomplished by harness, leash, or voice control. If the service animal is not under control and the owner fails to take effective action to control the service animal, or the service animal poses a direct threat to the health or safety of others, it is allowable to require the animal to be removed from the premises. The animal must be “house broken.” The owner must also comply with local animal control and public health requirements, such as up-to-date vaccinations and licensing.



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How Do Service Animals Assist People with Disabilities?

- Guide Blind people or people who have low vision
- Alert Deaf people or people who are hard of hearing
- Provide non-violent protection or rescue work
- Pull wheelchairs
- Assist an individual during a seizure
- Alert individuals to the presence of allergens
- Retrieve items such as medicine or the telephone
- Provide physical support and assistance with balance and stability
- Help persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors

Are Owners of Service Animals Required to Have Documentation?

An owner of a service animal cannot be required to show documentation of the animal's certification, licensure, or training by a state or local government or animal trainer. It's not required that a service animal is professionally trained. All that can be asked of the owner are two questions:

- Is the animal required because of a disability? (This does not mean that the owner must disclose their disability.)
- What task or work is the animal trained to perform for you?

Additional Resources

- [ADA National Network's Service Animals and Emotional Support Animals](#)
- [U.S. Department of Justice's Frequently Asked Questions About Service Animals and the ADA](#)
- [U.S. Department of Justice's ADA Requirements: Service Animals](#)

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Assistance & Emotional Support Animals

What is an Assistance Animal?

- An assistance animal provides assistance, performs tasks, or provides emotional support for the benefit of a person with a disability.
- An assistance animal is not a pet.
- An assistance animal may be a reasonable accommodation under the Fair Housing Act.
- Unlike service animals under the Americans with Disabilities Act, an assistance animal is not necessarily limited to a dog or miniature horse. It may be another kind of animal.

What are Emotional Support Animals?

- A type of assistance animal.
- Animals that are identified as emotional support, comfort, companion, or therapy animals are not considered service animals under the ADA. This is true even if there is a medical treatment plan that includes the use of such animals.
- While these animals may provide companionship, relieve loneliness, or help with depression, anxiety, and certain phobias, they do not have the specialized training to perform tasks that assist people with disabilities, nor are they limited to working with people with disabilities.

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Where Can Service Animals, Emotional Support Animals, & Assistance Animals Go?

Where Are Service Animals Allowed?

The ADA requires state and local governments, including public schools, colleges and universities, public accommodations, and commercial facilities to allow service animals to accompany their handlers in all areas where members of the public are allowed to go.

Similarly, North Dakota's law entitles an individual with a disability to be accompanied by a service animal in places of public accommodations.

N.D.C.C. § 25-13-02.

Examples of public accommodations include restaurants, theaters, hotels, grocery stores, hospitals and medical offices, department stores, malls, health clubs, parks, zoos, sporting facilities and all public transportation systems such as airports, car rentals, trains/metro systems, buses/shuttles, and demand-response transportation services, such as taxis, limos and rideshare.

Are They Allowed in Public Transportation?

A public transportation provider cannot deny access, even if there is a "no pets" policy and cannot require the individual to pay additional fees or to sit in a particular area with the service animal.



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Are They Allowed on Airplanes?

Under the Air Carrier Access Act (ACAA) carriers must allow a service animal to accompany a passenger with a disability. 14 C.F.R. § 382. In this capacity, a service animal “means a dog, regardless of breed or type, that is individually trained to do work or perform tasks for the benefit of a qualified individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.” Animals other than dogs are not considered service animals. Emotional support animals are not allowed under the ACAA. Carriers may require passengers traveling with a service animal to provide documentation. Airports are generally covered under the Americans with Disabilities Act.

Are They Allowed in Schools?

Under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act, a student may be permitted to have an animal in school that does not meet the ADA definition of a service animal, providing that the IEP or Section 504 team has determined that the animal is necessary for the student to receive a free and appropriate education.

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Housing Rights

Service, Assistance, & Emotional Support Animals

Where are Service Animals Allowed?

The Fair Housing Act prohibits discrimination against an individual with a disability in **renting or buying** residential property, **even if the building has a “no pets” policy**. This includes “a refusal to make reasonable accommodations in rules, policies, practices when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.” [42 U.S.C.A. § 3604\(3\)\(B\)](#).

According to the [United States Department of Housing and Urban Development](#) (HUD) assistance animals are an example of a **reasonable accommodation** for a tenant with a disability. In this capacity, “An assistance animal is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person’s disability. **An assistance animal is not a pet.**” Refusing to allow a tenant with a disability to have an assistance animal or charging a fee for the assistance animal are examples of **disability discrimination under the Fair Housing Act**.

Can Landlords Require Tenants to Provide Documentation?

- Housing providers may ask individuals with non-apparent disabilities for documentation of a disability when requesting an accommodation for their assistance animal.
- Housing providers may not ask individuals with assistance animals to provide documentation of their disability if the disability is apparent.
- Housing providers may not ask for documentation of the disability-related need for an assistance animal if the need is readily apparent or already known.



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What Kind of Documentation Should I Provide?

The [documentation](#) should establish that the individual has a disability, and the animal will provide some type of disability-related assistance or emotional support.

Can a Person with a Service Animal or Assistance Animal Visit Someone Who Lives in a Rental Unit?

A person who has a service animal or assistance animal may visit someone who lives in a rental unit. Tenants have the right to have guests, and it is a **reasonable accommodation** to allow a person who uses a service animal or assistance animal to bring the animal to the property. The person who uses the service animal or assistance animal has the right to access the tenant's home and common areas of the property. **Landlords cannot discriminate against the tenant or guest or charge a fee for the animal.**

What can I do if I'm being discriminated against?

- [File a complaint with the ND Department of Labor.](#)
- [Report housing discrimination to HUD.](#)

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Lilliann Johnston

Resident - Bismarck, ND

Testimony for SB 2222 - In Opposition

My name is Lilliann Johnston and I am a resident of Bismarck, ND. I am in opposition to SB 2222. SB 2222 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 2222 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 2222 could better protect the rights of all affected.

It should be noted that the Fair Housing Act already allows landlords and property owners to request documentation from a licensed healthcare provider attesting that an assistance animal is medically necessary for an individual with a disability. The Fair Housing Act doesn't require that the provider be licensed in the state where the assistance animal is needed and doesn't set an expiration date for documentation. Assistance animals are not given any protections under the law to be allowed in businesses, hotels, or airplanes unless the proprietor chooses to allow pets. The problem of assistance animals becoming nuisances in these places is strictly an enforcement issue, at any time the proprietor could call law enforcement and have the animal removed. Assistance animal documentation only applies to housing and each piece of documentation only applies to one animal, if an individual requires more than one animal they must serve different purposes and have their own individual pieces of documentation. This bill is not necessary.

This bill reads similarly to 2193, but it has a few differences, such as imposing a burdensome length of time a document is valid.

Section 1, subsection 4, pg. 1 line 19

This definition of a service animal is narrower than the ADA definition and does not include miniature horses which are recognized as service animals and assist those who may need greater physical assistance or have a dog allergy.

Section 2, subsection 1.a., pg. 2 line 13

This line should be redefined to allow licensed counselors, therapists, and psychologists to issue documentation as afforded under the Fair Housing Act. Additionally,

limiting the scope to only those licensed in North Dakota would make it impossible for people with disabilities requiring assistance animals to move to North Dakota.

Section 2, subsection 2.a., pg. 2 line 24

Requiring an expiration date isn't always appropriate depending on a person's disability. Many disabilities that benefit from the support of an assistance animal are permanent.

Section 2, subsection 5, pg. 3 line 8

Having a document valid only for a year places an undue burden on individuals with permanent disabilities to have to continually renew documentation. Seeing a healthcare provider can be incredibly costly, and an unnecessary frequent renewal process would financially punish people with disabilities requiring assistance animals. If a landlord or property owner questions whether a document is still valid and an assistance animal is still necessary they can contact the issuer to verify, rather than make the disabled individual go through unnecessary hoops.

Section 2, subsection 6, pg. 3 line 12

The threat of an infraction or misdemeanor charge would have a chilling effect on healthcare providers and advocates. The fear of criminal charges would discourage providers from issuing documentation to those who need it and discourage advocates from assisting people with disabilities who may experience discrimination in acquiring housing.

Dear Members of the Committee,

I am writing to express my strong opposition to Bill 2222, which seeks to amend the North Dakota Century Code regarding the certification and sale of assistance animals, as well as the documentation requirements for individuals seeking reasonable accommodation for such animals in rental housing. This bill is identical to Bill 2193, which has already been passed, making this legislation redundant and unnecessary. Additionally, this bill creates unnecessary barriers for individuals with disabilities and undermines their rights under the Fair Housing Act and the Americans with Disabilities Act.

Unnecessary and Redundant Legislation

Bill 2222 is essentially a duplication of Bill 2193, which has already been enacted. Introducing redundant legislation not only wastes legislative resources but also creates confusion and additional administrative burdens for individuals who rely on assistance animals. If the intent is to strengthen the enforcement of existing laws, that should be addressed through proper implementation rather than duplicative legislation.

Restrictive and Burdensome Documentation Requirements

The bill imposes stringent requirements on health care providers, including mandating multiple in-person or remote sessions and requiring a clinical evaluation at least 30 days before issuing documentation. These requirements:

- Create unnecessary delays for individuals who need an assistance animal for their well-being and housing stability.
- Make it harder for individuals in rural areas or with limited access to specialized healthcare providers to obtain necessary documentation.
- Disproportionately impact low-income individuals who may not have the resources to engage in repeated medical consultations.

Under the Fair Housing Act, landlords are only permitted to request documentation that is reasonable and necessary to establish the need for an assistance animal. This bill goes beyond what is federally required and places undue burdens on individuals with disabilities, potentially leading to discrimination and housing insecurity.

Criminalization of Disability-Related Needs

The bill imposes penalties, including infractions and misdemeanors, for individuals who allegedly misrepresent their need for an assistance animal. While preventing fraudulent claims is a valid concern, the approach taken in Bill 2222 risks penalizing individuals with legitimate needs. The subjective nature of assessing an individual's disability and need for an assistance animal could lead to discriminatory enforcement and unnecessary legal consequences.

Violation of Fair Housing and Disability Rights

Although the bill includes language stating that it does not override federal protections, the practical impact of its restrictions contradicts the spirit and intent of the Fair Housing Act and the Americans with Disabilities Act. Federal law recognizes the importance of assistance animals in providing emotional and

physical support to individuals with disabilities and requires reasonable accommodations in housing. The restrictions in Bill 2222 could result in individuals being wrongfully denied housing accommodations, exacerbating discrimination against people with disabilities.

Conclusion

Bill 2222 does not provide any meaningful benefits beyond what existing laws already accomplish. Instead, it introduces unnecessary bureaucratic hurdles, disproportionately harms individuals with disabilities, and contradicts federal fair housing protections. Rather than advancing this bill, I urge the legislature to focus on ensuring fair and consistent enforcement of existing laws while promoting accessibility and inclusivity for all North Dakota residents.

At the heart of this issue is the well-being and dignity of our fellow North Dakotans. We should all be so fortunate to live long enough to experience a disability. The reality is that at some point, this bill will not only impact the most vulnerable members of our community today but will eventually affect one of your loved ones—or even you. Disability is a natural part of life, and we must ensure that when the time comes, we have a society built on dignity, inclusion, and fairness. We have a responsibility to protect the rights and independence of all people, ensuring that everyone has access to safe and fair housing. I implore you to reject this bill and stand up for the people of North Dakota.

I respectfully urge you to vote against Bill 2222 and protect the rights of individuals with disabilities who rely on assistance animals for their independence and well-being.

Thank you for your time and consideration.

Brianna Ozaki



Senate Agriculture and Veterans Affairs Committee

SB 2222

February 13, 2025

Chairman Luick and Committee Members, I'm Donna Thronson and I serve as Communications Director of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students. NDMA opposes the penalties provided in SB 2222.

The NDMA Policy Forum recently passed a policy opposing the criminalization of medical practice. This policy states as follows:

NDMA should take all reasonable and necessary steps to ensure that evidence-based medical decision-making and treatment, exercised in accordance with evidence-based standards of care, does not become a violation of criminal law.

SB 2222 provides that a physician could be charged with an infraction for a first offense and a class B misdemeanor for a second or subsequent offense. NDMA believes a penalty such as this creates undue stress on the healthcare provider, who already carries a great deal of weight assuring patients' needs are met.

Thank you for the opportunity to address this committee. I would be happy to answer any questions.

I am writing to oppose consideration in its current form of SB 2222. Section 2, subsection 1.a. limits the health care provider "who can produce documentation relating to an individual's need for an assistance animal" to one licensed in North Dakota. This means one in Minnesota or South Dakota is not acceptable even if they are also "qualified and licensed to evaluate and diagnose disabilities." Perhaps they have exactly the same education and very similar careers but only the North Dakota provider's opinion will be considered valid. I also see a problem with this in the case that someone is moving here from a state in a far-flung region of the country. Why assume that the licensed medical provider in that patient's state of origin has a less valid expertise? In addition, I have questions about the requirement that, essentially, the relationship between the patient and provider has to be begun at least 30 days before the provider produces the documentation that the patient needs for an assistance animal. It seems entirely possible to me that a patient might need this animal much sooner than the 30 day waiting period that is required here. What about the case where an armed services veteran, only recently disabled, is deemed to need such an animal and referred to another provider to obtain the evaluation and documentation they might need to have such an animal in their rented living space? Why should they have to wait 30 days for the assistance this animal can give them? What if the veteran is coming home to North Dakota and got the evaluation and documentation at a facility in, say, North Carolina? Or even overseas? Partly because of these requirements, I ask that SB 2222 not receive a Pass recommendation. Thank you.

69th Legislative Assembly
Regular Session (2025)

S.B. 2222

OPPOSITION

Senate Agriculture & Veterans Affairs Committee

Sen. Larry Luick, Chairman
Sen. Janne Myrdal, Vice Chairman

Testimony of Zachary Greenberg

Interim Commissioner of Labor
N.D. Department of Labor and Human Rights

February 13, 2025

Chairman Luick, Vice-Chair Myrdal, and Members of the Committee,

Thank you for the opportunity to testify in opposition of SB 2222. My name is Zachary Greenberg, and I serve as the interim Commissioner of the North Dakota Department of Labor and Human Rights. My concerns with this bill center primarily on its risk of putting North Dakota in non-compliance with federal law by affecting the state's substantial equivalency status with the U.S. Department of Housing and Urban Development (HUD). This non-compliance would have significant consequences, including the loss of funding and an increased administrative burden on all parties involved in housing discrimination claims.

HUD Cooperative Agreement & Substantial Equivalency

The Department is responsible for receiving and investigating complaints of housing discrimination under N.D.C.C. ch. 14-02.5, the Housing Discrimination Act. HUD has deemed North Dakota's Housing Discrimination Act substantially equivalent to the federal Fair Housing Act, meaning that our state law provides at least the same substantive rights, procedures, remedies, and judicial review provisions to residents as federal law.

Maintaining this substantial equivalency status is essential because it allows the Department to enter into a Cooperative Agreement with HUD, which provides funding for complaint processing, administrative costs, and training, and allows the Department to investigate both state and federal housing complaints in tandem, reducing the burden and resolution time for complainants and respondents. In recent years, this funding has amounted to approximately \$125,000 annually.

Impact of SB 2222

SB 2222 creates new provisions regarding documentation requirements for emotional support animals (ESAs) in housing. Specifically, the bill requires that documentation verifying the need for an ESA must:

- Originate from a medical professional
- Be from a provider licensed or certified in North Dakota

These requirements are more restrictive than federal law, which allows documentation from a variety of sources—not just medical professionals—so long as the provider is “in a position to know about the individual's disability.” Federal law does not impose a geographic restriction on where the provider must be licensed.

Because SB 2222 imposes stricter standards than federal law, it has the potential to eliminate North Dakota's substantial equivalency status upon implementation.

Consequences of Losing Substantial Equivalency

If North Dakota loses its substantial equivalency status, the Department would no longer be able to enter into a Cooperative Agreement with HUD and would no longer receive HUD funding. However, our responsibility to investigate housing discrimination claims under N.D.C.C. ch. 14-02.5 would remain. This means:

- The Department would lose critical financial resources, requiring a request for increased state funding to offset the loss.
- Complainants and respondents would be subject to two separate investigations—one by HUD and one by the Department—with no coordination between the agencies. This would increase administrative burdens for all parties.

Conclusion

For these reasons, I respectfully oppose SB 2222 in its current form and urge a modification to preserve North Dakota's substantial equivalency status under federal fair housing laws.

Thank you for your time, and I am happy to answer any questions.



Senate Agriculture and Veterans Affairs
SB 2022
February 13, 2025

Chairperson and Members of the Committee,

Thank you for the opportunity to provide testimony regarding Senate Bill No. 2222. My name is Kirsten Dvorak, and I am the executive director of The Arc of North Dakota. I am here today to express opposition to this bill, which could create unintended barriers for individuals with disabilities and those who support them.

While the bill aims to regulate the use of assistance animals and prevent fraud, it may unintentionally limit access for individuals with legitimate needs. The bill imposes new requirements on healthcare providers issuing documentation for assistance animals, including multiple assessments and waiting periods, which could be particularly burdensome for individuals in rural or underserved areas. Additionally, those with rare and complex medical needs often already encounter significant challenges in accessing specialized care. The added procedural hurdles could further delay or obstruct their ability to receive necessary accommodations.

The bill also establishes penalties for the misrepresentation of assistance animals. While it is important to prevent fraudulent claims, stringent penalties may disproportionately affect individuals who do not fully understand the legal requirements. Education and awareness initiatives would serve as a more effective way to address misuse while maintaining accessibility for those with genuine needs.

Another concern is the bill's potential impact on housing rights. While it states that it does not alter federal protections under the Fair Housing Act and the Americans with Disabilities Act, its additional documentation requirements could deter landlords and property managers from accommodating assistance animals. This may lead to unintended consequences for individuals seeking essential housing accommodations.

Although fraud prevention is an important goal, the bill should focus on the increasing problem of falsified documentation acquired through online sources instead of imposing unnecessary burdens on those who genuinely need assistance.

In conclusion, while ensuring accountability is important, Senate Bill No. 2222 should be revised to better balance fraud prevention with accessibility and fairness. I urge the committee to reconsider elements of this bill to ensure that individuals with disabilities are not unfairly affected.

Thank you for your time and consideration. I am happy to answer any questions the committee may have.

Kirsten Dvorak
Executive Director
701-222-1854

Sixty-ninth North Dakota Legislative Assembly
 Senate Agriculture and Veterans Affairs Committee
H.B. 2222
 February 13, 2025



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Chair Luick, Vice Chair Myrdal, and members of the Committee:

The American Civil Liberties Union strives for a North Dakota free of discrimination against people with disabilities and where people with disabilities are valued, integrated members of society who have full access to education, homes, health care, jobs, families, voting, and civic engagement. To that end, I submit testimony on behalf of the ACLU of North Dakota in opposition to Senate Bill 2222 as written without amendments.

We recognize that SB 2222 is aimed at clarifying emotional support animal requirements and preventing common fraud or scams perpetrated by businesses selling bogus emotional support animal credentials. However, by appearing to establish firmer requirements than those associated with the Americans with Disabilities Act (ADA) and Fair Housing Act (FHA) as well as seeking to provide clarity over the difference between an emotional support animal and a service animal, this bill creates concern for potential discrimination of people with disabilities with legitimate need for, and possession of, emotional support animals.

Attempting to address concerns regarding potential fraud cannot be allowed to infringe on citizens' rights and accommodations for possessing an animal for medical and therapeutic purposes. Judiciously consider the potential harm to the rights of citizens with disabilities against the issues the bill sponsors seek to address.

In addition, we draw your attention to Section 2.6 that states: "This section may not be construed to restrict or modify any federal or state laws relating to an individual's rights for reasonable accommodation and equal access to housing, including rights afforded in accordance with the Fair Housing Act [Pub. L. 90 - 284; 82 Stat. 81; 42 U.S.C. 3601, et seq.] and the Americans with Disabilities Act [Pub. L. 101 - 336; 104 Stat. 327; 42 U.S.C. 12101 et seq.]." Simply codifying a statement that a state law is not in conflict with a federal law does not necessarily make it so. Rather, we suggest due diligence to create state law that is not only in compliance with the FHA and ADA, but that also strengthens the rights of North Dakotans with disabilities.

Furthermore, the ACLU cautions the committee that passing SB 2193 may jeopardize federal funding and North Dakota's standing with the U.S. Department of Housing and Urban Development (HUD). North Dakota housing law has been deemed "substantially equivalent" to the FHA by HUD in that it offers at least the same substantive rights, procedures, remedies, and judicial review provisions as the federal law. Under this, the North Dakota Department of Labor and Human Rights is in a Cooperative Agreements with HUD which is accompanied by funding for the department for complaint processing, administrative costs, and training. If state law becomes more restrictive than federal law, substantial equivalency may be in jeopardy leading to a loss of funding, increased burden on citizens with disabilities as well as housing providers and the Department of Labor itself. Additionally, this could bring increased federal enforcement that may also be duplicative of required state enforcement responsibilities under both state and federal law.

In the best interest of North Dakotans with disabilities, housing providers, and state government officials, the ACLU of North Dakota urges the committee to not move SB222 forward without the adoption of amendments, specifically those offered by High Plains Fair Housing Center.

Submitted by:

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Christina Sambor, Lobbyist No. 312
On behalf of High Plains Fair Housing Center
Testimony in Opposition to SB2222
Senate Agriculture and Veteran's Affairs Committee
February 13, 2025

Mr. Chairman and members of the Committee:

I am here on behalf of High Plains Fair Housing Center. High Plains Fair Housing Center is a private, non-profit fair housing organization that works to eliminate housing discrimination and to ensure equal housing opportunity for all. High Plains advocates for those who have experienced discrimination in housing based on their status in a protected class and provides education about fair housing rights and responsibilities throughout the entire state. We help the many people who contact us with housing issues, and most often they resolve their issues without going to court.

Consistent with nationwide statistics, the number one type of housing discrimination we see in North Dakota is against persons with disabilities. About 25% of our disability cases involve combat veterans who have PTSD and use assistance or companion animals in their homes to alleviate their symptoms. While this is an entirely valid use of the law, we see landlords often resist requests from these vets for assistance animals. These individuals already struggle to overcome that resistance and obtain approval.

High Plains assisted a young father who was unable to leave his apartment because of severe PTSD from his time serving in Afghanistan. He talked about his fear of open spaces and said that he feared snipers on every roof top. He worked with his psychologist who prescribed an assistance dog. He was able to begin leaving the house with the assistance of that dog, taking the dog on walks. After some time he was able to go outside and walk with his wife and baby, and over time, was able to return to normal activities, including work.

While High Plains opposes SB2222 as written, we understand that there are abuses of reasonable accommodations and that some people misrepresent that they have a disability to have their pets in pet-free buildings or to avoid pet fees. Fraudulent claims make our job more difficult. Still, in the 12 years High Plains has been doing this work for people in North Dakota, we have seen many, many people who legitimately needed assistance animals and whose lives improved because of the assistance animals in their homes. We are concerned that this bill will prevent North Dakotans with disabilities from getting assistance animals, with negative consequences for them and for our state as a whole. Therefore, High Plains

requests that if this committee recommends a do pass on this bill, that it be after the following amendments.

First, in Section 2: Requiring the prescribing health care provider to “be actively licensed to practice medicine in the state,” could in fact benefit the fraudulent online providers that exist solely for the purpose of providing ESA letters. Those online providers **are** licensed in the state. Conversely, the many students who attend our universities and out-of-state workers who come here with an assistance animal will be penalized for having long term, established relationships with their out-of-state healthcare providers.

Additionally, “licensed to practice medicine” conflicts with the federal law. Federal law permits documentation to come from a variety of sources (**not just** a physician), without **any** geographic restriction, if the documentation provider is “in a position to know about the individual’s disability”. This can include counselors, therapists, psychologists, and social workers who work directly with the disabled person.

In Section 2-5: This language is overly burdensome in asking a person who has a diagnosed need for a support animal to re-prove their disability on an annual basis and should be stricken

In Section 2-6: the bill provides: “any person in violation of this section is guilty of an infraction for the first offense and a class B misdemeanor for a second or subsequent offense.” This addition will have a chilling effect on any legitimate healthcare provider prescribing an emotional support animal.

Next, in Section 3: Regarding the proposed disclosures required of a person providing an assistance animal, since an assistance or emotional support animal does not have to be trained, an assistance animal can come from a pet store, a local farmer, the Humane Society or any other rescue shelters. This first sentence will create an undue burden on the legitimate businesses, organizations, and individuals involved in the sale of animals or even private persons or entities who provide animals for adoption.

Finally, we are concerned that passing this bill without amendments could jeopardize North Dakota’s relationship with The U.S. Department of Housing and Urban Development (HUD). This bill itself recognizes conflict with existing federal housing law. The text says: This section may not be construed to restrict or modify any federal or state laws relating to an individual's rights for reasonable accommodation and equal access to housing, including rights afforded in accordance with the Fair Housing Act [Pub. L. 90-284; 82 Stat. 81; 42 U.S.C. 3601, et seq.] and the Americans with Disabilities Act [Pub. L. 101-336; 104 Stat. 327; 42 U.S.C 12101 et seq.].

State law may not restrict rights granted by federal law and is preempted by federal law. Passing a state law that expressly conflicts with federal law but then acknowledges the supremacy of federal law will create confusion and a basis for potential litigation. HUD has deemed current North Dakota housing law "substantially equivalent" to the Fair Housing Act, meaning that it offers **at least the same substantive rights, procedures, remedies, and judicial review provisions as the federal Fair Housing Act**. The substantial equivalency status of our state law allows the North Dakota Department of Labor and Human Rights to enter into Cooperative Agreements with HUD. HUD then provides **funding** to the Department for complaint processing, administrative costs, and training. HUD sends an average of about **\$125,000 per year** to the state of North Dakota to investigate fair housing claims. Restrictive laws like this one can impact substantial equivalence **and cause North Dakota to lose HUD funding** to investigate cases. If that were to happen, housing discrimination cases would still need to be investigated at the state level and at the federal level. This outcome would double the administrative burden for both the complainant and respondent. SB 2222 as written could have the unintended effect of opening our landlords to more federal enforcement of housing discrimination claims. When a similar bill was considered in the state of Virginia, the state consulted with federal authorities and then revised its proposals about who can provide reliable documentation, so their state law more closely mirrors federal law.

Therefore, High Plains urges this Committee to recommend a "do not pass" on this bill, or in the alternative, to consider these amendments to better balance the legitimate needs of disabled North Dakotans with those of property owners and managers, and to avoid clashing with federal law and losing HUD funding.