



**Testimony of  
Amy Nelson, Executive Director  
Fair Housing Center of Central Indiana  
on SB 240  
Senate Criminal Law – January 29, 2018**

Mr. Chairman, and members of the Committee, my name is Amy Nelson and I am the Executive Director of the Fair Housing Center of Central Indiana (FHCCI). The FHCCI is a nonprofit organization working to promote fair housing and address incidents of housing discrimination.

The FHCCI opposes passage of SB 240. The bill narrows the rights of persons with disabilities from federal guidance who have need of an animal to provide support, service, or assistance. Passage of this bill would only result in confusion given that federal guidance will still apply that differs from this pending bill.

Issue #1: Throughout the document, the animal is referred to only as a “service animal” but it appears this bill is directed toward emotional support animals as well, although not clear due to the terminology used. Both HUD and DOJ in their issued guidance distinguish between service animals (animals which perform work – typically for those with physical disabilities) and emotional support animals (animals which provide emotional support and typically for persons with mental disabilities).

Issue #2: The bill narrows who is to provide certification of need of an animal from that of HUD and DOJ guidance. The bill states specific medical professionals who are allowed to certify to the need of an animal. However, both HUD and DOJ in their guidance allow for non-medical professionals with knowledge of the person’s disability and their need of an accommodation. See Question #18 under the HUD-DOJ Reasonable Accommodation Memo:

*“Depending on the individual’s circumstances, information verifying that the person meets the Act’s definition of disability can usually be provided by the individual himself or herself (e.g., proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits<sup>10</sup> or a credible statement by the individual). A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may also provide verification of a disability...”*

Issue #3: The bill adds a Class A infraction if someone misrepresents their animal as a so-called service animal. Unfortunately, the threat of an infraction will likely result in people not seeking rights that they are allowed under law, such as requesting an accommodation for an animal. This is because people do not know or understand fair housing laws or their rights under fair housing

law. Any threat of a penalty for simply making a request is fear enough for many from asking at all – even when they are justified in their request. HUD has also been very clear in reviewing challenges to substantial equivalency that fines or penalties for making requests or filing complaints are viewed as deterrents for people exercising their fair housing rights under law. In some cases, they could also be viewed as retaliation if the request was legitimate but the housing provider decided to pursue the matter as unjustified, for example.

Issue #4: If this legislation is passed, it would likely challenge the designated substantial equivalency status of the State of Indiana. The Indiana Fair Housing Law has been deemed by the U.S. Department of Housing & Urban Development (HUD) to be a substantially equivalent fair housing law to the federal Fair Housing Act because the state law “provides the same protections” as under federal law. With this designation comes funding to the Indiana Civil Rights Commission and other equivalent local Human Rights Commissions to enforce fair housing laws on HUD’s behalf. Due to its direct conflict with federal guidance, passage of this bill would likely mean a loss of the state and locality substantial equivalency. This would mean a substantial loss of funds to our state and cities, including job loss, at the Indiana Civil Rights Commission, City of Evansville-Vanderburgh County Human Relations Commission, South Bend Human Relations Commission, and human rights/relations commissions in Gary, Hammond, Fort Wayne, and Elkhart. In addition, filed fair housing complaints would then be handled by HUD-Chicago’s Regional Office instead of with these Indiana agencies. HUD most recently addressed this in SB 100 in 2016 when a bill proposed a penalty for filing complaints found to not have reasonable cause.

The Fair Housing Center of Central Indiana opposes SB 240.