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Testimony on House Bill 5504 An Act Relating to Property – RI Fair Housing Practices Act

March 20, 2025

Dear Chairman Craven & Members of the House Committee on Judiciary:

The Rhode Island Developmental Disability Council has concerns that this bill as written will have unintended consequences for persons with disabilities who depend on service animals or emotional support animals.

We are grateful to Representative Serpa for sponsoring House Bill 5504 to ensure that people with disabilities have the full and equal enjoyment of housing services and locations. We write today to identify provisions of House Bill 5504 that will inadvertently have negative impacts for people with disabilities who seek a reasonable accommodation from their landlord regarding a service animal or emotional support animal. We also note those provisions which conflict with relevant federal law, i.e., the Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA) and may cause landlords to inadvertently violate those federal statutes.

Species that can be an Emotional Support Animal

As drafted, House Bill 5504 would amend R.I. Gen. Laws § 34-37-4(e)(3)(i) to limit an emotional support animal to a cat or dog. Such a definition is contrary to guidance from the U.S. Department of Housing and Urban Development (HUD), which provides, "If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted." FHEO-2020-01, page 12, available at <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>. According to Disability Rights Rhode Island, it regularly receives calls from people with disabilities seeking to keep birds or other animals

listed by HUD as emotional support animals. Placing the proposed limitation on the species that may be emotional support animals will negatively impact people with disabilities.

Insurance Coverage

House Bill 5504, as drafted, would permit a landlord to deny a reasonable accommodation to keep an emotional support animal “if allowing the animal to be kept on premises would result in the cancellation of property insurance or a substantial increase of the insurance premiums.” § 34-37-4(e)(3)(ii). However, an accommodation may be denied only if it would impose an undue burden or constitute a fundamental alteration of the housing service. One insurance company’s decision not to provide insurance may not be an undue burden; the landlord may be able to obtain insurance from another company. Similarly, a “substantial increase” in insurance premiums may not pose an undue burden, depending on the size and financial situation of a housing management company. People with disabilities will be denied the right to keep their emotional support animals under this proposed provision. Separating a person with a disability from their emotional support animal, even for a short period of time, can exacerbate symptoms of the disability and lead to dire consequences.

Documentation Supporting the Need for an Emotional Support Animal

As currently drafted, House Bill 5504 creates a standard regarding documentation that a person with a disability can provide their landlord to demonstrate the need for an emotional support animal. § 34-37-4(e)(3)(iv)(D). Specifically, the landlord would be required to grant the accommodation based on documentation from a healthcare provider who is licensed in Rhode Island, has a physical office here, and has an established relationship with the person with a disability prior to providing the documentation. This provision, as written, could negatively impact people with disabilities. As currently drafted, the bill can be read to say this is the only type of documentation that would establish the need for an emotional support animal. It could also be read to create a more “automatic process” for people with documentation that meets the requirements of (e)(3)(iv)(D), while still requiring landlords to consider documentation that does not meet those requirements. If the intent of this bill is to create a more “automatic” process, we suggest clarifying the bill to distinguish between the two paths.

If the intent is to limit acceptable documentation to that described in (e)(3)(iv)(D), the bill will have a chilling effect on the ability of people with disabilities to maintain their emotional support animals. Many people with disabilities have Medicaid. It is common for providers to abruptly stop accepting Medicaid, and there are high rates of turn-over in healthcare settings where Medicaid is accepted. Such interruptions in the provider-patient relationship could prevent people with disabilities from obtaining the necessary documentation to keep their emotional support animals. Additionally, people with limited means often move between towns and lack transportation to travel to a healthcare provider in their previous town. Coupled with the chronic shortage of healthcare providers and the length of time it can take to get an initial appointment, the 30-day relationship requirement would pose a barrier for people with disabilities from out of state, even say as from Swansea to Warren.

Psychiatric Service Animals and Emotional Support Animals

Consistent with federal law, House Bill 5504 draws a bright line between a service animal and an emotional support animal based on whether the animal is individually trained to perform a task or do work for the person with a disability. Landlords may not be aware that many service animals are trained to perform tasks related to mental health disabilities; these animals may be called psychiatric service animals. Those landlords may wrongfully designate a psychiatric service animal as an emotional support animal, leading them to request supporting documentation that is not required for a service animal. It may be appropriate to amend § 4(e)(2) to clarify that if an animal has been trained to perform psychiatric support tasks, it is a service animal and not an emotional support animal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Marshall", is positioned above the printed name.

Robert Marshall

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