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# Topeka Independent Living Resource Center

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## House Judiciary Committee

Representative Fred Patton, Chair

Testimony by:

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Thank you for the opportunity to appear before the Judiciary Committee today on HB2523. The Topeka Independent Living Resource Center (TILRC) is a civil and human rights organization. Our mission is to advocate for justice, equality and essential services for a fully integrated and accessible society for all people with disabilities. TILRC has been providing cross-age, cross-disability advocacy and services for almost 40 years to people with disabilities here in Shawnee County, across the state of Kansas, and throughout the nation. As an attorney, I have spent almost 25 years working on fair housing and disability discrimination in housing issues on a local, state and national level.

Almost a year ago, I appeared before this committee on a similar bill, previously proposed by the same associations who asked for introduction of HB 2523. The previous bill was referred to Judicial Council, and I participated in that process through the latter part of last year.

Central to concerns in the previous Bill was the way it created a disconnect between Kansas state housing laws and federal fair housing laws, which pre-empt state law. Through the Judicial Council committee process, I asked on several occasions that the committee defer action, as the federal Department of Housing and Urban Development (HUD) was actively reviewing their regulatory guidance for assistance animals in housing.

On January 28, 2020, the day before HB 2523 was formally introduced, HUD released their guidance document for landlords to assess reasonable accommodation requests for assistance

***Advocacy and services provided by and for people with disabilities.***

animals in housing. The guidance can be found here:

<https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf> The concern I expressed last February, and the concern I expressed about moving forward in advance of the new guidance is completely justified; the way HB2523 is written does **not** track along with the step-by-step process outlined in the HUD guidance, and in several significant ways conflicts.

The HUD guidance speaks directly to many of the issues brought up by proponents of these Bills. I would encourage this committee to allow the newly minted HUD guidance time to be implemented before trying to create a state law overlay such as the provisions suggested in HB 2523.

Probably the most important part of HB2523 to its proponents is the prospect of bringing or threatening to bring a criminal complaint against housing applicants or tenants who they do not believe are entitled to reasonable accommodations when asking to be allowed to have an assistance animal. Creating a criminal statute and criminalizing the mis-representation of a service animal allows landlords to leverage that threat against a person making such a claim. Given the particular vulnerability people experience around housing, I advocated that there be some attempt to balance against the threat to tenants, by including the new provision in section 3, improper denial of an assistance animal.

In much the same way tenants who might not be entitled to the accommodation needed to allow them to keep a pet which is not an assistance animal, new section three (3) should encourage landlords to seriously evaluate requests for this type of accommodation, particularly if they are going to require documentation, as this requirement is expressly limited under the new HUD guidelines. If tenant conduct is going to be criminalized, corresponding conduct on the part of housing providers should be, too.

While we had hopes the Judicial Council workgroup would provide closure and compromise on this issue, the changes to federal guidance merit additional review to the accommodation process proposed in HB2523. I would encourage this committee to defer action until such time as that can be accomplished. It would be truly unfortunate to pass a state law that gives housing providers the mistaken impression that following its steps protect them from federal fair housing discrimination claims.