

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 21-0638.01 Jane Ritter x4342

HOUSE BILL 21-1110

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A BILL FOR AN ACT

101 **CONCERNING ADDING LANGUAGE TO RELEVANT COLORADO STATUTES**
102 **RELATED TO PERSONS WITH DISABILITIES TO STRENGTHEN**
103 **PROTECTIONS AGAINST DISCRIMINATION ON THE BASIS OF**
104 **DISABILITY, AND, IN CONNECTION THEREWITH, MAKING AN**
105 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill adds language to strengthen current Colorado law related to protections against discrimination on the basis of disability for persons

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 10, 2021

HOUSE
Amended 2nd Reading
May 7, 2021

with disabilities. The added provisions include:

- Prohibiting a person with a disability from being excluded from participating in or being denied the benefits of services, programs, or activities of a public entity;
- Clarifying that such prohibition includes the failure of a public entity to substantially comply with web content accessibility guidelines established and published by an international consortium;
- Any Colorado agency with the authority to promulgate rules shall not promulgate a rule that provides less protection than that provided by the "Americans with Disabilities Act of 1990".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-301, **amend**
3 (5.4) as follows:

4 **24-34-301. Definitions.** As used in parts 3 to 8 of this article 34,
5 unless the context otherwise requires:

6 (5.4) "Public entity" ~~has the same meaning as set forth in Title II~~
7 ~~of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec.~~
8 ~~12131, and its related amendments and implementing regulations.~~ MEANS:

9 (a) ANY STATE OR LOCAL GOVERNMENT; OR

10 (b) ANY DEPARTMENT, AGENCY, SPECIAL DISTRICT, OR OTHER
11 INSTRUMENTALITY OF A STATE OR LOCAL GOVERNMENT.

12 **SECTION 2.** In Colorado Revised Statutes, 24-34-802, **amend**
13 (1), (2)(a) introductory portion, and (2)(a)(III); and **add** (5) as follows:

14 **24-34-802. Violations - penalties - immunity.** (1) (a) It is a
15 discriminatory practice and unlawful for any person, AS DEFINED IN
16 SECTION 24-34-301, to discriminate against ~~any~~ AN individual or group OF
17 INDIVIDUALS because ~~such~~ THE person ~~or group~~ has opposed any practice,
18 made a discriminatory practice based on disability pursuant to part 5, 6,
19 or 8 of this ~~article~~ ARTICLE 34, or because ~~such~~ THE person ~~or group~~ has

1 made a charge, testified, assisted, or participated in any manner in an
2 investigation, proceeding, or hearing conducted pursuant to part 5, 6, or
3 8 of this ~~article~~ ARTICLE 34.

4 (b) AN INDIVIDUAL WITH A DISABILITY, AS DEFINED IN SECTION
5 24-34-301 (5.6), MUST NOT, BY REASON OF THE INDIVIDUAL'S DISABILITY,
6 BE EXCLUDED FROM PARTICIPATION IN OR BE DENIED THE BENEFITS OF
7 SERVICES, PROGRAMS, OR ACTIVITIES PROVIDED BY A PUBLIC ENTITY, AS
8 DEFINED IN SECTION 24-34-301, OR A STATE AGENCY, AS DEFINED IN
9 SECTION 24-37.5-102, OR BE SUBJECTED TO DISCRIMINATION BY ANY SUCH
10 PUBLIC ENTITY OR STATE AGENCY.

11 (c) DISCRIMINATION PURSUANT TO THIS SECTION INCLUDES THE
12 FAILURE OF A PUBLIC ENTITY OR STATE AGENCY, AS THOSE TERMS ARE
13 DEFINED IN SECTION 24-34-301, TO DEVELOP AN ACCESSIBILITY PLAN
14 USING THE ACCESSIBILITY STANDARDS ESTABLISHED PURSUANT TO
15 SECTION 24-85-103 (2.5) AND FULLY COMPLY, ON OR BEFORE JULY 1,
16 2024, WITH THE ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A
17 DISABILITY ESTABLISHED BY THE OFFICE OF INFORMATION TECHNOLOGY
18 PURSUANT TO SECTION 24-85-103 (2.5).

19 (2) (a) ~~A qualified~~ AN individual with a disability, as defined in
20 section 24-34-301 (5.6), who is subject to a violation of subsection (1) of
21 this section or of section 24-34-502, 24-34-502.2, 24-34-601, or
22 24-34-803 based on ~~his or her~~ THE INDIVIDUAL'S disability may bring a
23 civil suit in a court of competent jurisdiction and, EXCEPT AS PROVIDED
24 IN SECTION 24-85-103, is entitled to any of the following remedies:

25 (III) A statutory fine ~~not to exceed~~ OF three thousand five hundred
26 dollars, PAYABLE TO EACH PLAINTIFF FOR EACH VIOLATION.

27 (5) AN AGENCY IN THE STATE WITH THE AUTHORITY TO

1 PROMULGATE RULES RELATED TO PROTECTIONS FOR PERSONS WITH
2 DISABILITIES SHALL NOT PROMULGATE A RULE THAT PROVIDES LESS
3 PROTECTION THAN THAT PROVIDED BY THE FEDERAL "AMERICANS WITH
4 DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED.

5 **SECTION 3.** In Colorado Revised Statutes, **amend** 24-85-101 as
6 follows:

7 **24-85-101. Legislative declaration.** The general assembly hereby
8 finds that the state needs to improve ~~nonvisual~~ access to information,
9 ~~whether by speech, Braille, or other appropriate means~~ INCLUDING
10 ELECTRONIC INFORMATION, FOR INDIVIDUALS WITH A DISABILITY.

11 **SECTION 4.** In Colorado Revised Statutes, 24-85-102, **amend**
12 the introductory portion; and **add** (1.5), (2.3), (2.7), (5.3), and (5.5) as
13 follows:

14 **24-85-102. Definitions.** As used in this ~~article~~ ARTICLE 85, unless
15 the context otherwise requires:

16 (1.5) "ACCESSIBLE" OR "ACCESSIBILITY" MEANS PERCEIVABLE,
17 OPERABLE, AND UNDERSTANDABLE DIGITAL CONTENT THAT ENABLES AN
18 INDIVIDUAL WITH A DISABILITY TO ACCESS THE SAME INFORMATION,
19 ENGAGE IN THE SAME INTERACTIONS, AND ENJOY THE SAME SERVICES
20 OFFERED TO OTHER INDIVIDUALS, WITH THE SAME PRIVACY,
21 INDEPENDENCE, AND EASE OF USE AS EXISTS FOR INDIVIDUALS WITHOUT
22 A DISABILITY.

23 (2.3) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
24 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
25 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
26 REGULATIONS.

27 (2.7) "INDIVIDUAL WITH A DISABILITY" HAS THE SAME MEANING AS

1 "QUALIFIED INDIVIDUAL WITH A DISABILITY" AS DEFINED IN SUBSECTION
2 (5.5) OF THIS SECTION.

3 (5.3) "OFFICE OF INFORMATION TECHNOLOGY" MEANS THE OFFICE
4 OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

5 (5.5) "QUALIFIED INDIVIDUAL WITH A DISABILITY" OR "INDIVIDUAL
6 WITH A DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
7 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
8 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
9 REGULATIONS.

10 **SECTION 5.** In Colorado Revised Statutes, **amend** 24-85-103 as
11 follows:

12 **24-85-103. Accessibility standards for individuals with a**
13 **disability.** (1) The chief information officer in the office of information
14 technology ~~created in section 24-37.5-103~~, shall maintain ~~nonvisual~~
15 ~~access~~ ACCESSIBILITY standards FOR AN INDIVIDUAL WITH A DISABILITY
16 for information technology systems employed by state agencies that:

17 (a) Provide ~~blind or visually impaired individuals~~ AN INDIVIDUAL
18 WITH A DISABILITY with access to information stored electronically by
19 state agencies by ensuring compatibility with adaptive technology systems
20 so that ~~blind and visually impaired individuals have~~ AN INDIVIDUAL WITH
21 A DISABILITY HAS full and equal access when needed; and

22 (b) Are designed to present information, including prompts used
23 for interactive communications, in formats intended for both visual and
24 nonvisual use, such as the use of text-only options.

25 (1.5) THE CHIEF INFORMATION OFFICER IN THE OFFICE OF
26 INFORMATION TECHNOLOGY SHALL, CONSISTENT WITH THE
27 RESPONSIBILITIES OF THE OFFICE, PROMOTE AND MONITOR THE ACCESS

1 STANDARDS FOR INDIVIDUALS WITH A DISABILITY IN THE STATE'S
2 INFORMATION TECHNOLOGY INFRASTRUCTURE, INCLUDING BUT NOT
3 LIMITED TO ARCHITECTURE. EACH STATE AGENCY IS DIRECTED TO COMPLY
4 WITH THE ACCESS STANDARDS FOR INDIVIDUALS WITH A DISABILITY,
5 ESTABLISHED BY THE OFFICE OF INFORMATION TECHNOLOGY PURSUANT TO
6 SUBSECTION (2.5) OF THIS SECTION, IN THE CREATION AND PROMULGATION
7 OF ANY ONLINE CONTENT AND MATERIALS USED BY SUCH STATE AGENCY.

8 (2) The chief information officer in the office of information
9 technology ~~created in section 24-37.5-103~~, shall consult with state
10 agencies and representatives of individuals ~~who are blind or visually~~
11 ~~impaired~~ WITH A DISABILITY in maintaining the ~~nonvisual access~~
12 ACCESSIBILITY standards FOR INDIVIDUALS WITH A DISABILITY described
13 in subsection (1) of this section and the procurement criteria described in
14 section 24-85-104.

15 (2.5) THE CHIEF INFORMATION OFFICER IN THE OFFICE OF
16 INFORMATION TECHNOLOGY SHALL ESTABLISH ACCESSIBILITY STANDARDS
17 FOR INDIVIDUALS WITH A DISABILITY USING THE MOST RECENT WEB
18 CONTENT ACCESSIBILITY GUIDELINES PROMULGATED AND PUBLISHED BY
19 THE WORLD WIDE WEB CONSORTIUM WEB ACCESSIBILITY INITIATIVE OR
20 THE INTERNATIONAL ACCESSIBILITY GUIDELINES WORKING GROUP, OR ANY
21 SUCCESSOR GROUP OR ORGANIZATION, OR ANY SUBSEQUENT UPDATES OR
22 REVISIONS TO SUCH GUIDELINES BY ANY SUCCESSOR GROUP OR
23 ORGANIZATION.

24 (3) (a) The head of each state agency, AS THAT TERM IS DEFINED
25 IN SECTION 24-37.5-102, shall establish a written plan, as part of its
26 annual information technology plan, and develop any proposed budget
27 requests for implementing the ~~nonvisual access~~ ACCESSIBILITY standards

1 FOR INDIVIDUALS WITH A DISABILITY for its agency at facilities accessible
2 by the public. EACH SUCH STATE AGENCY SHALL FOLLOW UP ON THE PLAN
3 AS FOLLOWS:

4 (I) ON OR BEFORE JULY 1, 2022, THE STATE AGENCY SHALL SUBMIT
5 ITS WRITTEN ACCESSIBILITY PLAN TO THE OFFICE OF INFORMATION
6 TECHNOLOGY. THE OFFICE OF INFORMATION TECHNOLOGY SHALL WORK
7 COLLABORATIVELY WITH THE STATE AGENCY TO REVIEW THE SECTIONS OF
8 THE AGENCY'S PLAN RELATED TO ACCESSIBILITY STANDARDS FOR
9 INDIVIDUALS WITH A DISABILITY AND ESTABLISH IMPLEMENTATION
10 METHODOLOGY; AND

11 (II) ON OR BEFORE JULY 1, 2024, EACH STATE AGENCY SHALL
12 FULLY IMPLEMENT THE SECTIONS OF THE AGENCY'S PLAN RELATED TO
13 ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A DISABILITY. ANY
14 STATE AGENCY NOT IN COMPLIANCE AFTER JULY 1, 2024, IS IN VIOLATION
15 OF SECTION 24-34-802 AND IS SUBJECT TO THE REMEDIES FOR
16 NONCOMPLIANCE SET FORTH IN SECTION 24-34-802.

17 **SECTION 6.** In Colorado Revised Statutes, **amend** 24-85-104 as
18 follows:

19 **24-85-104. Procurement requirements - criteria -**
20 **implementation.** (1) The office of information technology ~~created in~~
21 ~~section 24-37.5-103~~, shall approve minimum standards and criteria to be
22 used in approving or rejecting procurements by state agencies for
23 adaptive technologies for nonvisual OR OTHER DISABILITY access uses.

24 (2) Nothing in this ~~article shall require~~ ARTICLE 85 REQUIRES the
25 installation of software or peripheral devices used for ~~nonvisual access~~
26 ACCESSIBILITY FOR AN INDIVIDUAL WITH A DISABILITY when the
27 information technology is being used by individuals who are not ~~blind or~~

1 ~~visually impaired~~ DISABLED. Nothing in this ~~article shall be construed to~~
2 ~~require~~ ARTICLE 85 REQUIRES the purchase of ~~nonvisual~~ adaptive
3 equipment by a state agency.

4 (3) Notwithstanding ~~the provisions of~~ subsection (2) of this
5 section, the applications, programs, and underlying operating systems,
6 including the format of the data, used for the manipulation and
7 presentation of information ~~shall~~ MUST permit the installation and
8 effective use of and ~~shall be compatible~~ BE COMPATIBLE with ~~nonvisual~~
9 ~~access~~ software and peripheral devices THAT PROVIDE ACCESSIBILITY TO
10 AN INDIVIDUAL WITH A DISABILITY.

11 (4) Compliance with the procurement requirements of this section
12 ~~with regard to information technology purchased prior to July 1, 2001,~~
13 ~~shall~~ MUST be achieved at the time of procurement of an upgrade or
14 replacement of existing information technology equipment or software.

15 **SECTION 7. Appropriation.** For the 2021-22 state fiscal year,
16 \$312,922 is appropriated to the office of the governor for use by the
17 office of information technology. This appropriation is from the general
18 fund and is based on an assumption that the office will require an
19 additional 0.9 FTE. To implement this act, the office may use this
20 appropriation for enterprise solutions.

21 **SECTION 8. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.