

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 24-0741.01 Chelsea Princell x4335

HOUSE BILL 24-1342

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A BILL FOR AN ACT

101 **CONCERNING TESTING ACCOMMODATIONS FOR COLORADANS WITH**
102 **DISABILITIES.**

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 requires a testing entity to grant an individual's request for a testing accommodation on a licensing exam without requiring the individual to undergo a diagnostic exam or psychological assessment if the individual is requesting the same testing accommodation that the individual previously received on a similar standardized exam or high-stakes test.

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

SENATE
3rd Reading Unamended
May 3, 2024

SENATE
2nd Reading Unamended
May 2, 2024

HOUSE
3rd Reading Unamended
April 22, 2024

HOUSE
Amended 2nd Reading
April 20, 2024

The bill allows an individual who is adversely affected or aggrieved by a testing entity's decision regarding the individual's request for a testing accommodation to bring a civil action against the testing entity.

The bill requires the attorney general to investigate violations of, and allows the attorney general to bring a civil action against, a testing entity for an alleged violation.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-34-806 as
3 follows:

4 **24-34-806. Testing accommodations for Coloradans with**
5 **disabilities - right of action - legislative declaration - definitions.**

6 (1) (a) THE GENERAL ASSEMBLY FINDS THAT:

7 (I) LICENSING EXAMS ARE GATEWAYS TO EMPLOYMENT
8 OPPORTUNITIES;

9 (II) WHEN AN INDIVIDUAL IS ATTEMPTING TO OBTAIN A
10 PROFESSIONAL LICENSE OR CERTIFICATION FOR A TRADE, IT IS DIFFICULT
11 TO ACHIEVE SUCH GOALS WITHOUT SITTING FOR SOME KIND OF LICENSING
12 EXAM;

13 (III) WHILE MANY TESTING ENTITIES HAVE MADE EFFORTS TO
14 ENSURE EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES,
15 DISABLED COLORADANS CONTINUE TO QUESTION AND MAKE COMPLAINTS
16 ABOUT TESTING ENTITIES' EXCESSIVE AND BURDENSOME DOCUMENTATION
17 DEMANDS, FAILURES TO PROVIDE NECESSARY TESTING ACCOMMODATIONS,
18 FAILURES TO RESPOND TO REQUESTS FOR TESTING ACCOMMODATIONS IN
19 A TIMELY MANNER, AND FAILURES TO RECOGNIZE THE DIAGNOSES OR
20 RECOMMENDATIONS PROVIDED BY AN INDIVIDUAL'S MEDICAL OR
21 PSYCHOLOGICAL PROVIDER;

22 (IV) THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990",

1 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED, ENSURES THAT INDIVIDUALS
2 WITH DISABILITIES HAVE THE OPPORTUNITY TO FAIRLY COMPETE FOR AND
3 PURSUE CAREER OPPORTUNITIES BY REQUIRING STANDARDIZED
4 EXAMINATION ENTITIES TO OFFER EXAMS IN A MANNER THAT IS
5 ACCESSIBLE TO PERSONS WITH DISABILITIES. WHEN NEEDED TESTING
6 ACCOMMODATIONS ARE PROVIDED, A TEST-TAKER CAN DEMONSTRATE THE
7 TEST-TAKER'S TRUE APTITUDE.

8 (V) YET, COLORADANS WITH DISABILITIES ARE BEING DENIED THE
9 TESTING ACCOMMODATIONS THEY NEED, AND PREVIOUSLY RECEIVED,
10 UNLESS THEY UNDERGO ADDITIONAL AND COSTLY DIAGNOSTIC TESTING OR
11 PSYCHOLOGICAL ASSESSMENT. THESE DENIALS RESULT IN DISABLED
12 COLORADANS EITHER TAKING THE LICENSING EXAM WITHOUT THE
13 NECESSARY TESTING ACCOMMODATION OR SPENDING THOUSANDS OF
14 DOLLARS ON THE REQUESTED DIAGNOSTIC TESTING OR PSYCHOLOGICAL
15 ASSESSMENT IN ORDER TO TAKE THE EXAM OR TEST WITH THE SAME
16 TESTING ACCOMMODATION THEY PREVIOUSLY RECEIVED.

17 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
18 COLORADANS WITH DISABILITIES MUST BE ABLE TO RECEIVE THE TESTING
19 ACCOMMODATIONS THEY NEED TO ADEQUATELY DEMONSTRATE THEIR
20 APTITUDE WITHOUT HAVING TO FIRST UNDERGO ADDITIONAL DIAGNOSTIC
21 TESTING OR PSYCHOLOGICAL ASSESSMENTS IF THE TESTING
22 ACCOMMODATION THEY ARE REQUESTING IS THE SAME TESTING
23 ACCOMMODATION THEY RECEIVED PREVIOUSLY OR IS IN LINE WITH A
24 MEDICAL OR PSYCHOLOGICAL PROVIDER'S PROFESSIONAL
25 RECOMMENDATION OR DIAGNOSIS.

26 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
27 REQUIRES:

1 (a) "LICENSING EXAM" MEANS A TEST THAT REQUIRES, IN A GIVEN
2 TEST ADMINISTRATION, ALL TEST-TAKERS TO ANSWER THE SAME
3 QUESTIONS, IN THE SAME WAY; IS SCORED IN A STANDARD OR CONSISTENT
4 MANNER; AND IS REQUIRED FOR A PROFESSIONAL OR TRADE CERTIFICATION
5 OR LICENSURE.

6 (b) "TESTING ACCOMMODATION" MEANS A CHANGE TO THE
7 REGULAR TESTING ENVIRONMENT OR THE PERMITTED USE OF AN
8 AUXILIARY AID OR SERVICE THAT ALLOWS AN INDIVIDUAL WITH A
9 DISABILITY TO DEMONSTRATE THE INDIVIDUAL'S TRUE APTITUDE OR
10 ACHIEVEMENT LEVEL ON A LICENSING EXAM TEST AND INCLUDES, BUT IS
11 NOT LIMITED TO, THE FOLLOWING:

- 12 (I) BRAILLE OR LARGE-PRINT EXAM BOOKLETS;
- 13 (II) SCREEN-READING TECHNOLOGY;
- 14 (III) SCRIBES TO TRANSFER ANSWERS TO BUBBLE SHEETS OR
15 RECORD DICTATED NOTES AND ESSAYS;
- 16 (IV) EXTENDED TIME;
- 17 (V) BREAKS DURING AN EXAM THAT ARE NOT COUNTED IN THE
18 TOTAL EXAM TIME;
- 19 (VI) WHEELCHAIR-ACCESSIBLE TESTING STATIONS;
- 20 (VII) TO THE EXTENT POSSIBLE, ROOMS THAT ELIMINATE VISUAL
21 AND AUDITORY DISTRACTIONS;
- 22 (VIII) PHYSICAL PROMPTS FOR INDIVIDUALS WITH HEARING
23 IMPAIRMENTS; AND
- 24 (IX) PERMISSION TO BRING AND TAKE PRESCRIBED MEDICATION
25 DURING THE EXAM.

26 (c) "TESTING ENTITY" MEANS A PRIVATE ENTITY OF THIS STATE OR
27 A STATE OR LOCAL GOVERNMENTAL ENTITY OF THIS STATE THAT OFFERS

1 AN EXAM RELATED TO LICENSING OR CERTIFICATION FOR PROFESSIONAL
2 OR TRADE PURPOSES AND HAS CONTROL OVER TESTING ACCOMMODATION
3 DECISIONS.

4 (3) (a) A TESTING ENTITY MUST GRANT AN INDIVIDUAL'S REQUEST
5 FOR A TESTING ACCOMMODATION ON A LICENSING EXAM IF THE
6 INDIVIDUAL:

7 (I) HAS A DISABILITY THAT IS RECOGNIZED UNDER THE FEDERAL
8 "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET
9 SEQ., AS AMENDED;

10 (II) PROVIDES PROOF OF HAVING RECEIVED THE PREVIOUS TESTING
11 ACCOMMODATION DUE TO THE INDIVIDUAL'S DISABILITY ON A PAST
12 STANDARDIZED EXAM OR HIGH-STAKES TEST;

13 (III) PROVIDES A RECOMMENDATION LETTER FROM THE
14 INDIVIDUAL'S TREATING MEDICAL PROFESSIONAL THAT RECOMMENDS THE
15 ACCOMMODATIONS REQUESTED BY THE INDIVIDUAL. THE
16 RECOMMENDATION LETTER MUST BE SIGNED AND DATED BY THE TREATING
17 MEDICAL PROFESSIONAL MAKING THE RECOMMENDATION; AND

18 (IV) REQUESTS THE SAME TESTING ACCOMMODATION THAT THE
19 INDIVIDUAL PREVIOUSLY RECEIVED ON ANOTHER STANDARDIZED EXAM OR
20 HIGH-STAKES TEST.

21 (b) IF THE INDIVIDUAL MEETS THE REQUIREMENTS SPECIFIED IN
22 SUBSECTION (3)(a) OF THIS SECTION, THE TESTING ENTITY MUST NOT
23 REQUIRE THE INDIVIDUAL TO PROVIDE ADDITIONAL DOCUMENTATION OR
24 UNDERGO DIAGNOSTIC TESTING OR A PSYCHOLOGICAL ASSESSMENT TO
25 FURTHER SUPPORT THE INDIVIDUAL'S REQUEST FOR A TESTING
26 ACCOMMODATION.

27 (4) AN INDIVIDUAL ADVERSELY AFFECTED OR AGGRIEVED BY A

1 TESTING ENTITY'S DECISION REGARDING THE INDIVIDUAL'S REQUEST FOR
2 A TESTING ACCOMMODATION PURSUANT TO THIS SECTION MAY BRING A
3 CIVIL ACTION AGAINST THE TESTING ENTITY IN A COURT OF COMPETENT
4 JURISDICTION FOR A WILLFUL VIOLATION OF THIS SECTION AND IS ENTITLED
5 TO THE FOLLOWING REMEDIES:

6 (a) THE RELIEF SET FORTH IN SECTION 24-34-802 (2); AND [REDACTED]

7 (b) AN AWARD OF ATTORNEY FEES AND COSTS.

8 (5) UPON RECEIPT OF A COMPLAINT FOR A VIOLATION OF THIS
9 SECTION, THE ATTORNEY GENERAL MAY INVESTIGATE THE VIOLATION. IF
10 THE ATTORNEY GENERAL FINDS THAT A TESTING ENTITY HAS VIOLATED OR
11 IS VIOLATING THIS SECTION, THE ATTORNEY GENERAL MAY BRING A CIVIL
12 ACTION AGAINST THE TESTING ENTITY IN A COURT OF COMPETENT
13 JURISDICTION FOR A WILLFUL VIOLATION OF THIS SECTION.

14 (6) THIS SECTION DOES NOT REQUIRE A TESTING ENTITY TO
15 PROVIDE ACCOMMODATIONS TO AN INDIVIDUAL WITH A DISABILITY IF THE
16 ACCOMMODATION WOULD CONSTITUTE A FUNDAMENTAL ALTERATION OR
17 UNDUE BURDEN AS DEFINED IN THE FEDERAL "AMERICANS WITH
18 DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED.

19 **SECTION 2.** In Colorado Revised Statutes, 24-10-106, **amend**
20 (1) introductory portion, (1)(i), and (1)(j); and **add** (1)(k) as follows:

21 **24-10-106. Immunity and partial waiver.** (1) A public entity
22 ~~shall be~~ IS immune from liability in all claims for injury ~~which~~ THAT lie
23 in tort or could lie in tort, regardless of whether that may be the type of
24 action or the form of relief chosen by the claimant, except as provided
25 otherwise in this section. Sovereign immunity is waived by a public entity
26 in an action for injuries resulting from:

27 (i) An action brought pursuant to section 13-21-128; ~~or~~

1 (j) An action brought pursuant to part 12 of article 20 of title 13,
2 whether the conduct alleged occurred before, on, or after January 1, 2022;

3 OR

4 (k) AN ACTION BROUGHT PURSUANT TO SECTION 24-34-806 (4).

5 **SECTION 3.** In Colorado Revised Statutes, 24-31-101, **amend**
6 (1)(i)(XVII) and (1)(i)(XVIII); and **add** (1)(i)(XIX) as follows:

7 **24-31-101. Powers and duties of attorney general.** (1) The
8 attorney general:

9 (i) May independently initiate and bring civil and criminal actions
10 to enforce state laws, including actions brought pursuant to:

11 (XVII) The "Rental Application Fairness Act", part 9 of article 12
12 of title 38; ~~and~~

13 (XVIII) The "Reproductive Health Equity Act", part 4 of article
14 6 of title 25; AND

15 (XIX) SECTION 24-34-806.

16 **SECTION 4. Act subject to petition - effective date.** This act
17 takes effect on January 1, 2025; except that, if a referendum petition is
18 filed pursuant to section 1 (3) of article V of the state constitution against
19 this act or an item, section, or part of this act within such period, then the
20 section will not take effect unless approved by the people at the general
21 election to be held in November 2024 and, in such case, will take effect
22 on January 1, 2025, or on the date of the official declaration of the vote
23 thereon by the governor, whichever is later.