

CHAPTER 477

GOVERNMENT - STATE

HOUSE BILL 24-1342

BY REPRESENTATIVE(S) Soper and Bacon, Amabile, Bottoms, Bradley, Evans, Garcia, Hartsook, Hernandez, Lindsay, Lindstedt, Lynch, Mabrey, Martinez, McLachlan, Ortiz, Taggart, Titone, Willford, Young, Bird, Boesenecker, Brown, Clifford, deGruy Kennedy, Duran, Epps, Frizell, Froelich, Hamrick, Herod, Joseph, Lieder, Lukens, Marshall, Marvin, Mauro, McCormick, Parenti, Ricks, Sirota, Story, Velasco, McCluskie;
also SENATOR(S) Roberts and Rich, Buckner, Cutter, Exum, Michaelson Jenet, Mullica, Priola, Sullivan.

AN ACT**CONCERNING TESTING ACCOMMODATIONS FOR COLORADANS WITH DISABILITIES.**

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

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

24-34-806. Testing accommodations for Coloradans with disabilities - right of action - legislative declaration - definitions. (1) (a) **THE GENERAL ASSEMBLY FINDS THAT:**

(I) LICENSING EXAMS ARE GATEWAYS TO EMPLOYMENT OPPORTUNITIES;

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

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

(IV) THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

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

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

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

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

(I) BRAILLE OR LARGE-PRINT EXAM BOOKLETS;

(II) SCREEN-READING TECHNOLOGY;

(III) SCRIBES TO TRANSFER ANSWERS TO BUBBLE SHEETS OR RECORD DICTATED NOTES AND ESSAYS;

(IV) EXTENDED TIME;

(V) BREAKS DURING AN EXAM THAT ARE NOT COUNTED IN THE TOTAL EXAM TIME;

(VI) WHEELCHAIR-ACCESSIBLE TESTING STATIONS;

(VII) TO THE EXTENT POSSIBLE, ROOMS THAT ELIMINATE VISUAL AND AUDITORY DISTRACTIONS;

(VIII) PHYSICAL PROMPTS FOR INDIVIDUALS WITH HEARING IMPAIRMENTS; AND

(IX) PERMISSION TO BRING AND TAKE PRESCRIBED MEDICATION DURING THE EXAM.

(c) "TESTING ENTITY" MEANS A PRIVATE ENTITY OF THIS STATE OR A STATE OR LOCAL GOVERNMENTAL ENTITY OF THIS STATE THAT OFFERS AN EXAM RELATED TO LICENSING OR CERTIFICATION FOR PROFESSIONAL OR TRADE PURPOSES AND HAS CONTROL OVER TESTING ACCOMMODATION DECISIONS.

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

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

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

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

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

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

(4) AN INDIVIDUAL ADVERSELY AFFECTED OR AGGRIEVED BY A TESTING ENTITY'S DECISION REGARDING THE INDIVIDUAL'S REQUEST FOR A TESTING ACCOMMODATION PURSUANT TO THIS SECTION MAY BRING A CIVIL ACTION AGAINST THE TESTING ENTITY IN A COURT OF COMPETENT JURISDICTION FOR A WILLFUL VIOLATION OF THIS SECTION AND IS ENTITLED TO THE FOLLOWING REMEDIES:

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

(b) AN AWARD OF ATTORNEY FEES AND COSTS.

(5) UPON RECEIPT OF A COMPLAINT FOR A VIOLATION OF THIS SECTION, THE ATTORNEY GENERAL MAY INVESTIGATE THE VIOLATION. IF THE ATTORNEY GENERAL FINDS THAT A TESTING ENTITY HAS VIOLATED OR IS VIOLATING THIS SECTION, THE

ATTORNEY GENERAL MAY BRING A CIVIL ACTION AGAINST THE TESTING ENTITY IN A COURT OF COMPETENT JURISDICTION FOR A WILLFUL VIOLATION OF THIS SECTION.

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

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

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

- (i) An action brought pursuant to section 13-21-128; ~~or~~
- (j) An action brought pursuant to part 12 of article 20 of title 13, whether the conduct alleged occurred before, on, or after January 1, 2022; OR
- (k) AN ACTION BROUGHT PURSUANT TO SECTION 24-34-806 (4).

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

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

- (i) May independently initiate and bring civil and criminal actions to enforce state laws, including actions brought pursuant to:
 - (XVII) The "Rental Application Fairness Act", part 9 of article 12 of title 38; ~~and~~
 - (XVIII) The "Reproductive Health Equity Act", part 4 of article 6 of title 25; AND
 - (XXIII) SECTION 24-34-806.

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

Approved: June 7, 2024