

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB21-1110 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 24-34-301, **amend**
4 (5.4) as follows:

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

7 (5.4) "Public entity" ~~has the same meaning as set forth in Title II~~
8 ~~of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec.~~
9 ~~12131, and its related amendments and implementing regulations.~~ MEANS:

10 (a) ANY STATE OR LOCAL GOVERNMENT; OR

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

13 **SECTION 2.** In Colorado Revised Statutes, 24-34-802, **amend**
14 (1), (2)(a) introductory portion, and (2)(a)(III); and **add** (5) as follows:

15 **24-34-802. Violations - penalties - immunity.** (1) (a) It is a
16 discriminatory practice and unlawful for any person, AS DEFINED IN
17 SECTION 24-34-301, to discriminate against ~~any~~ AN individual or group OF
18 INDIVIDUALS because ~~such~~ THE person ~~or group~~ has opposed any practice,
19 made a discriminatory practice based on disability pursuant to part 5, 6,
20 or 8 of this ~~article~~ ARTICLE 34, or because ~~such~~ THE person ~~or group~~ has
21 made a charge, testified, assisted, or participated in any manner in an
22 investigation, proceeding, or hearing conducted pursuant to part 5, 6, or
23 8 of this ~~article~~ ARTICLE 34.

24 (b) AN INDIVIDUAL WITH A DISABILITY, AS DEFINED IN SECTION
25 24-34-301 (5.6), MUST NOT, BY REASON OF THE INDIVIDUAL'S DISABILITY,
26 BE EXCLUDED FROM PARTICIPATION IN OR BE DENIED THE BENEFITS OF
27 SERVICES, PROGRAMS, OR ACTIVITIES PROVIDED BY A PUBLIC ENTITY, AS
28 DEFINED IN SECTION 24-34-301, A STATE AGENCY, AS DEFINED IN SECTION
29 24-37.5-102, OR BE SUBJECTED TO DISCRIMINATION BY ANY SUCH PUBLIC
30 ENTITY OR STATE AGENCY.

31 (c) DISCRIMINATION PURSUANT TO THIS SECTION INCLUDES THE
32 FAILURE OF A PUBLIC ENTITY OR STATE AGENCY TO COMPLY WITH THE
33 ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A DISABILITY
34 ESTABLISHED BY THE OFFICE OF INFORMATION TECHNOLOGY PURSUANT TO
35 SECTION 24-85-103 (1.5).

36 (2) (a) ~~A qualified~~ AN individual with a disability, as defined in
37 section 24-34-301 (5.6), who is subject to a violation of subsection (1) of
38 this section or of section 24-34-502, 24-34-502.2, 24-34-601, or
39 24-34-803 based on ~~his or her~~ THE INDIVIDUAL'S disability may bring a

1 civil suit in a court of competent jurisdiction and, EXCEPT AS PROVIDED
2 IN SECTION 24-85-103, is entitled to any of the following remedies:

3 (III) A statutory fine ~~not to exceed~~ OF three thousand five hundred
4 dollars.

5 (5) AN AGENCY IN THE STATE WITH THE AUTHORITY TO
6 PROMULGATE RULES RELATED TO PROTECTIONS FOR PERSONS WITH
7 DISABILITIES SHALL NOT PROMULGATE A RULE THAT PROVIDES LESS
8 PROTECTION THAN THAT PROVIDED BY THE FEDERAL "AMERICANS WITH
9 DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AS AMENDED.

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

12 **24-85-101. Legislative declaration.** The general assembly ~~hereby~~
13 finds that the state needs to improve ~~nonvisual~~ access to information,
14 ~~whether by speech, Braille, or other appropriate means~~ INCLUDING
15 ELECTRONIC INFORMATION, FOR INDIVIDUALS WITH A DISABILITY.

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

19 **24-85-102. Definitions.** As used in this ~~article~~ ARTICLE 85, unless
20 the context otherwise requires:

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

28 (2.3) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
29 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
30 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
31 REGULATIONS.

32 (2.7) "INDIVIDUAL WITH A DISABILITY" HAS THE SAME MEANING AS
33 "QUALIFIED INDIVIDUAL WITH A DISABILITY" AS DEFINED IN SUBSECTION
34 (5.5) OF THIS SECTION.

35 (5.3) "OFFICE OF INFORMATION TECHNOLOGY" MEANS THE OFFICE
36 OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

37 (5.5) "QUALIFIED INDIVIDUAL WITH A DISABILITY" OR "INDIVIDUAL
38 WITH A DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE
39 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
40 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING
41 REGULATIONS.

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

44 **24-85-103. Accessibility standards for individuals with a**
45 **disability.** (1) The chief information officer in the office of information

1 technology ~~created in section 24-37.5-103~~, shall maintain ~~nonvisual~~
2 ~~access~~ ACCESSIBILITY standards FOR AN INDIVIDUAL WITH A DISABILITY
3 for information technology systems employed by state agencies that:

4 (a) Provide ~~blind or visually impaired individuals~~ AN INDIVIDUAL
5 WITH A DISABILITY with access to information stored electronically by
6 state agencies by ensuring compatibility with adaptive technology systems
7 so that ~~blind and visually impaired individuals have~~ AN INDIVIDUAL WITH
8 A DISABILITY HAS full and equal access when needed; and

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

12 (1.5) THE CHIEF INFORMATION OFFICER IN THE OFFICE OF
13 INFORMATION TECHNOLOGY SHALL, CONSISTENT WITH THE
14 RESPONSIBILITIES OF THE OFFICE, PROMOTE AND MONITOR THE ACCESS
15 STANDARDS FOR INDIVIDUALS WITH A DISABILITY IN THE STATE'S
16 INFORMATION TECHNOLOGY INFRASTRUCTURE, INCLUDING BUT NOT
17 LIMITED TO ARCHITECTURE. EACH STATE AGENCY IS DIRECTED TO COMPLY
18 WITH THE ACCESS STANDARDS FOR INDIVIDUALS WITH A DISABILITY,
19 ESTABLISHED BY THE OFFICE OF INFORMATION TECHNOLOGY PURSUANT TO
20 SUBSECTION (2.5) OF THIS SECTION, IN THE CREATION AND PROMULGATION
21 OF ANY ONLINE CONTENT AND MATERIALS USED BY SUCH STATE AGENCY.

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

29 (2.5) THE CHIEF INFORMATION OFFICER IN THE OFFICE OF
30 INFORMATION TECHNOLOGY SHALL ESTABLISH ACCESSIBILITY STANDARDS
31 FOR INDIVIDUALS WITH A DISABILITY USING THE MOST RECENT WEB
32 CONTENT ACCESSIBILITY GUIDELINES PROMULGATED AND PUBLISHED BY
33 THE WORLD WIDE WEB CONSORTIUM WEB ACCESSIBILITY INITIATIVE OR
34 THE INTERNATIONAL ACCESSIBILITY GUIDELINES WORKING GROUP, OR ANY
35 SUCCESSOR GROUP OR ORGANIZATION, OR ANY SUBSEQUENT UPDATES OR
36 REVISIONS TO SUCH GUIDELINES BY ANY SUCCESSOR GROUP OR
37 ORGANIZATION.

38 (3) (a) The head of each state agency, AS THAT TERM IS DEFINED
39 IN SECTION 24-37.5-102, shall establish a written plan, as part of its
40 annual information technology plan, and develop any proposed budget
41 requests for implementing the ~~nonvisual access~~ ACCESSIBILITY standards
42 FOR INDIVIDUALS WITH A DISABILITY for its agency at facilities accessible
43 by the public. EACH SUCH STATE AGENCY SHALL FOLLOW UP ON THE PLAN
44 AS FOLLOWS:

45 (I) ON OR BEFORE JULY 1, 2022, THE STATE AGENCY SHALL SUBMIT

1 ITS WRITTEN ACCESSIBILITY PLAN TO THE OFFICE OF INFORMATION
2 TECHNOLOGY. THE OFFICE OF INFORMATION TECHNOLOGY SHALL WORK
3 COLLABORATIVELY WITH THE STATE AGENCY TO REVIEW THE SECTIONS OF
4 THE AGENCY'S PLAN RELATED TO ACCESSIBILITY STANDARDS FOR
5 INDIVIDUALS WITH A DISABILITY AND ESTABLISH IMPLEMENTATION
6 METHODOLOGY; AND

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

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

15 **24-85-104. Procurement requirements - criteria -**
16 **implementation.** (1) The office of information technology ~~created in~~
17 ~~section 24-37.5-103,~~ shall approve minimum standards and criteria to be
18 used in approving or rejecting procurements by state agencies for
19 adaptive technologies for nonvisual OR OTHER DISABILITY access uses.

20 (2) Nothing in this ~~article shall require~~ ARTICLE 85 REQUIRES the
21 installation of software or peripheral devices used for ~~nonvisual access~~
22 ACCESSIBILITY FOR AN INDIVIDUAL WITH A DISABILITY when the
23 information technology is being used by individuals who are not ~~blind or~~
24 ~~visually impaired~~ DISABLED. Nothing in this ~~article shall be construed to~~
25 ~~require~~ ARTICLE 85 REQUIRES the purchase of ~~nonvisual~~ adaptive
26 equipment by a state agency.

27 (3) ~~Nothwithstanding the provisions of~~ subsection (2) of this
28 section, the applications, programs, and underlying operating systems,
29 including the format of the data, used for the manipulation and
30 presentation of information ~~shall~~ MUST permit the installation and
31 effective use of and ~~shall be compatible~~ BE COMPATIBLE with ~~nonvisual~~
32 ~~access~~ software and peripheral devices THAT PROVIDE ACCESSIBILITY TO
33 AN INDIVIDUAL WITH A DISABILITY.

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

38 **SECTION 7. Safety clause.** The general assembly hereby finds,
39 determines, and declares that this act is necessary for the immediate
40 preservation of the public peace, health, or safety."

** **