

HOUSE COMMITTEE OF REFERENCE REPORT

March 24, 2021

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Chair of Committee

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Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB21-1110 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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.

1 (b) AN INDIVIDUAL WITH A DISABILITY, AS DEFINED IN SECTION  
2 24-34-301 (5.6), MUST NOT, BY REASON OF THE INDIVIDUAL'S DISABILITY,  
3 BE EXCLUDED FROM PARTICIPATION IN OR BE DENIED THE BENEFITS OF  
4 SERVICES, PROGRAMS, OR ACTIVITIES PROVIDED BY A PUBLIC ENTITY, AS  
5 DEFINED IN SECTION 24-34-301, OR A STATE AGENCY, AS DEFINED IN  
6 SECTION 24-37.5-102, OR BE SUBJECTED TO DISCRIMINATION BY ANY SUCH  
7 PUBLIC ENTITY OR STATE AGENCY.

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

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

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

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

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

31 **24-85-101. Legislative declaration.** The general assembly ~~hereby~~  
32 finds that the state needs to improve ~~nonvisual~~ access to information,  
33 ~~whether by speech, Braille, or other appropriate means~~ INCLUDING  
34 ELECTRONIC INFORMATION, FOR INDIVIDUALS WITH A DISABILITY.

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

38 **24-85-102. Definitions.** As used in this ~~article~~ ARTICLE 85, unless  
39 the context otherwise requires:

40 (1.5) "ACCESSIBLE" OR "ACCESSIBILITY" MEANS PERCEIVABLE,  
41 OPERABLE, AND UNDERSTANDABLE DIGITAL CONTENT THAT ENABLES AN

1 INDIVIDUAL WITH A DISABILITY TO ACCESS THE SAME INFORMATION,  
2 ENGAGE IN THE SAME INTERACTIONS, AND ENJOY THE SAME SERVICES  
3 OFFERED TO OTHER INDIVIDUALS, WITH THE SAME PRIVACY,  
4 INDEPENDENCE, AND EASE OF USE AS EXISTS FOR INDIVIDUALS WITHOUT  
5 A DISABILITY.

6 (2.3) "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 (2.7) "INDIVIDUAL WITH A DISABILITY" HAS THE SAME MEANING AS  
11 "QUALIFIED INDIVIDUAL WITH A DISABILITY" AS DEFINED IN SUBSECTION  
12 (5.5) OF THIS SECTION.

13 (5.3) "OFFICE OF INFORMATION TECHNOLOGY" MEANS THE OFFICE  
14 OF INFORMATION TECHNOLOGY CREATED IN SECTION 24-37.5-103.

15 (5.5) "QUALIFIED INDIVIDUAL WITH A DISABILITY" OR "INDIVIDUAL  
16 WITH A DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE  
17 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.  
18 12101 ET SEQ., AND ITS RELATED AMENDMENTS AND IMPLEMENTING  
19 REGULATIONS.

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

22 **24-85-103. Accessibility standards for individuals with a**  
23 **disability.** (1) The chief information officer in the office of information  
24 technology ~~created in section 24-37.5-103~~, shall maintain ~~nonvisual~~  
25 ~~access~~ ACCESSIBILITY standards FOR AN INDIVIDUAL WITH A DISABILITY  
26 for information technology systems employed by state agencies that:

27 (a) Provide ~~blind or visually impaired individuals~~ AN INDIVIDUAL  
28 WITH A DISABILITY with access to information stored electronically by  
29 state agencies by ensuring compatibility with adaptive technology systems  
30 so that ~~blind and visually impaired individuals have~~ AN INDIVIDUAL WITH  
31 A DISABILITY HAS full and equal access when needed; and

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

35 (1.5) THE CHIEF INFORMATION OFFICER IN THE OFFICE OF  
36 INFORMATION TECHNOLOGY SHALL, CONSISTENT WITH THE  
37 RESPONSIBILITIES OF THE OFFICE, PROMOTE AND MONITOR THE ACCESS  
38 STANDARDS FOR INDIVIDUALS WITH A DISABILITY IN THE STATE'S  
39 INFORMATION TECHNOLOGY INFRASTRUCTURE, INCLUDING BUT NOT  
40 LIMITED TO ARCHITECTURE. EACH STATE AGENCY IS DIRECTED TO COMPLY  
41 WITH THE ACCESS STANDARDS FOR INDIVIDUALS WITH A DISABILITY,

1 ESTABLISHED BY THE OFFICE OF INFORMATION TECHNOLOGY PURSUANT TO  
2 SUBSECTION (2.5) OF THIS SECTION, IN THE CREATION AND PROMULGATION  
3 OF ANY ONLINE CONTENT AND MATERIALS USED BY SUCH STATE AGENCY.

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

11 (2.5) THE CHIEF INFORMATION OFFICER IN THE OFFICE OF  
12 INFORMATION TECHNOLOGY SHALL ESTABLISH ACCESSIBILITY STANDARDS  
13 FOR INDIVIDUALS WITH A DISABILITY USING THE MOST RECENT WEB  
14 CONTENT ACCESSIBILITY GUIDELINES PROMULGATED AND PUBLISHED BY  
15 THE WORLD WIDE WEB CONSORTIUM WEB ACCESSIBILITY INITIATIVE OR  
16 THE INTERNATIONAL ACCESSIBILITY GUIDELINES WORKING GROUP, OR ANY  
17 SUCCESSOR GROUP OR ORGANIZATION, OR ANY SUBSEQUENT UPDATES OR  
18 REVISIONS TO SUCH GUIDELINES BY ANY SUCCESSOR GROUP OR  
19 ORGANIZATION.

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

27 (I) ON OR BEFORE JULY 1, 2022, THE STATE AGENCY SHALL SUBMIT  
28 ITS WRITTEN ACCESSIBILITY PLAN TO THE OFFICE OF INFORMATION  
29 TECHNOLOGY. THE OFFICE OF INFORMATION TECHNOLOGY SHALL WORK  
30 COLLABORATIVELY WITH THE STATE AGENCY TO REVIEW THE SECTIONS OF  
31 THE AGENCY'S PLAN RELATED TO ACCESSIBILITY STANDARDS FOR  
32 INDIVIDUALS WITH A DISABILITY AND ESTABLISH IMPLEMENTATION  
33 METHODOLOGY; AND

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

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



1           **24-85-104. Procurement requirements - criteria -**  
2 **implementation.** (1) The office of information technology ~~created in~~  
3 ~~section 24-37.5-103~~, shall approve minimum standards and criteria to be  
4 used in approving or rejecting procurements by state agencies for  
5 adaptive technologies for nonvisual OR OTHER DISABILITY access uses.  
6           (2) Nothing in this ~~article shall require~~ ARTICLE 85 REQUIRES the  
7 installation of software or peripheral devices used for ~~nonvisual access~~  
8 ACCESSIBILITY FOR AN INDIVIDUAL WITH A DISABILITY when the  
9 information technology is being used by individuals who are not ~~blind or~~  
10 ~~visually impaired~~ DISABLED. Nothing in this ~~article shall be construed to~~  
11 ~~require~~ ARTICLE 85 REQUIRES the purchase of ~~nonvisual~~ adaptive  
12 equipment by a state agency.  
13           (3) Notwithstanding ~~the provisions of~~ subsection (2) of this  
14 section, the applications, programs, and underlying operating systems,  
15 including the format of the data, used for the manipulation and  
16 presentation of information ~~shall~~ MUST permit the installation and  
17 effective use of and ~~shall be compatible~~ BE COMPATIBLE with ~~nonvisual~~  
18 ~~access~~ software and peripheral devices THAT PROVIDE ACCESSIBILITY TO  
19 AN INDIVIDUAL WITH A DISABILITY.  
20           (4) Compliance with the procurement requirements of this section  
21 ~~with regard to information technology purchased prior to July 1, 2001,~~  
22 ~~shall~~ MUST be achieved at the time of procurement of an upgrade or  
23 replacement of existing information technology equipment or software.  
24           **SECTION 7. Safety clause.** The general assembly hereby finds,  
25 determines, and declares that this act is necessary for the immediate  
26 preservation of the public peace, health, or safety."

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