

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0466.01 Pierce Lively x2059

HOUSE BILL 23-1032

HOUSE SPONSORSHIP

Ortiz,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CIVIL ACTION REMEDY PROVISIONS FOR CIVIL RIGHTS**
102 **VIOLETIONS OF PERSONS WITH 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 makes 3 primary clarifications about the remedies a person with a disability is entitled to under current Colorado law related to protections against discrimination on the basis of disability for persons with disabilities:

- That a person with a disability is prohibited from being subject to discrimination by, excluded from participating

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.

in, or denied the benefits of services, programs, or activities of a place of public accommodation;

- That the types of monetary damages to which a person with a disability is entitled include damages for emotional distress; and
- That a person with a disability is entitled to both a court order requiring compliance and either monetary damages or a statutory penalty.

The bill also allows a court to award reasonable attorney fees and costs to a prevailing plaintiff for any action commenced pursuant to certain Colorado law related to protections against discrimination on the basis of disability for persons with disabilities.

Lastly, the bill specifies that certain types of relief do not require exhaustion of potential administrative remedies.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-802, **amend**
3 (1)(b), (2)(a) introductory portion, (2)(a)(I), (2)(a)(II), and (2)(c)(III);
4 **repeal** (3); and **add** (3.5) and (6) as follows:

5 **24-34-802. Violations - penalties - immunity.** (1) (b) An
6 individual with a disability, as defined in section 24-34-301 (5.6), must
7 not, by reason of the individual's disability, be excluded from
8 participation in or be denied the benefits of services, programs, or
9 activities provided by a public entity, as defined in section 24-34-301, A
10 PLACE OF PUBLIC ACCOMMODATION, AS DEFINED IN SECTION 24-34-601
11 (1), or a state agency, as defined in section 24-37.5-102, or be subjected
12 to discrimination by any such public entity, PLACE OF PUBLIC
13 ACCOMMODATION, or state agency.

14 (2) (a) An individual with a disability, as defined in section
15 24-34-301 (5.6), who is subject to a violation of subsection (1) of this
16 section or of section 24-34-502, 24-34-502.2, 24-34-601, or 24-34-803
17 based on the individual's disability may bring a civil suit in a court of

1 competent jurisdiction and, except as provided in section 24-85-103, is
2 entitled to ~~any of~~ the following remedies:

3 (I) A court order requiring compliance with the provisions of the
4 applicable section; AND

5 (II) EITHER the recovery of ~~actual monetary~~ damages, INCLUDING
6 DAMAGES FOR EMOTIONAL DISTRESS, SUBJECT TO THE LIMITATIONS IN
7 SECTION 13-21-102.5; or

8 (c) (III) Nothing in this ~~paragraph (c)~~ SUBSECTION (2)(c) may be
9 interpreted to result in a reduction in ~~actual monetary~~ damages awarded
10 pursuant to ~~subparagraph (H) of paragraph (a) of this subsection (2)~~
11 SUBSECTION (2)(a)(II) OF THIS SECTION.

12 (3) ~~An award of attorney fees and costs pursuant to section~~
13 ~~24-34-505.6 (6)(b) applies to claims brought pursuant to this section.~~

14 (3.5) THE COURT SHALL AWARD REASONABLE ATTORNEY FEES AND
15 COSTS TO A PREVAILING PLAINTIFF FOR ANY ACTION COMMENCED
16 PURSUANT TO THIS PART 8, UNLESS THE PREVAILING PLAINTIFF WAIVES
17 THIS RIGHT.

18 (6) THE RELIEF PROVIDED BY THIS SECTION IS AN ALTERNATIVE TO
19 THE RELIEF AUTHORIZED BY SECTION 24-34-306 (9), AND A PERSON WHO
20 SEEKS REDRESS UNDER THIS SECTION IS NOT REQUIRED TO EXHAUST
21 ADMINISTRATIVE REMEDIES. NOTWITHSTANDING ANY PROVISION OF THIS
22 ARTICLE 34 TO THE CONTRARY, AN INDIVIDUAL WITH A DISABILITY MAY
23 BRING A CIVIL SUIT UNDER THIS SECTION WHETHER OR NOT A CHARGE HAS
24 BEEN FILED UNDER SECTION 24-34-306.

25 **SECTION 2.** In Colorado Revised Statutes, 24-34-804, **repeal**
26 (3)(b) as follows:

27 **24-34-804. Service animals - violations - penalties.** (3) (b) ~~In~~

1 ~~any action commenced pursuant to this subsection (3), a court may award~~
2 ~~costs and reasonable attorney fees.~~

3 **SECTION 3. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety.