

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

REREVISED

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

LLS NO. 23-0973.02 Chelsea Princell x4335

SENATE BILL 23-244

SENATE SPONSORSHIP

Bridges and Zenzinger, Kirkmeyer, Buckner, Coleman, Cutter, Exum, Fields, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Moreno, Mullica, Priola, Roberts, Winter F.

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Senate Committees
Appropriations

House Committees
Appropriations

HOUSE
3rd Reading Unamended
April 6, 2023

A BILL FOR AN ACT

101 **CONCERNING UPDATES TO LANGUAGE IN RELEVANT COLORADO**
102 **STATUTES RELATED TO ENSURING TECHNOLOGY ACCESSIBILITY**
103 **TO PERSONS WITH DISABILITIES.**

HOUSE
2nd Reading Unamended
April 3, 2023

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/>.)

SENATE
3rd Reading Unamended
March 30, 2023

Joint Budget Committee. The bill clarifies statutory language to ensure the provision of reasonable accommodations for persons with disabilities.

The bill requires the office of information technology to promulgate rules regarding accessibility standards for an individual with

SENATE
2nd Reading Unamended
March 29, 2023

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.

a disability for information technology systems employed by state agencies.

The bill clarifies language regarding sanctions for failing to comply with accessibility standards.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-85-102, **amend**
3 (1.5) as follows:

4 **24-85-102. Definitions.** As used in this article 85, unless the
5 context otherwise requires:

6 (1.5) "Accessible" or "accessibility" means perceivable, operable,
7 and understandable digital content that REASONABLY enables an
8 individual with a disability to access the same information, engage in the
9 same interactions, and enjoy the same services offered to other
10 individuals, with the same privacy, independence, and ease of use as
11 exists for individuals without a disability.

12 **SECTION 2.** In Colorado Revised Statutes, 24-85-103, **amend**
13 (1) introductory portion, (1.5), (2.5), and (3); and **add** (4) as follows:

14 **24-85-103. Accessibility standards for individuals with a**
15 **disability - appropriation - repeal.** (1) The chief information officer in
16 the office of information technology shall ~~maintain~~ ESTABLISH IN RULE
17 PURSUANT TO SECTION 24-37.5-106 (4), accessibility standards for an
18 individual with a disability for information technology systems employed
19 by state agencies that:

20 (1.5) The chief information officer in the office of information
21 technology shall, consistent with the responsibilities of the office,
22 promote and monitor the ~~access~~ ACCESSIBILITY standards for individuals
23 with a disability in the state's information technology ~~infrastructure~~;

1 ~~including but not limited to architecture~~ INFRASTRUCTURE. Each state
2 agency is directed to comply with the ~~access~~ ACCESSIBILITY standards for
3 individuals with a disability, established by the office of information
4 technology pursuant to subsection (2.5) of this section, in the creation and
5 promulgation of any online content and materials used by such state
6 agency.

7 (2.5) The chief information officer in the office of information
8 technology shall PROMULGATE RULES THAT establish accessibility
9 standards for individuals with a disability ~~using~~ BASED ON AND
10 INCLUDING, BUT NOT LIMITED TO, the most recent web content
11 accessibility guidelines promulgated and published by the world wide
12 web consortium web accessibility initiative or the international
13 accessibility guidelines working group, or any successor group or
14 organization, or any subsequent updates or revisions to such guidelines
15 by any successor group or organization WHEN ESTABLISHING THE
16 ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A DISABILITY.

17 (3) (a) ~~The head of each state agency, as that term is defined in~~
18 ~~section 24-37.5-102, shall establish a written plan, as part of its annual~~
19 ~~information technology plan, and develop any proposed budget requests~~
20 ~~for implementing the accessibility standards for individuals with a~~
21 ~~disability for its agency at facilities accessible by the public. Each such~~
22 ~~state agency shall follow up on the plan as follows:~~

23 (I) ~~On or before July 1, 2022, the state agency shall submit its~~
24 ~~written accessibility plan to the office of information technology. The~~
25 ~~office of information technology shall work collaboratively with the state~~
26 ~~agency to review the sections of the agency's plan related to accessibility~~
27 ~~standards for individuals with a disability and establish implementation~~

1 methodology; and

2 (H) On or before July 1, 2024, each state agency shall fully
3 implement the ~~sections of the agency's plan related to~~ accessibility
4 standards for individuals with a disability. Any state agency not in
5 compliance WITH THE ACCESSIBILITY STANDARDS PURSUANT TO
6 SUBSECTION (2.5) OF THIS SECTION after July 1, 2024, is in violation of
7 section 24-34-802 and is subject to the remedies for noncompliance set
8 forth in section 24-34-802.

9 (4) (a) ANY UNEXPENDED AND UNENCUMBERED MONEY
10 APPROPRIATED TO A DEPARTMENT IN A SPECIFIC LINE ITEM FOR
11 INFORMATION TECHNOLOGY ACCESSIBILITY FOR FISCAL YEAR 2023-24
12 REMAINS AVAILABLE FOR EXPENDITURE BY THE DEPARTMENT THROUGH
13 FISCAL YEAR 2025-26 WITHOUT FURTHER APPROPRIATION FOR THE
14 DEPARTMENT TO COMPLY WITH INFORMATION TECHNOLOGY
15 ACCESSIBILITY STANDARDS. AT THE END OF FISCAL YEAR 2025-26, MONEY
16 THAT IS UNEXPENDED OR UNENCUMBERED REVERTS TO THE FUND FROM
17 WHICH IT WAS APPROPRIATED.

18 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2027.

19 **SECTION 3.** In Colorado Revised Statutes, 24-34-802, **amend**
20 (1)(c) and (2) as follows:

21 **24-34-802. Violations - penalties - immunity.**

22 (1) (c) Discrimination pursuant to this section includes the failure of a
23 public entity or state agency, as those terms are defined in section
24 24-34-301, to ~~develop an accessibility plan using the accessibility~~
25 ~~standards established pursuant to section 24-85-103 (2.5) and~~ fully
26 comply, on or before July 1, 2024, with the accessibility standards for
27 individuals with a disability established by the office of information

1 technology pursuant to ~~section 24-85-103 (2.5)~~ SECTION 24-85-103.
2 Liability for noncompliance as to content lies with the public entity or
3 state agency that manages the content. Liability for noncompliance of the
4 platform hosting the content lies with the public entity or state agency that
5 manages the platform.

6 (2) (a) An individual with a disability, as defined in section
7 ~~24-34-301 (5.6)~~, 24-34-301, who is subject to a violation of subsection
8 (1) of this section or of section 24-34-502, 24-34-502.2, 24-34-601, or
9 24-34-803 based on the individual's disability may bring a civil suit in a
10 court of competent jurisdiction ~~and, except as provided in section~~
11 ~~24-85-103~~, AND is entitled to any of the following remedies:

12 (I) A court order requiring compliance with the provisions of the
13 applicable section;

14 (II) The recovery of actual monetary damages; or

15 (III) A statutory fine of three thousand five hundred dollars,
16 payable to each plaintiff for each violation.

17 (b) FOR A CLAIM BROUGHT PURSUANT TO SECTION 24-85-103 FOR
18 A VIOLATION OF ACCESSIBILITY STANDARDS, THE VIOLATION MUST BE
19 CONSIDERED A SINGLE INCIDENT AND NOT AS SEPARATE VIOLATIONS IF THE
20 VIOLATION OCCURRED ON A SINGLE DIGITAL PRODUCT, INCLUDING A
21 WEBSITE OR AN APPLICATION.

22 ~~(b)~~ (c) For a claim brought pursuant to ~~paragraph (a) of this~~
23 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION for a
24 construction-related accessibility violation, the violation must be
25 considered a single incident and not as separate violations for each day
26 the construction-related accessibility violation exists.

27 ~~(c)~~ (d) (I) A small business defendant is entitled to a fifty percent

1 reduction in a statutory fine assessed pursuant to ~~subparagraph (H) of~~
2 ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a)(III) OF THIS
3 SECTION if it corrects the accessibility violation within thirty days after the
4 filing of the complaint. The fifty percent reduction in a statutory fine does
5 not apply, however, if the defendant knowingly or intentionally made or
6 caused to have made the access barrier that caused the accessibility
7 violation.

8 (II) For purposes of this ~~paragraph (c)~~ SUBSECTION (2)(d), "small
9 business" means an employer with twenty-five or fewer employees and
10 no more than three million five hundred thousand dollars in annual gross
11 income.

12 (III) Nothing in this ~~paragraph (c)~~ SUBSECTION (2)(d) may be
13 interpreted to result in a reduction in actual monetary damages awarded
14 pursuant to ~~subparagraph (H) of paragraph (a) of this subsection (2)~~
15 SUBSECTION (2)(a)(II) OF THIS SECTION.

16 **SECTION 4.** In Colorado Revised Statutes, 24-37.5-106, **amend**
17 (4) as follows:

18 **24-37.5-106. Chief information officer - duties and**
19 **responsibilities.** (4) The chief information officer may promulgate as
20 rules pursuant to article 4 of this title 24, all of the policies, procedures,
21 standards, specifications, guidelines, or criteria that are developed or
22 approved pursuant to section 24-37.5-105 (4) AND TO ESTABLISH
23 ACCESSIBILITY STANDARDS FOR INDIVIDUALS WITH A DISABILITY
24 PURSUANT TO SECTION 24-85-103.

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