

Legislative Analysis



ADOPTING A NEW SYMBOL OF ACCESSIBILITY

Phone: (517) 373-8080
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House Bills 4075 and 4076 as enacted

Public Acts 182 and 183 of 2022

Sponsor: Rep. Beau Matthew LaFave

House Committee: Health Policy

Senate Committee: Health Policy and Human Services

Complete to 7-26-22

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4076 amends the Persons with Disabilities Civil Rights Act to require that the Civil Rights Commission adopt a standardized design that is a variation of the current International Symbol of Access (ISA) and to require that the adopted design be used on the placement or replacement of ISA signs that are required by state or local law or rule. In addition, the commission and the Department of Civil Rights must encourage the removal of the word “handicapped” from signs or other forms of communication of the state and local units of government. House Bill 4075 requires all newly erected signs designating a parking space for persons with disabilities to use that design.

FISCAL IMPACT: The bills would not create direct costs for the state or local units of government. However, they could expose public and private entities to potential costs by establishing an ISA standard other than federal standards established under the Americans with Disabilities Act and the Architectural Barriers Act. (See **Fiscal Information**, below, for a detailed discussion.)

THE APPARENT PROBLEM:

In 1968, the ISA, pictured below on the right, was created through a design competition and adopted by the International Organization for Standardization (ISO). The ISO is an independent, nongovernmental organization that represents over 160 national standard-setting entities and develops voluntary, consensus-based international symbols. In recent years, there has been a movement to update the sign to make it more inclusive and depict the active lifestyle of persons with disabilities propelling themselves through life, rather than passively sitting and being assisted. As of July 2022, two states have adopted the “Dynamic Accessibility Symbol,” pictured below on the left. New York adopted the symbol in 2014,¹ and Connecticut adopted it effective January 1, 2017.² Legislation has been offered to adopt it in Michigan.



Updated Dynamic
Accessibility Symbol



Original
Accessibility Symbol

¹ <https://www.compliancesigns.com/media/resource-bulletins/CRB-NewYork-ISA-DynamicAccessibility.pdf>

² <https://www.compliancesigns.com/media/resource-bulletins/CRB-Connecticut-ISA-DynamicAccessibility.pdf>

THE CONTENT OF THE BILLS:

House Bill 4076 amends the Persons with Disabilities Civil Rights Act to require the Civil Rights Commission³ to adopt a standardized design that is a variation of the ISA and post that design on the Department of Civil Rights website. The design must do all of the following:

- Depict a dynamic character leaning forward in a wheelchair with a sense of movement.
- Provide a contrasting background, with either a light symbol on a blue background or a blue symbol on a light background.
- Be substantially equivalent to the current ISA.
- Be simple and avoid any secondary meaning.

Beginning October 23, 2023 (one year after the bill takes effect), each new placement or replacement of an ISA sign required by a state or local law, ordinance, or administrative rule must use the adopted design.

For a placement or replacement not required by law, ordinance, or rule, the commission and the Department of Civil Rights must encourage use of the design.

In addition, the commission and the Department of Civil Rights must encourage removal of the word “handicapped” from signs or other means of communication of the state and local units of government.

However, “encouraging” the use of the adopted design or the removal of the word “handicapped,” as described above, does not include any form of civil, criminal, administrative, or regulatory action against any individual or entity.

Finally, a government-issued item that contains the ISA and is currently in use by the state, a local unit of government, or another individual or entity can continue to be used until there is a need to replace it.

MCL 37.1102a

House Bill 4075 amends the Uniform Traffic Code to provide that signs designating a parking space for persons with disabilities that are erected or placed after the bill takes effect must use the design adopted in House Bill 4076 (the picture above on the left). The sign must have the same dimensions as existing signs (at least 12 inches by 18 inches). The sign may not include the word “handicapped” but may include a word, such as “reserved,” that provides instruction.

MCL 257.951

The bills take effect October 23, 2022.

³ The commission is established in the state constitution (see <http://legislature.mi.gov/doc.aspx?mcl-Article-V-29>) and is charged with investigating alleged discrimination against any person in a protected category in the enjoyment of the civil rights guaranteed by law and the constitution and securing the equal protection of those civil rights without that discrimination. The state constitution directs the commission to investigate discrimination because of religion, race, color, or national origin. The Elliott-Larsen Civil Rights Act, the Persons with Disabilities Civil Rights Act, and subsequent amendments have added sex, age, marital status, height, weight, arrest record, and physical and mental disabilities to the original four protected categories.

FISCAL INFORMATION:

The bills would create no direct costs for the state or local units of government. The bills would require signs with the ISA to be updated with the modified design only upon new placement or replacement of signs, resulting in no new necessary costs. Additionally, the bills' requirement that the MDCR and the Civil Rights Commission take necessary steps to encourage removal of the word "handicapped" from any signs or means of communication would not require public or private entities to replace signs to comply with the bills.

The bills could expose public and private entities to potential costs by establishing an ISA standard other than federal standards established under the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA). The ADA and ABA mandate the use of the existing ISA as approved by the ISO. Any departure from this standard must either be approved as satisfying the provision of "equivalent facilitation," under the ADA, or receive a waiver under provisions of the ABA.⁴ The modified ISA proposed by the bills has not been determined to meet the requirements of an alternate standard under either act. Public and private entities would potentially be required to comply with both federal standards and those established under the bills, thereby doubling signage costs or exposing entities to the risk, albeit unlikely, of litigation and lawsuit settlement costs. At least two states have adopted the modified ISA, New York in 2014 and Connecticut in 2017, with no known legal challenges since their adoption.

ARGUMENTS:

For:

The bills would update a symbol that was first introduced over 50 years ago. The proposed design would depict persons with disabilities as dynamic and "on the go," proponents said, and accurately show the wheelchair as a symbol of independence rather than of reliance.

Against:

No one testified or voted against the bills in House committee.

Legislative Analyst: Rick Yuille
Fiscal Analyst: Michael Cossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

⁴ <https://www.access-board.gov/files/ada/guides/ISA-guidance.pdf>