

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 10-0051.01 Jane Ritter

HOUSE BILL 10-1152

HOUSE SPONSORSHIP

Frangas,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CIVIL RIGHTS 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://www.leg.state.co.us/billsummaries>.)

The bill generally clarifies sections in statute concerning the civil rights of persons with disabilities.

Section 1 specifies that a person who denies or interferes with the rights of a person with disabilities commits a class 3 misdemeanor.

Sections 2 through 6 update the definition concerning civil rights for persons with disabilities, and generally clarify the definitions for several statutory parts.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Section 7 addresses the penalties and civil liability issues related to unlawful discriminatory acts in places of public accommodation, including increasing the amount of damages available and allowing for the payment of attorney fees and costs.

Sections 10 and 11 concern basic civil rights of persons with disabilities. Particular unlawful discriminatory acts against persons with disabilities are described in section 11, and the penalties for violations of those acts are defined, including the ability to recover reasonable attorney fees and costs.

The rights of persons with assistance animals and of trainers of assistance animals are clarified and updated in **section 12**. **Section 13** details what constitutes a violation of those rights and the remedies available to a person who is subjected to a discriminatory act.

Section 14 adds a new section to statute concerning discrimination by public entities and state agencies. Prohibitions against discrimination by public entities are outlined, including failing to make buildings accessible and otherwise making reasonable accommodations for persons with disabilities so those individuals may have an equal opportunity to enjoy and use the public entity's programs, services, and activities. Remedies for violations are specified, including damages and attorney fees and costs. Requirements for compliance with applicable discrimination policies by state agencies are described and remedies for relief are set forth.

Section 15 sets forth remedies for relief for persons with disabilities who are retaliated against for making a complaint concerning the Colorado medical assistance act.

The bill is applicable to offenses committed on or after July 1, 2010.

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

2 **SECTION 1.** 18-13-107 (3) and (4), Colorado Revised Statutes,
3 are amended, and the said 18-13-107 is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

5 **18-13-107. Interference with persons with disabilities.** (3) No
6 A person shall NOT beat, harass, intimidate, entice, distract, or otherwise
7 interfere with ~~any dog~~ AN ANIMAL on a blaze orange leash or
8 accompanying a person carrying a white or white tipped with red or
9 metallic colored cane or walking stick or any assistance ~~dog~~ ANIMAL, as

1 defined in section 24-34-803 (7), C.R.S., accompanying a person when
2 that ~~dog~~ ANIMAL is being controlled by or wearing a harness normally
3 used for ~~dogs~~ ANIMALS accompanying or leading persons with
4 disabilities.

5 (4) ~~Violation of the provisions of subsection (1) of this section is~~
6 ~~a class 1 petty offense. Violation of the provisions of subsection (3) of~~
7 ~~this section is a class 3 misdemeanor~~ A PERSON SHALL NOT DENY A
8 PERSON WITH A DISABILITY FULL AND EQUAL ACCESS TO ANY PLACE OF
9 PUBLIC ACCOMMODATION AS DEFINED IN SECTION 24-34-301, C.R.S., OR
10 OTHERWISE VIOLATE THE PROVISIONS OF PARTS 5 TO 8 AND PART 10 OF
11 ARTICLE 34 OF TITLE 24, C.R.S., WITH RESPECT TO A PERSON OR GROUP
12 BECAUSE OF DISABILITY.

13 (5) A PERSON SHALL NOT DENY A PERSON WITH A DISABILITY WHO
14 IS USING AN ASSISTANCE ANIMAL OR A PERSON WHO IS TRAINING AN
15 ASSISTANCE ANIMAL, AS DEFINED IN SECTION 24-34-803 (7), C.R.S., THE
16 ABILITY TO ACCESS A GOVERNMENT BUILDING, A PLACE OF PUBLIC
17 ACCOMMODATION, HOUSING, OR PUBLIC TRANSPORTATION.

18 (6) VIOLATION OF THE PROVISIONS OF SUBSECTION (1) OF THIS
19 SECTION IS A CLASS 1 PETTY OFFENSE. VIOLATION OF ANY OF THE
20 PROVISIONS OF SUBSECTIONS (3) TO (5) OF THIS SECTION IS A CLASS 3
21 MISDEMEANOR.

22 **SECTION 2.** The introductory portion to 24-34-301 and
23 24-34-301 (2.5), (5), and (6), Colorado Revised Statutes, are amended,
24 and the said 24-34-301 is further amended BY THE ADDITION OF THE
25 FOLLOWING NEW SUBSECTIONS, to read:

26 **24-34-301. Definitions.** As used in THIS PART 3 AND parts 3 to 7
27 4 TO 8 AND PART 10 of this article, unless the context otherwise requires:

1 (1.3) "AGENCY" OR "STATE AGENCY" SHALL HAVE THE SAME
2 MEANING AS SET FORTH IN SECTION 24-4-102 (3).

3 (2.5) (a) "Disability" means a physical impairment which
4 substantially limits one or more of a person's major life activities and
5 includes a record of such an impairment and being regarded as having
6 such an impairment SHALL HAVE 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.

9 (b) (I) On and after July 1, 1990, as to part 5 of this article,
10 "disability" shall also include such a person who has a mental impairment,
11 but such term does not include any person currently involved in the illegal
12 use of or addiction to a controlled substance.

13 (II) On and after July 1, 1992, as to parts 4, 6, and 7 of this article,
14 "disability" shall also include such a person who has a mental impairment.

15 (III) The term "mental impairment" as used in subparagraphs (I)
16 and (II) of this paragraph (b) shall mean any mental or psychological
17 disorder such as developmental disability, organic brain syndrome, mental
18 illness, or specific learning disabilities.

19 (5) "Person" means one or more individuals, limited liability
20 companies, partnerships, associations, corporations, legal representatives,
21 trustees, OR receivers. or the state of Colorado, and all political
22 subdivisions and agencies thereof.

23 (5.3) "PLACE OF PUBLIC ACCOMMODATION" SHALL HAVE THE SAME
24 MEANING AS SET FORTH IN TITLE III OF THE FEDERAL "AMERICANS WITH
25 DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12181 (7), AND MEANS ANY OF
26 THE FOLLOWING PRIVATE ENTITIES IF THE OPERATIONS OF THE ENTITY
27 AFFECT COMMERCE:

1 (a) AN INN, HOTEL, MOTEL, OR OTHER PLACE OF LODGING, EXCEPT
2 FOR AN ESTABLISHMENT LOCATED WITHIN A BUILDING THAT CONTAINS
3 NOT MORE THAN FIVE ROOMS FOR RENT OR HIRE AND THAT IS ACTUALLY
4 OCCUPIED BY THE PROPRIETOR OF THE ESTABLISHMENT AS HIS OR HER
5 RESIDENCE;

6 (b) A RESTAURANT, BAR, OR OTHER ESTABLISHMENT SERVING
7 FOOD OR DRINK;

8 (c) A MOTION PICTURE HOUSE, THEATER, CONCERT HALL,
9 STADIUM, OR OTHER PLACE OF EXHIBITION OR ENTERTAINMENT;

10 (d) AN AUDITORIUM, CONVENTION CENTER, LECTURE HALL, OR
11 OTHER PLACE OF PUBLIC GATHERING;

12 (e) A BAKERY, GROCERY STORE, CLOTHING STORE, HARDWARE
13 STORE, SHOPPING CENTER, OR OTHER SALES OR RETAIL ESTABLISHMENT;

14 (f) A LAUNDROMAT, DRY CLEANER, BANK, BARBER SHOP, BEAUTY
15 SHOP, TRAVEL SERVICE, SHOE REPAIR SERVICE, FUNERAL PARLOR, GAS
16 STATION, OFFICE OF AN ACCOUNTANT OR LAWYER, PHARMACY, INSURANCE
17 OFFICE, PROFESSIONAL OFFICE OF A HEALTH CARE PROVIDER, HOSPITAL, OR
18 OTHER SERVICE ESTABLISHMENT;

19 (g) A TERMINAL, DEPOT, OR OTHER STATION USED FOR SPECIFIED
20 PUBLIC TRANSPORTATION;

21 (h) A MUSEUM, LIBRARY, GALLERY, OR OTHER PLACE OF PUBLIC
22 DISPLAY OR COLLECTION;

23 (i) A PARK, ZOO, AMUSEMENT PARK, OR OTHER PLACE OF
24 RECREATION;

25 (j) A NURSERY, ELEMENTARY, SECONDARY, UNDERGRADUATE, OR
26 POSTGRADUATE PRIVATE SCHOOL, OR OTHER PLACE OF EDUCATION;

27 (k) A DAY CARE CENTER, SENIOR CITIZEN CENTER, HOMELESS

1 SHELTER, FOOD BANK, ADOPTION AGENCY, OR OTHER SOCIAL SERVICE
2 CENTER ESTABLISHMENT; OR

3 (l) A GYMNASIUM, HEALTH SPA, BOWLING ALLEY, GOLF COURSE,
4 OR OTHER PLACE OF EXERCISE OR RECREATION.

5 (5.5) "PUBLIC ENTITY" MEANS:

6 (a) THE STATE OF COLORADO, A POLITICAL SUBDIVISION OF THE
7 STATE, OR A LOCAL GOVERNMENT;

8 (b) A DEPARTMENT, AGENCY, SPECIAL DISTRICT, SPECIAL PURPOSE
9 AUTHORITY, OR OTHER INSTRUMENTALITY OF THE STATE OR A LOCAL
10 GOVERNMENT.

11 (5.7) "QUALIFIED PERSON WITH A DISABILITY" MEANS A PERSON
12 WITH A DISABILITY WHO MEETS THE ESSENTIAL ELIGIBILITY
13 REQUIREMENTS OF A PUBLIC ENTITY TO RECEIVE ITS SERVICES OR
14 PARTICIPATE IN ITS PROGRAMS OR ACTIVITIES, WITH OR WITHOUT
15 REASONABLE MODIFICATIONS TO RULES, POLICIES, OR PRACTICES;
16 REMOVAL OF ARCHITECTURAL, COMMUNICATION, OR TRANSPORTATION
17 BARRIERS; OR PROVISION OF AUXILIARY AIDS AND SERVICES.

18 (6) "Respondent" means any person, agency, organization, or
19 other entity against whom a charge is filed pursuant to any of the
20 provisions of parts 3 to 7 8 AND PART 10 of this article.

21 **SECTION 3.** Part 3 of article 34 of title 24, Colorado Revised
22 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
23 read:

24 **24-34-309. Cash fund.** THERE IS HEREBY CREATED IN THE STATE
25 TREASURY THE COLORADO CIVIL RIGHTS COMMISSION CASH FUND,
26 REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND SHALL CONSIST
27 OF SUCH MONEYS AS MAY BE APPROPRIATED TO THE FUND BY THE

1 GENERAL ASSEMBLY AND SUCH MONEYS AS MAY BE CREDITED TO THE
2 FUND PURSUANT TO SECTIONS 24-34-602, 24-34-705, 24-34-802,
3 24-34-804, AND 24-34-1003 AND SECTION 25.5-4-107, C.R.S. MONEYS IN
4 THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION FOR THE
5 ADMINISTRATION OF PARTS 3 TO 8 AND PART 10 OF THIS ARTICLE. ALL
6 INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN
7 THE FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY FISCAL
8 YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND
9 SHALL REMAIN IN THE FUND AND SHALL NOT REVERT OR BE CREDITED OR
10 TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

11 **SECTION 4.** The introductory portion to 24-34-401, Colorado
12 Revised Statutes, is amended to read:

13 **24-34-401. Definitions.** THE DEFINITIONS PROVIDED FOR TERMS
14 IN SECTION 24-34-301 SHALL APPLY TO SAID TERMS AS USED IN THIS PART
15 4. IN ADDITION, as used in this part 4, unless the context otherwise
16 requires:

17 **SECTION 5.** The introductory portion to 24-34-501, Colorado
18 Revised Statutes, is amended to read:

19 **24-34-501. Definitions.** THE DEFINITIONS PROVIDED FOR TERMS
20 IN SECTION 24-34-301 SHALL APPLY TO SAID TERMS AS USED IN THIS PART
21 5. IN ADDITION, as used in this part 5, unless the context otherwise
22 requires:

23 **SECTION 6.** 24-34-502.2, Colorado Revised Statutes, is
24 amended BY THE ADDITION OF A NEW SUBSECTION to read:

25 **24-34-502.2. Unfair or discriminatory housing practices**
26 **against persons with disabilities prohibited - penalty.** (3.5) A PERSON
27 WHO DENIES THE RIGHTS OF A PERSON WITH A DISABILITY PROTECTED BY

1 THIS PART 5 COMMITS A CLASS 3 MISDEMEANOR AND SHALL BE SENTENCED
2 IN ACCORDANCE WITH SECTION 18-1.3-501 (1) (a), C.R.S.

3 **SECTION 7. Repeal.** 24-34-508 (1) (a), Colorado Revised
4 Statutes, is repealed as follows:

5 **24-34-508. Relief authorized.** (1) In addition to the relief
6 authorized by section 24-34-306 (9), the commission may order a
7 respondent who has been found to have engaged in an unfair housing
8 practice:

9 (a) ~~To rehire, reinstate, and provide back pay to any employee or~~
10 ~~agent discriminated against because of his obedience to this part 5;~~

11 **SECTION 8.** 24-34-601 (1), Colorado Revised Statutes, is
12 amended to read:

13 **24-34-601. Discrimination in places of public accommodation.**

14 (1) ~~As used in this part 6 "place of public accommodation" means any~~
15 ~~place of business engaged in any sales to the public and any place~~
16 ~~offering services, facilities, privileges, advantages, or accommodations~~
17 ~~to the public, including but not limited to any business offering wholesale~~
18 ~~or retail sales to the public; any place to eat, drink, sleep, or rest, or any~~
19 ~~combination thereof; any sporting or recreational area and facility; any~~
20 ~~public transportation facility; a barber shop, bathhouse, swimming pool,~~
21 ~~bath, steam or massage parlor, gymnasium, or other establishment~~
22 ~~conducted to serve the health, appearance, or physical condition of a~~
23 ~~person; a campsite or trailer camp; a dispensary, clinic, hospital,~~
24 ~~convalescent home, or other institution for the sick, ailing, aged, or~~
25 ~~infirm; a mortuary, undertaking parlor, or cemetery; an educational~~
26 ~~institution; or any public building, park, arena, theater, hall, auditorium,~~
27 ~~museum, library, exhibit, or public facility of any kind whether indoor or~~

1 ~~outdoor. "Place of public accommodation" shall not include a church,~~
2 ~~synagogue, mosque, or other place that is principally used for religious~~
3 ~~purposes~~ THE DEFINITIONS PROVIDED FOR TERMS IN SECTION 24-34-301
4 SHALL APPLY TO SAID TERMS AS USED IN THIS PART 6.

5 **SECTION 9.** 24-34-602 (1) and (2), Colorado Revised Statutes,
6 are amended, and the said 24-34-602 is further amended BY THE
7 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

8 **24-34-602. Penalties and civil liability.** (1) Any person who
9 violates section 24-34-601 ~~shall be fined not less than fifty dollars nor~~
10 ~~more than five hundred dollars~~ SHALL PAY ACTUAL DAMAGES OR
11 STATUTORY DAMAGES OF FOUR THOUSAND DOLLARS, WHICHEVER IS
12 GREATER, TO THE PERSON AGGRIEVED for each violation. A person
13 aggrieved by the violation of section 24-34-601 shall bring an action in
14 any court of competent jurisdiction in the county where the violation
15 occurred. Upon finding a violation, the court shall order the defendant to
16 pay the ~~fine~~ DAMAGES to the aggrieved party.

17 (2) ~~For each violation of section 24-34-601, the person is guilty~~
18 ~~of a misdemeanor and, upon conviction thereof, shall be punished by a~~
19 ~~fine of not less than ten dollars nor more than three hundred dollars, or by~~
20 ~~imprisonment in the county jail for not more than one year, or by both~~
21 ~~such fine and imprisonment~~ A PERSON WHO DENIES THE RIGHTS OF A
22 PERSON WITH A DISABILITY PROTECTED BY THIS PART 6 COMMITS A CLASS
23 3 MISDEMEANOR AND SHALL BE SENTENCED IN ACCORDANCE WITH
24 SECTION 18-1.3-501 (1) (a), C.R.S.

25 (4) A PERSON WHO IS THE PREVAILING PARTY IN A LAWSUIT UNDER
26 THIS SECTION IS ENTITLED TO RECOVER REASONABLE ATTORNEY FEES AND
27 COSTS PURSUANT TO THE "PREVAILING PARTY" STANDARDS UNDER THE

1 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
2 12101 ET SEQ.

3 (5) IN ADDITION TO THE RELIEF AUTHORIZED BY THIS SECTION AND
4 SECTION 24-34-306 (9), THE COMMISSION OR A COURT MAY ORDER A
5 RESPONDENT WHO HAS BEEN FOUND GUILTY OF VIOLATING THE
6 PROVISIONS OF SECTION 24-34-601 TO PAY TO THE COLORADO CIVIL
7 RIGHTS COMMISSION CASH FUND, CREATED IN SECTION 24-34-309,
8 ACCORDING TO THE FOLLOWING SCHEDULE:

- 9 (a) AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS; OR
10 (b) AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND
11 DOLLARS IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE COMMITTED
12 ANY OTHER VIOLATION OF SECTION 24-34-601 DURING THE FIVE-YEAR
13 PERIOD PRECEDING THE DATE OF THE FILING OF THE CHARGE.

14 **SECTION 10. Repeal.** 24-34-605, Colorado Revised Statutes,
15 is repealed as follows:

16 **24-34-605. Relief authorized.** ~~In addition to the relief authorized~~
17 ~~by section 24-34-306 (9), the commission may order a respondent who~~
18 ~~has been found to have engaged in a discriminatory practice as defined in~~
19 ~~this part 6 to rehire, reinstate, and provide back pay to any employee or~~
20 ~~agent discriminated against because of his obedience to this part 6; to~~
21 ~~make reports as to the manner of compliance with the order of the~~
22 ~~commission; and to take affirmative action, including the posting of~~
23 ~~notices setting forth the substantive rights of the public under this part 6.~~

24 **SECTION 11.** 24-34-703, Colorado Revised Statutes, is amended
25 to read:

26 **24-34-703. Definitions.** ~~A place of public accommodation, resort,~~
27 ~~or amusement, within the meaning of this part 7, shall be deemed to~~

1 ~~include any inn, tavern, or hotel, whether conducted for the entertainment,~~
2 ~~housing, or lodging of transient guests or for the benefit, use, or~~
3 ~~accommodation of those seeking health, recreation, or rest, and any~~
4 ~~restaurant, eating house, public conveyance on land or water, bathhouse,~~
5 ~~barber shop, theater, and music hall~~ THE DEFINITIONS PROVIDED FOR
6 TERMS IN SECTION 24-34-301 SHALL APPLY TO SAID TERMS AS USED IN
7 THIS PART 7.

8 **SECTION 12.** 24-34-705, Colorado Revised Statutes, is amended
9 to read:

10 **24-34-705. Penalties.** (1) ~~Any~~ A person who violates any of the
11 provisions of this part 7 or who aids in, incites, causes, or brings about in
12 whole or in part the violation of any of such provisions, for each and
13 every violation thereof, is guilty of a CLASS 3 misdemeanor and, upon
14 conviction thereof, shall be ~~punished by a fine of not less than one~~
15 ~~hundred dollars nor more than five hundred dollars, or by imprisonment~~
16 ~~in the county jail for not less than thirty days nor more than ninety days,~~
17 ~~or by both such fine and imprisonment~~ SENTENCED IN ACCORDANCE WITH
18 SECTION 18-1.3-501 (1) (a), C.R.S. The penalty provided by this section
19 shall be an alternative to the relief authorized by section 24-34-306 (9),
20 and a person who seeks redress under this section shall not be permitted
21 to seek relief from the commission.

22 (2) A PERSON, FIRM, OR CORPORATION OR THE AGENT OF A PERSON,
23 FIRM, OR CORPORATION THAT VIOLATES THE PROVISIONS OF THIS PART 7
24 SHALL PAY ACTUAL DAMAGES OR STATUTORY DAMAGES OF FOUR
25 THOUSAND DOLLARS, WHICHEVER IS GREATER, TO THE PERSON
26 AGGRIEVED. THE COURT SHALL ORDER INJUNCTIVE RELIEF AND ANY
27 OTHER RELIEF THE COURT DEEMS APPROPRIATE AND NECESSARY TO

1 PREVENT FUTURE VIOLATIONS.

2 (3) A PERSON WHO IS THE PREVAILING PARTY IN A LAWSUIT UNDER
3 THIS SECTION IS ENTITLED TO RECOVER REASONABLE ATTORNEY FEES AND
4 COSTS PURSUANT TO THE "PREVAILING PARTY" STANDARDS UNDER THE
5 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
6 12101 ET SEQ.

7 (4) IN ADDITION TO THE RELIEF AUTHORIZED BY THIS SECTION AND
8 SECTION 24-34-306 (9), THE COMMISSION OR A COURT MAY ORDER A
9 RESPONDENT WHO HAS BEEN FOUND GUILTY OF VIOLATING THE
10 PROVISIONS OF THIS PART 7 TO PAY TO THE COLORADO CIVIL RIGHTS
11 COMMISSION CASH FUND, CREATED IN SECTION 24-34-309, ACCORDING TO
12 THE FOLLOWING SCHEDULE:

13 (a) AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS; OR

14 (b) AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND
15 DOLLARS IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE COMMITTED
16 ANY OTHER VIOLATION OF THIS PART 7 DURING THE FIVE-YEAR PERIOD
17 PRECEDING THE DATE OF THE FILING OF THE CHARGE.

18 **SECTION 13. Repeal.** 24-34-707, Colorado Revised Statutes,
19 is repealed as follows:

20 **24-34-707. Relief authorized.** ~~In addition to the relief authorized~~
21 ~~by section 24-34-306 (9), the commission may order a respondent who~~
22 ~~has been found to have violated any of the provisions of this part 7 to~~
23 ~~rehire, reinstate, and provide back pay to any employee or agent~~
24 ~~discriminated against because of his obedience to this part 7; to make~~
25 ~~reports as to the manner of compliance with the order of the commission;~~
26 ~~and to take affirmative action, including the posting of notices setting~~
27 ~~forth the substantive rights of the public under this part 7.~~

1 **SECTION 14.** 24-34-801 (1), Colorado Revised Statutes, is
2 amended to read:

3 **24-34-801. Legislative declaration.** (1) The general assembly
4 hereby declares that it is the policy of the state:

5 (a) To encourage and enable ~~the blind, the visually impaired, the~~
6 ~~deaf, the partially deaf, and the otherwise physically disabled~~ PERSONS
7 WITH DISABILITIES to participate fully in the social and economic life of
8 the state and to engage in remunerative employment;

9 (b) That ~~the blind, the visually impaired, the deaf, the partially~~
10 ~~deaf, and the otherwise physically disabled~~ PERSONS WITH DISABILITIES
11 shall be employed in the state service, the service of the political
12 subdivisions of the state, the public schools, and in all other employment
13 supported in whole or in part by public funds on the same terms and
14 conditions as the able-bodied unless it is shown that the particular
15 disability prevents the performance of the work involved;

16 (c) That ~~the blind, the visually impaired, the deaf, the partially~~
17 ~~deaf, and the otherwise physically disabled~~ PERSONS WITH DISABILITIES
18 have the same rights as the able-bodied to the full and free use of the
19 streets, highways, sidewalks, walkways, public buildings, public facilities,
20 and other public places;

21 (d) That ~~the blind, the visually impaired, the deaf, the partially~~
22 ~~deaf, and the otherwise physically disabled~~ PERSONS WITH DISABILITIES
23 are entitled to full and equal housing and full and equal accommodations,
24 advantages, facilities, and privileges of all common carriers, airplanes,
25 motor vehicles, railroad trains, motor buses, streetcars, boats, or any other
26 public conveyances or modes of transportation, hotels, motels, lodging
27 places, places of public accommodation, amusement, or resort, and other

1 places to which the general public is invited, including restaurants and
2 grocery stores; and that ~~the blind, the visually impaired, the deaf, the~~
3 ~~partially deaf, or the otherwise physically disabled person assume~~ THE
4 PERSON WITH A DISABILITY ASSUMES the liability for any injury that he or
5 she might sustain which is attributable solely to causes originating with
6 the nature of the particular disability involved and otherwise subject only
7 to the conditions and limitations established by law and applicable alike
8 to all persons.

9 (e) and (f) Repealed.

10 **SECTION 15.** 24-34-802, Colorado Revised Statutes, is amended
11 to read:

12 **24-34-802. Violations - penalties.** (1) ~~Any~~ A person, firm, or
13 corporation or the agent of ~~any~~ A person, firm, or corporation that denies
14 or interferes with the rights and the admittance to or enjoyment of the
15 public facilities enumerated in ~~section 24-34-801 (1) (b) to (1) (d) is~~
16 ~~guilty of a misdemeanor and, upon conviction thereof, shall be punished~~
17 ~~by a fine of not more than one hundred dollars, or by imprisonment in the~~
18 ~~county jail for not more than sixty days, or by both such fine and~~
19 ~~imprisonment~~ THIS PART 8 COMMITS A CLASS 3 MISDEMEANOR AND SHALL
20 BE SENTENCED IN ACCORDANCE WITH SECTION 18-1.3-501 (1) (a), C.R.S.

21 (2) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR A
22 PERSON, FIRM, OR CORPORATION OR THE AGENT OF A PERSON, FIRM, OR
23 CORPORATION TO DISCRIMINATE AGAINST AN INDIVIDUAL OR A GROUP
24 BECAUSE THE INDIVIDUAL OR GROUP HAS:

25 (a) OPPOSED ANY DISCRIMINATORY PRACTICE SET FORTH IN THIS
26 PART 8; OR

27 (b) MADE A COMPLAINT, TESTIFIED, ASSISTED, OR PARTICIPATED

1 IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING
2 CONDUCTED PURSUANT TO THIS PART 8.

3 (3) A PERSON, FIRM, OR CORPORATION OR THE AGENT OF A PERSON,
4 FIRM, OR CORPORATION THAT VIOLATES THE PROVISIONS OF THIS SECTION
5 OR ANY OTHER PROVISION OF THIS PART 8 SHALL PAY ACTUAL DAMAGES
6 OR STATUTORY DAMAGES OF FOUR THOUSAND DOLLARS, WHICHEVER IS
7 GREATER, TO THE PERSON AGGRIEVED. THE COURT SHALL ORDER
8 INJUNCTIVE RELIEF AND ANY OTHER RELIEF THE COURT DEEMS
9 APPROPRIATE AND NECESSARY TO PREVENT FUTURE VIOLATIONS.

10 (4) A PERSON WHO IS THE PREVAILING PARTY IN A LAWSUIT UNDER
11 THIS SECTION IS ENTITLED TO RECOVER REASONABLE ATTORNEY FEES AND
12 COSTS PURSUANT TO THE "PREVAILING PARTY" STANDARDS UNDER THE
13 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
14 12101 ET SEQ.

15 (5) IN ADDITION TO THE RELIEF AUTHORIZED BY THIS SECTION AND
16 SECTION 24-34-306 (9), THE COLORADO CIVIL RIGHTS COMMISSION OR A
17 COURT MAY ORDER A RESPONDENT WHO HAS BEEN FOUND GUILTY OF
18 VIOLATING THE PROVISIONS OF SECTION 24-34-801 TO PAY TO THE
19 COLORADO CIVIL RIGHTS COMMISSION CASH FUND, CREATED IN SECTION
20 24-34-309, ACCORDING TO THE FOLLOWING SCHEDULE:

- 21 (a) AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS; OR
22 (b) AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND
23 DOLLARS IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE COMMITTED
24 ANY OTHER VIOLATION OF SECTION 24-34-801 DURING THE FIVE-YEAR
25 PERIOD PRECEDING THE DATE OF THE FILING OF THE CHARGE.

26 **SECTION 16.** 24-34-803, Colorado Revised Statutes, is amended
27 to read:

1 **24-34-803. Rights of persons with assistance animals -**

2 **definitions.** (1) A person with a disability ~~including but not limited to~~
3 ~~a blind, visually impaired, deaf, hard of hearing, or otherwise physically~~
4 ~~disabled person,~~ has the right to be accompanied by an assistance ~~dog~~
5 ANIMAL specially trained for that person without being required to pay an
6 extra charge for the assistance ~~dog in or on the following places and~~
7 ~~subject to the conditions and limitations established by law and applicable~~
8 ~~alike to all persons:~~ ANIMAL IN OR ON THE PROPERTY OF ANY PLACE OF
9 EMPLOYMENT, HOUSING, PUBLIC ACCOMMODATION, PUBLIC ENTITY, OR
10 PUBLIC TRANSPORTATION SERVICES.

11 ~~(a) Public streets, highways, walkways, public buildings, public~~
12 ~~facilities and services, and other public places;~~

13 ~~(b) Any place of public accommodation or on public~~
14 ~~transportation services; and~~

15 ~~(c) Any housing accommodation offered for rent, lease, or other~~
16 ~~compensation in the state.~~

17 (2) A trainer of an assistance ~~dog~~ ANIMAL has the right to be
18 accompanied by ~~an~~ THE assistance ~~dog~~ ANIMAL that the trainer is in the
19 process of training without being required to pay an extra charge for the
20 assistance ~~dog in or on the following places:~~ ANIMAL IN OR ON THE
21 PROPERTY OF ANY PLACE OF EMPLOYMENT, HOUSING, PUBLIC
22 ACCOMMODATION, PUBLIC ENTITY, OR PUBLIC TRANSPORTATION SERVICES.

23 ~~(a) Public streets, highways, walkways, public buildings, public~~
24 ~~facilities and services, and other public places; and~~

25 ~~(b) Any place of public accommodation or on public~~
26 ~~transportation services.~~

27 (3) (a) An employer shall ~~not refuse to permit~~ an employee with

1 a disability who is accompanied by an assistance ~~dog~~ ANIMAL to keep the
2 employee's assistance ~~dog~~ ANIMAL with ~~the employee~~ HIM OR HER at all
3 times in the place of employment. An employer shall not fail or refuse to
4 hire or discharge any person with a disability, or otherwise discriminate
5 against any person with a disability, with respect to compensation, terms,
6 conditions, or privileges of employment because ~~that person with a~~
7 ~~disability~~ HE OR SHE is accompanied by an assistance ~~dog~~ ANIMAL
8 specially trained ~~for that person~~ TO ASSIST THE PERSON WITH HIS OR HER
9 DISABILITY.

10 (b) An employer shall make reasonable accommodation to make
11 the workplace accessible for an otherwise qualified person with a
12 disability who is an applicant or employee and who is accompanied by an
13 assistance ~~dog~~ ANIMAL specially trained for that person unless the
14 employer can show that the accommodation would impose an undue
15 hardship on the employer's business. For purposes of this paragraph (b),
16 "undue hardship" means an action requiring significant difficulty or
17 expense.

18 (4) (a) The owner or ~~the~~ person having control or custody of an
19 assistance ~~dog~~ ANIMAL or an assistance ~~dog~~ ANIMAL in training is liable
20 for any damage to persons, premises, or facilities, including places of
21 housing accommodation and places of employment, caused by that
22 person's assistance ~~dog~~ ANIMAL or assistance ~~dog~~ ANIMAL in training.
23 The OWNER OR person having control or custody of an assistance ~~dog~~
24 ANIMAL or an assistance ~~dog~~ ANIMAL in training shall be subject to the
25 provisions of section 18-9-204.5, C.R.S.

26 (b) A PERSON WHO CAUSES HARM TO AN ASSISTANCE ANIMAL OR
27 AN ASSISTANCE ANIMAL IN TRAINING SHALL BE LIABLE TO THE OWNER OF

1 THE ASSISTANCE ANIMAL OR ASSISTANCE ANIMAL IN TRAINING FOR TREBLE
2 THE AMOUNT OF ACTUAL DAMAGES.

3 (c) THE OWNER OF AN ANIMAL THAT CAUSES HARM TO AN
4 ASSISTANCE ANIMAL OR AN ASSISTANCE ANIMAL IN TRAINING SHALL BE
5 LIABLE TO THE OWNER OF THE ASSISTANCE ANIMAL OR ASSISTANCE
6 ANIMAL IN TRAINING FOR TREBLE THE AMOUNT OF ACTUAL DAMAGES.

7 (5) A person with a disability is exempt from any state or local
8 licensing fees or charges that might otherwise apply in connection with
9 owning an assistance ~~dog~~ ANIMAL.

10 (6) The mere presence of an assistance ~~dog~~ ANIMAL in a place of
11 public accommodation shall not be grounds for any violation of a sanitary
12 standard, rule, or regulation promulgated pursuant to section 25-4-1604,
13 C.R.S.

14 (7) THE DEFINITIONS PROVIDED FOR TERMS IN SECTION 24-34-301
15 SHALL APPLY TO SAID TERMS AS USED IN THIS SUBSECTION (7). IN
16 ADDITION, as used in this section, unless the context otherwise requires:

17 (a) "Assistance ~~dog~~ ANIMAL" means ~~a dog~~ AN ANIMAL that has
18 been or is being trained as a ~~guide dog, hearing dog, or service dog~~. Such
19 terms are further defined as follows: TO PERFORM ONE OR MORE SPECIFIC
20 FUNCTIONS FOR A PERSON WITH A DISABILITY.

21 (I) "Guide dog" means ~~a dog that has been or is being specially~~
22 ~~trained to aid a particular blind or visually impaired person.~~

23 (II) "Hearing dog" means ~~a dog that has been or is being specially~~
24 ~~trained to aid a particular deaf or hearing impaired person.~~

25 (III) "Service dog" means ~~a dog that has been or is being specially~~
26 ~~trained to aid a particular physically disabled person with a physical~~
27 ~~disability other than sight or hearing impairment.~~

1 (b) "Disability" has the same meaning as set forth in the federal
2 "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12102 (2), as
3 amended.

4 (c) "Employer" has the same meaning as set forth in the federal
5 "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12111 (5), as
6 amended, OR IN SECTION 24-34-401 (3), WHICHEVER DEFINITION PROVIDES
7 GREATER PROTECTION FOR THE PERSON WITH THE DISABILITY.

8 (d) "Housing accommodations" means any real property or portion
9 thereof that is used or occupied, or intended, arranged, or designed to be
10 used or occupied, as the home, residence, or sleeping place of one or
11 more persons but does not include any single family residence, the
12 occupants of which rent, lease, or furnish for compensation not more than
13 one room in that residence.

14 (e) "Places of public accommodation" means the following
15 categories of private entities:

16 (I) Inns, hotels, motels, or other places of lodging, except
17 establishments located within buildings actually occupied by the
18 proprietor as the proprietor's residence containing five or fewer rooms for
19 rent or hire;

20 (II) Restaurants, bars, cafeterias, lunchrooms, lunch counters, soda
21 fountains, casinos, or other establishments serving food or drink,
22 including any such facility located on the premises of any retail
23 establishment;

24 (III) Gasoline stations or garages;

25 (IV) Motion picture theaters, theaters, billiard or pool halls,
26 concert halls, stadiums, sports arenas, amusement or recreation parks, or
27 other places of exhibition or entertainment;

1 ~~(V) Auditoriums, convention centers, lecture halls, or other places~~
2 ~~of public gathering;~~

3 ~~(VI) Bakeries, grocery stores, clothing stores, hardware stores,~~
4 ~~shopping centers, or other sales or retail establishments;~~

5 ~~(VII) Laundromats, dry cleaners, banks, barber shops, beauty~~
6 ~~shops, travel services, shoe repair services, funeral parlors, offices of~~
7 ~~accountants or attorneys-at-law, pharmacies, insurance offices,~~
8 ~~professional offices of health care providers, hospitals, or other service~~
9 ~~establishments;~~

10 ~~(VIII) Terminals, depots, or other stations used for specified~~
11 ~~purposes;~~

12 ~~(IX) Museums, libraries, galleries, or other places of public~~
13 ~~display or collection;~~

14 ~~(X) Parks, zoos, or other places of recreation;~~

15 ~~(XI) Nursery, elementary, secondary, undergraduate, or graduate~~
16 ~~schools or other places of education;~~

17 ~~(XII) Day care centers, senior citizen centers, homeless shelters,~~
18 ~~food banks, adoption agencies, or other social service center~~
19 ~~establishments;~~

20 ~~(XIII) Gymnasiums, health spas, bowling alleys, golf courses, or~~
21 ~~other places of exercise or recreation;~~

22 ~~(XIV) Any other establishment or place to which the public is~~
23 ~~invited; or~~

24 ~~(XV) Any establishment physically containing or contained within~~
25 ~~any of the establishments described in this paragraph (e) that holds itself~~
26 ~~out as serving patrons of the described establishment.~~

27 (f) "Public transportation services" means common carriers of

1 passengers or any other means of public conveyance or modes of
2 transportation, including but not limited to airplanes, motor vehicles,
3 railroad trains, motor buses, streetcars, boats, or taxis.

4 (g) "Trainer of an assistance ~~dog~~ ANIMAL" means a person who is
5 qualified to train ~~dogs~~ AN ANIMAL to serve as AN assistance ~~dogs~~ ANIMAL.

6 **SECTION 17.** 24-34-804, Colorado Revised Statutes, is amended
7 to read:

8 **24-34-804. Violations - penalties.** (1) It is unlawful for any
9 person, firm, corporation, or agent of any person, firm, or corporation to:

10 (a) Withhold, deny, deprive, or attempt to withhold, deny, or
11 deprive any person with a disability or trainer OF AN ASSISTANCE ANIMAL
12 of any of the rights or privileges secured in section 24-34-803;

13 (b) Threaten to interfere with any of the rights ~~of persons with~~
14 ~~disabilities or trainers secured in section 24-34-803~~ SECURED IN SECTION
15 24-34-803 FOR A PERSON WITH A DISABILITY OR A TRAINER OF AN
16 ASSISTANCE ANIMAL;

17 (c) Punish or attempt to punish any person with a disability or
18 trainer OF AN ASSISTANCE ANIMAL for exercising or attempting to exercise
19 any right or privilege secured by section 24-34-803; ~~or~~

20 (d) Interfere with, injure, or harm, or cause another dog to
21 interfere with, injure, or harm, an assistance ~~dog~~ ANIMAL; OR

22 (e) DISCRIMINATE AGAINST AN INDIVIDUAL OR A GROUP BECAUSE
23 THAT INDIVIDUAL OR GROUP HAS OPPOSED A PRACTICE MADE A
24 DISCRIMINATORY PRACTICE BY THIS PART 8 OR BECAUSE THE INDIVIDUAL
25 OR GROUP HAS MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED
26 IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING
27 CONDUCTED PURSUANT TO THIS PART 8.

1 (2) Any person who violates any provision of ~~subsection (1) of~~
2 ~~this section~~ THIS PART 8 commits a class 3 misdemeanor and shall be
3 punished as provided in section 18-1.3-501, C.R.S.

4 (3) (a) Any person who violates any provision of subsection (1)
5 of this section shall be liable to the person with a disability or trainer OF
6 THE ASSISTANCE ANIMAL whose rights were affected for actual damages
7 for economic loss OR STATUTORY DAMAGES OF FOUR THOUSAND
8 DOLLARS, WHICHEVER IS GREATER, FOR EACH VIOLATION to be recovered
9 in a civil action in a court in the county where the infringement of rights
10 occurred or where the defendant resides. THE COURT SHALL ORDER
11 INJUNCTIVE RELIEF AND ANY OTHER RELIEF THE COURT DEEMS
12 APPROPRIATE AND NECESSARY TO PREVENT FUTURE VIOLATIONS.

13 (b) In any action commenced pursuant to this subsection (3), a
14 court may award costs and reasonable attorney fees.

15 (3.5) IN ADDITION TO THE RELIEF AUTHORIZED BY THIS SECTION
16 AND SECTION 24-34-306 (9), THE COLORADO CIVIL RIGHTS COMMISSION
17 OR A COURT MAY ORDER A RESPONDENT WHO HAS BEEN FOUND GUILTY OF
18 VIOLATING THE PROVISIONS OF SECTION 24-34-803 TO PAY TO THE
19 COLORADO CIVIL RIGHTS COMMISSION CASH FUND, CREATED IN SECTION
20 24-34-309, ACCORDING TO THE FOLLOWING SCHEDULE:

- 21 (a) AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS; OR
- 22 (b) AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND
23 DOLLARS IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE COMMITTED
24 ANY OTHER VIOLATION OF SECTION 24-34-803 DURING THE FIVE-YEAR
25 PERIOD PRECEDING THE DATE OF THE FILING OF THE CHARGE.

26 (4) Nothing in this section is intended to interfere with remedies
27 or relief that any person might be entitled to pursuant to parts 3 to 7 8 AND

1 PART 10 of this article.

2 SECTION 18. Article 34 of title 24, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW PART to read:

4 PART 10

5 DISCRIMINATION BY PUBLIC ENTITIES

6 AND STATE AGENCIES

7 24-34-1001. **Definitions.** THE DEFINITIONS PROVIDED FOR TERMS
8 IN SECTION 24-34-301 SHALL APPLY TO SAID TERMS AS USED IN THIS PART
9 10.

10 24-34-1002. **Prohibition against discrimination by public**
11 **entities.** (1) A QUALIFIED PERSON WITH A DISABILITY SHALL NOT BE
12 EXCLUDED FROM PARTICIPATION IN OR DENIED THE BENEFITS OF THE
13 SERVICES, PROGRAMS, OR ACTIVITIES OF A PUBLIC ENTITY, OR BE
14 SUBJECTED TO DISCRIMINATION BY A PUBLIC ENTITY, BY REASON OF THE
15 PERSON'S DISABILITY.

16 (2) DISCRIMINATION BY REASON OF DISABILITY INCLUDES ANY
17 ACTION THAT WOULD CONSTITUTE A VIOLATION OF TITLE II OF THE
18 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
19 12131 ET SEQ., AND ITS IMPLEMENTING REGULATIONS.

20 (3) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR A
21 PERSON OR PUBLIC ENTITY TO DISCRIMINATE AGAINST A PERSON OR GROUP
22 BECAUSE THE PERSON OR GROUP HAS OPPOSED A PRACTICE THAT IS MADE
23 A DISCRIMINATORY PRACTICE BY THIS PART 10 OR BECAUSE THE PERSON
24 OR GROUP HAS MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED
25 IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING
26 CONDUCTED PURSUANT TO THIS PART 10.

27 24-34-1003. **Discrimination by public entities - remedies -**

1 **penalties.** (1) A PERSON WHO HAS BEEN SUBJECTED TO A
2 DISCRIMINATORY ACT PROHIBITED BY SECTION 24-34-1002 MAY BRING A
3 CIVIL SUIT IN A COURT OF COMPETENT JURISDICTION AND MAY OBTAIN A
4 COURT ORDER FOR COMPLIANCE WITH THIS PART 10. A PERSON WHO
5 BRINGS SUIT PURSUANT TO THIS SECTION IS ENTITLED TO THE RECOVERY
6 OF ACTUAL DAMAGES OR STATUTORY DAMAGES OF FOUR THOUSAND
7 DOLLARS, WHICHEVER IS GREATER, FOR EACH VIOLATION. A PERSON WHO
8 IS THE PREVAILING PARTY IN A LAWSUIT UNDER THIS SECTION IS ENTITLED
9 TO RECOVER REASONABLE ATTORNEY FEES AND COSTS PURSUANT TO THE
10 "PREVAILING PARTY" STANDARDS UNDER THE FEDERAL "AMERICANS WITH
11 DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

12 (2) A PERSON WHO DENIES THE RIGHTS OF A PERSON WITH A
13 DISABILITY PROTECTED BY THIS PART 10 COMMITS A CLASS 3
14 MISDEMEANOR AND SHALL BE SENTENCED IN ACCORDANCE WITH SECTION
15 18-1.3-501 (1) (a), C.R.S.

16 (3) IN ADDITION TO THE RELIEF AUTHORIZED BY THIS SECTION AND
17 SECTION 24-34-306 (9), THE COLORADO CIVIL RIGHTS COMMISSION OR A
18 COURT MAY ORDER A RESPONDENT WHO HAS BEEN FOUND GUILTY OF
19 VIOLATING THE PROVISIONS OF THIS PART 10 TO PAY TO THE COLORADO
20 CIVIL RIGHTS COMMISSION CASH FUND, CREATED IN SECTION 24-34-309,
21 ACCORDING TO THE FOLLOWING SCHEDULE:

- 22 (a) AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS; OR
23 (b) AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND
24 DOLLARS IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE COMMITTED
25 ANY OTHER VIOLATION OF THIS PART 10 DURING THE FIVE-YEAR PERIOD
26 PRECEDING THE DATE OF THE FILING OF THE CHARGE.

27 **24-34-1004. Discrimination by state agencies - requirements**

1 **for compliance.** (1) A STATE AGENCY IS REQUIRED TO COMPLY WITH ALL
2 APPLICABLE DISCRIMINATION POLICIES, INCLUDING BUT NOT LIMITED TO
3 FEDERAL, STATE, AND LOCAL LAWS, AND ANY RULES PROMULGATED BY
4 THE AGENCY.

5 (2) A PERSON WHO IS AGGRIEVED BY A VIOLATION OF THIS SECTION
6 HAS A PRIVATE RIGHT OF ACTION TO BRING A CIVIL LAWSUIT IN A COURT
7 OF COMPETENT JURISDICTION AGAINST THE VIOLATING STATE AGENCY.

8 (3) REMEDIES UNDER THIS SECTION INCLUDE, BUT ARE NOT
9 LIMITED TO:

10 (a) INJUNCTIVE RELIEF IN THE FORM OF A COURT ORDER REQUIRING
11 COMPLIANCE WITH THIS SECTION AND SPECIFYING THE FORM OF
12 COMPLIANCE;

13 (b) ACTUAL DAMAGES OR STATUTORY DAMAGES OF FOUR
14 THOUSAND DOLLARS, WHICHEVER IS GREATER, FOR EACH VIOLATION OF
15 THIS SECTION; AND

16 (c) RECOVERY OF REASONABLE ATTORNEY FEES AND COSTS TO THE
17 PREVAILING PARTY PURSUANT TO THE "PREVAILING PARTY" STANDARDS
18 UNDER THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42
19 U.S.C. SEC. 12101 ET SEQ.

20 (4) IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR A
21 PERSON OR AGENCY TO DISCRIMINATE AGAINST A PERSON OR GROUP
22 BECAUSE THAT PERSON OR GROUP HAS OPPOSED A PRACTICE THAT IS MADE
23 A DISCRIMINATORY PRACTICE BY THIS PART 10 OR BECAUSE THAT PERSON
24 OR GROUP HAS MADE A CHARGE, TESTIFIED, ASSISTED, OR PARTICIPATED
25 IN ANY MANNER IN AN INVESTIGATION, PROCEEDING, OR HEARING
26 CONDUCTED PURSUANT TO THIS PART 10.

27 **SECTION 19.** 25.5-4-107, Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW SUBSECTION to read:

2 **25.5-4-107. Retaliation definition - penalties.** (3) (a) A PERSON
3 OR ENTITY WHO VIOLATES THIS SECTION SHALL BE HELD LIABLE TO THE
4 PERSON AGGRIEVED IN A COURT OF COMPETENT JURISDICTION FOR
5 INJUNCTIVE RELIEF AND FOR ACTUAL DAMAGES OR STATUTORY DAMAGES
6 OF FOUR THOUSAND DOLLARS, WHICHEVER IS GREATER, FOR EACH
7 VIOLATION. THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND
8 COSTS TO THE PREVAILING PARTY PURSUANT TO THE "PREVAILING PARTY"
9 STANDARDS UNDER THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF
10 1990", 42 U.S.C. SEC. 12101 ET SEQ.

11 (b) IN ADDITION TO THE RELIEF AUTHORIZED BY THIS SECTION AND
12 SECTION 24-34-306 (9), C.R.S., THE COLORADO CIVIL RIGHTS COMMISSION
13 OR A COURT MAY ORDER A RESPONDENT WHO HAS BEEN FOUND GUILTY OF
14 VIOLATING THE PROVISIONS OF THIS SECTION TO PAY TO THE COLORADO
15 CIVIL RIGHTS COMMISSION CASH FUND, CREATED IN SECTION 24-34-309,
16 C.R.S., ACCORDING TO THE FOLLOWING SCHEDULE:

- 17 (I) AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS; OR
18 (II) AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND
19 DOLLARS IF THE RESPONDENT HAS BEEN ADJUDGED TO HAVE COMMITTED
20 ANY OTHER VIOLATION OF THIS SECTION DURING THE FIVE-YEAR PERIOD
21 PRECEDING THE DATE OF THE FILING OF THE CHARGE.

22 **SECTION 20.** 24-34-302 (2), Colorado Revised Statutes, is
23 amended to read:

24 **24-34-302. Civil rights division - director - powers and duties.**
25 (2) The director shall appoint ~~such~~ investigators and other personnel as
26 ~~may be~~ necessary to carry out the functions and duties of the division.
27 The director and the staff of the division shall receive, investigate, and

1 make determinations on charges alleging unfair or discriminatory
2 practices in violation of parts 4 to 7 8 AND PART 10 of this article.

3 **SECTION 21.** 24-34-305 (1) (a), (1) (c), (1) (e), (1) (i), (1) (i.5),
4 (2), (3), and (4), Colorado Revised Statutes, are amended to read:

5 **24-34-305. Powers and duties of commission.** (1) The
6 commission has the following powers and duties:

7 (a) To adopt, publish, amend, and rescind rules and regulations,
8 in accordance with the provisions of section 24-4-103, which THAT are
9 consistent with and for the implementation of THIS PART 3 AND parts 3 to
10 7 4 TO 8 AND PART 10 of this article. All such rules adopted or amended
11 on or after July 1, 1979, shall be subject to sections 24-4-103 (8) (c) and
12 (8) (d) and 24-34-104 (9) (b) (II).

13 (c) To investigate and study the existence, character, causes, and
14 extent of unfair or discriminatory practices as defined in parts 4 to 7 8
15 AND PART 10 of this article and to formulate plans for the elimination
16 thereof by educational or other means;

17 (e) To issue such publications and reports of investigations and
18 research as in its judgment will tend to promote goodwill among the
19 various racial, religious, age, and ethnic groups of the state and which
20 will tend to minimize or eliminate discriminatory or unfair practices as
21 specified by THIS PART 3 AND parts 3 to 7 4 TO 8 AND PART 10 of this
22 article. Publications of the commission circulated in quantity outside the
23 executive branch shall be issued in accordance with the provisions of
24 section 24-1-136.

25 (i) To cooperate, within the limits of any appropriations made for
26 its operation, with other agencies or organizations, both public and
27 private, whose purposes are consistent with those of THIS PART 3 AND

1 parts ~~3 to 7~~ 4 to 8 AND PART 10 of this article, in the planning and
2 conducting of educational programs designed to eliminate racial,
3 religious, cultural, age, and intergroup tensions;

4 (i.5) To intervene in racial, religious, cultural, age, and intergroup
5 tensions or conflicts for the purpose of informal mediation using
6 alternative dispute resolution techniques. Such intervention may be made
7 in cooperation with other agencies or organizations, both public and
8 private, whose purposes are consistent with those of THIS PART 3 AND
9 parts ~~3 to 7~~ 4 to 8 AND PART 10 of this article.

10 (2) Any provision of this article to the contrary notwithstanding,
11 ~~no~~ A person shall NOT be required to alter, modify, or purchase any
12 building, structure, or equipment or incur any additional expense ~~which~~
13 THAT would not otherwise be incurred in order to comply with THIS PART
14 3 AND parts ~~3, 4, 6, and 7~~ 4, 6 TO 8, AND 10 of this article.

15 (3) In exercising the powers and performing the duties and
16 functions under THIS PART 3 AND parts ~~3 to 7~~ 4 TO 8 AND PART 10 of this
17 article, the commission, the division, and the director shall presume that
18 the conduct of ~~any~~ A respondent is not unfair or discriminatory until
19 proven otherwise.

20 (4) Whether by rule ~~regulation~~, or other action or whether as a
21 remedy for violation of any provision of THIS PART 3 OR parts ~~3 to 7~~ 4 TO
22 8 AND PART 10 of this article or otherwise, the commission shall not
23 prescribe or require the implementation of a quota system.

24 **SECTION 22.** 24-34-306 (1) (a), (2) (a), (9), (11), (13), and (14),
25 Colorado Revised Statutes, are amended to read:

26 **24-34-306. Charge - complaint - hearing - procedure -**
27 **exhaustion of administrative remedies.** (1) (a) Any person claiming

1 to be aggrieved by a discriminatory or unfair practice as defined by parts
2 4 to 7 8 AND PART 10 of this article may, by himself or herself or through
3 his or her attorney-at-law, make, sign, and file with the division a verified
4 written charge stating the name and address of the respondent alleged to
5 have committed the discriminatory or unfair practice, setting forth the
6 particulars of the alleged discriminatory or unfair practice, and containing
7 any other information required by the division.

8 (2) (a) After the filing of a charge alleging a discriminatory or
9 unfair practice as defined by parts 4 to 7 8 AND PART 10 of this article, the
10 director, with the assistance of the division's staff, shall make a prompt
11 investigation of the charge. The director may subpoena witnesses and
12 compel the testimony of witnesses and the production of books, papers,
13 and records if the testimony, books, papers, and records sought are
14 limited to matters directly related to the charge. Any subpoena issued
15 pursuant to this paragraph (a) shall be enforceable in the district court for
16 the district in which the alleged discriminatory or unfair practice occurred
17 and shall be issued only if the person or entity to be subpoenaed has
18 refused or failed, after a proper request from the director, to provide
19 voluntarily to the director the information sought by the subpoena.

20 (9) If, upon all the evidence at a hearing, there is a statement of
21 findings and conclusions in accordance with section 24-4-105, together
22 with a statement of reasons for such conclusions, showing that a
23 respondent has engaged in or is engaging in any discriminatory or unfair
24 practice as defined in parts 4 to 7 8 AND PART 10 of this article, the
25 commission shall issue and cause to be served upon the respondent an
26 order requiring such respondent to cease and desist from such
27 discriminatory or unfair practice and to take such action as it may order

1 in accordance with the provisions of THIS PART 3 AND parts 4 to 7 8 AND
2 PART 10 of this article.

3 (11) If written notice that a formal hearing will be held is not
4 served within two hundred seventy days after the filing of the charge, if
5 the complainant has requested and received a notice of right to sue
6 pursuant to subsection (15) of this section, or if the hearing is not
7 commenced within the one-hundred-twenty-day period prescribed by
8 subsection (4) of this section, the jurisdiction of the commission over the
9 complaint shall cease, and the complainant may seek the relief authorized
10 under this part 3 and parts 4 to 7 8 AND PART 10 of this article against the
11 respondent by filing a civil action in the district court for the district in
12 which the alleged discriminatory or unfair practice occurred. ~~Such~~ THE
13 action must be filed within ninety days of the date upon which the
14 jurisdiction of the commission ceased, and if not so filed, it shall be
15 barred and the district court shall have no jurisdiction to hear ~~such~~ THE
16 action. If any party requests the extension of any time period prescribed
17 by this subsection (11), ~~such~~ THE extension may be granted for good
18 cause by the commission, a commissioner, or the administrative law
19 judge, as the case may be, but the total period of all such extensions to
20 either the respondent or the complainant shall not exceed ninety days
21 each, and, in the case of multiple parties, the total period of all extensions
22 shall not exceed one hundred eighty days.

23 (13) Any member of the commission and any person participating
24 in good faith in the making of a complaint or a report or in any
25 investigative or administrative proceeding authorized by THIS PART 3 AND
26 parts 3 to 7 4 TO 8 AND PART 10 of this article shall be immune from
27 liability in any civil action brought against him OR HER for acts occurring

1 while acting in his OR HER capacity as a commission member or
2 participant, respectively, if ~~such~~ THE individual was acting in good faith
3 within the scope of his OR HER respective capacity, made a reasonable
4 effort to obtain the facts of the matter as to which he OR SHE acted, and
5 acted in the reasonable belief that ~~the~~ HIS OR HER action ~~taken by him~~ was
6 warranted by the facts.

7 (14) ~~No~~ A person may NOT file a civil action in a district court in
8 this state based on an alleged discriminatory or unfair practice prohibited
9 by parts 4 to ~~7~~ 8 AND PART 10 of this article without first exhausting the
10 proceedings and remedies available to him OR HER under this part 3
11 unless he OR SHE shows, in an action filed in the appropriate district court,
12 by clear and convincing evidence, THAT his OR HER ill health ~~which~~ is of
13 such a nature that pursuing administrative remedies would not provide
14 timely and reasonable relief and would cause irreparable harm.

15 **SECTION 23.** 24-34-308, Colorado Revised Statutes, is amended
16 to read:

17 **24-34-308. Enforcement of federal law prohibited.** Nothing in
18 THIS PART 3 AND parts 3 4 to 8 AND PART 10 of this article shall be
19 construed to authorize the commission, the director, or the division to
20 enforce any provision of federal law. Nothing in this section shall
21 prevent the commission from accepting federal grants for the enforcement
22 of THIS PART 3 AND parts ~~3 to 7~~ 4 to 8 AND PART 10 OF THIS ARTICLE.

23 **SECTION 24.** 18-6.5-102 (3) (f), Colorado Revised Statutes, is
24 amended to read:

25 **18-6.5-102. Definitions.** As used in this article, unless the context
26 otherwise requires:

27 (3) A "person with a disability" means any person who:

1 (f) Is mentally impaired as the term is defined in section
2 24-34-301 (2.5), ~~(b)-(H)~~; C.R.S.;

3 **SECTION 25.** 40-9-109, Colorado Revised Statutes, is amended
4 to read:

5 **40-9-109. Transportation of assistance animals.** When a ~~totally~~
6 ~~or partially blind, totally or partially deaf, or physically disabled~~ person
7 WITH A DISABILITY, AS DEFINED IN SECTION 24-34-301 (2.5), C.R.S., is
8 accompanied by a ~~dog which serves as an assistance dog~~ ANIMAL or
9 ~~which~~ AN ANIMAL THAT is being trained by a qualified trainer as an
10 assistance ~~dog~~ ANIMAL, as defined in section 24-34-803 (7), C.R.S., ~~for~~
11 ~~such disabled person~~, neither the ~~disabled~~ person WITH A DISABILITY nor
12 the ~~dog~~ ANIMAL shall be denied the facilities of any common carrier, nor
13 shall ~~such disabled~~ THE person WITH A DISABILITY be denied the
14 immediate custody of the ~~dog~~ ANIMAL while riding upon a common
15 carrier. The provisions of this section shall also apply to any qualified
16 trainer who is training a ~~dog for use by a totally or partially blind, totally~~
17 ~~or partially deaf, or physically disabled person~~ AN ASSISTANCE ANIMAL,
18 unless the ~~dog~~ ANIMAL presents an imminent danger to the public health
19 or safety. ~~Such disabled~~ THE person WITH A DISABILITY or ~~any~~ A
20 qualified trainer who is training a ~~dog for use by a disabled person~~ AN
21 ASSISTANCE ANIMAL shall be liable for any damage done to the premises
22 or facilities of the common carrier by ~~such dog.~~ ~~Any dog~~ THE ANIMAL.
23 AN ANIMAL being trained ~~for the purpose of aiding a disabled person~~ AS
24 AN ASSISTANCE ANIMAL shall be visibly and prominently identified as an
25 assistance ~~dog~~ ANIMAL in training.

26 **SECTION 26.** 42-4-808 (1), Colorado Revised Statutes, is
27 amended to read:

1 **42-4-808. Drivers and pedestrians, other than persons in**
2 **wheelchairs, to yield to persons with disabilities.** (1) Any pedestrian,
3 other than a person in a wheelchair, or any driver of a vehicle who
4 approaches a person who has an obviously apparent disability of
5 blindness, deafness, or mobility impairment shall immediately come to a
6 full stop and take such precautions before proceeding as are necessary to
7 avoid an accident or injury to said person. A disability shall be deemed to
8 be obviously apparent if, by way of example and without limitation, the
9 person is using a cane or crutches, is assisted by an assistance ~~dog~~
10 ANIMAL, as defined in section 24-34-803 (7), C.R.S., is being assisted by
11 another person, is in a wheelchair, or is walking with an obvious physical
12 impairment. Any person who violates any provision of this section
13 commits a class A traffic offense.

14 **SECTION 27. No appropriation.** The general assembly has
15 determined that this act can be implemented within existing
16 appropriations, and therefore no separate appropriation of state moneys
17 is necessary to carry out the purposes of this act.

18 **SECTION 28. Act subject to petition - effective date -**
19 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
20 following the expiration of the ninety-day period after final adjournment
21 of the general assembly (August 11, 2010, if adjournment sine die is on
22 May 12, 2010); except that, if a referendum petition is filed pursuant to
23 section 1 (3) of article V of the state constitution against this act or an
24 item, section, or part of this act within such period, then the act, item,
25 section, or part shall not take effect unless approved by the people at the
26 general election to be held in November 2010 and shall take effect on the
27 date of the official declaration of the vote thereon by the governor.

- 1 (2) The provisions of this act shall apply to offenses committed on
- 2 or after the applicable effective date of this act.