

Legislative Analysis



ADOPTING A NEW SYMBOL OF ACCESSIBILITY

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House Bills 4075 and 4076 as reported from committee

Sponsor: Rep. Beau Matthew LaFave

Committee: Health Policy

Complete to 7-27-21

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

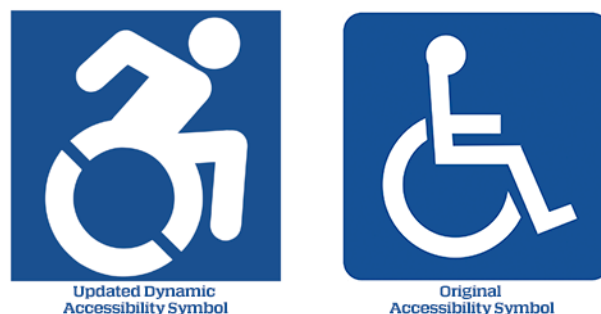
BRIEF SUMMARY: House Bill 4076 would amend the Persons with Disabilities Civil Rights Act to require the Civil Rights Commission to adopt and put into use a standardized design that is a variation of the International Symbol of Accessibility (ISA). House Bill 4075 would require all newly erected signs designating a parking space for persons with disabilities to use that design.

FISCAL IMPACT: The bills would create no direct costs for the state or local units of government. However, 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 and the Architectural Barriers Act. (See **Fiscal Information**, below, for a detailed analysis.)

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 2021, 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.



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 would amend the Persons with Disabilities Civil Rights Act to require the Civil Rights Commission to adopt and put in use a standardized design that is a variation of the ISA. The commission is established in the state constitution³ and charged with investigating alleged discrimination against any person in a protected category⁴ 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 design would have to 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 dark background or a dark symbol on a light background.
- Facilitate accessibility to a degree equivalent to the existing ISA.
- Be simple and avoid any secondary meaning.

One year after the bill took effect, each new placement or replacement of ISA signs required by law, ordinance, or administrative rule of the state or a local unit of government would have to use the design adopted. If placement or replacement were not required under law or rule, the commission and the Michigan Department of Civil Rights (MDCR) would have to encourage use of the design.

Finally, the bill would require the commission and MDCR to take the necessary steps to remove the word “handicapped” from signs or other means of communication of the state or a local unit.

Proposed MCL 37.1102a

House Bill 4075 would amend 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 would have to have the same dimensions as existing signs—12 inches by 18 inches or larger—and could not include a word describing persons with disabilities, such as “handicapped,” but could include a word providing instruction, such as “reserved.”

MCL 257.951

Each bill would take effect 90 days after its enactment. The bills are tie-barred together, which means that neither could take effect unless both were enacted.

³ <http://legislature.mi.gov/doc.aspx?mcl-Article-V-29>

⁴ The state constitution directs the commission to investigate discrimination because of religion, race, color, or national origin. 1976 PA 453 (the Elliott-Larsen Civil Rights Act) and 1976 PA 220 (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.⁵ 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 2016, 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 committee.

POSITIONS:

The following entities indicated support for the bills (6-17-21):

Michigan League for Public Policy
Brain Injury Association

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Fiscal Analyst: Michael Cnossen

■ 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.

⁵ "Guidance on Use of the International Symbol of Accessibility Under the Americans with Disabilities Act and the Architectural Barriers Act," United States Access Board, March 27, 2017.
<https://www.access-board.gov/guidelinesand-standards/buildings-and-sites/about-the-ada-standards/guide-to-the-ada-standards/guidance-on-the-isa>.