

Will you please see that the following is submitted to the Committee along with a card in opposition to HB-4705?

The Department has discussed this bill internally along with the State's ADA coordinator and believe the Americans with Disabilities Act and Michigan's Persons With a Disability Civil Rights Act raises issues that need to be resolved before taking action on this bill.

We are not aware of a specific policy that requires responses to FOIA requests be ADA compliant, however, that does not mean no requirement exists. To the contrary, in the absence of a legal exception under FOIA whenever a record (including a recording) is kept and subject to FOIA both the ADA and PWDORA require that persons with disabilities be provided the same access to the information as others.

It is not possible to estimate the costs involved to do so, but it is likely to be considerable. Recordings might be requested by individuals who would require the information be converted to provide them with equal access. Because the purpose of legislation requiring the recordings would be preserving the entire proceeding, the accessible version would need to be equally complete. In individual cases this might mean a complete transcript for someone who cannot hear the recording, in braille, or providing the recording with American Sign Language added either in full or just to describe the visual nature of a video record. This is not to say that every accommodation request will need to be granted in full and for the specific accommodation required, but every request would initiate a deliberative process between the record holder and the person making the request to determine how the information can be made accessible. Automatic transcription might be sufficient in some cases, but it is not accurate enough to be universally acceptable as compliant. There is also no way to predict how often such requests might be made.

Until and unless these concerns can be addressed, the Department of Civil Rights finds it necessary to oppose HB 4705.

Thank you,

Daniel M. Levy as acting legislative liaison

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