



## **Written Testimony to the Ohio Representatives House Civil Justice Committee**

From Kara B. Ayers, PhD

University of Cincinnati Center for Excellence in Developmental Disabilities

October 22, 2017

RE: House Bill 271: Give notice before action for access; allow attorney's fees

Sponsors: Rep McColley and Rep Rezabek

Chair Butler, Vice Chair Hughes, Ranking Member Boggs, and Members of the Civil Justice Committee, thank-you for allowing me the opportunity to provide opponent testimony on House Bill 271. If passed, this bill would require individuals with disabilities to notify public entities before filing an accessibility claim.

I am the Associate Director of the University of Cincinnati Center for Excellence in Developmental Disabilities (UCCEDD). Our UCCEDD is part of a national network of UCEDDs that make up the Association of University Centers on Disability (AUCD). Per our authorization from the Developmental Disabilities Assistance and Bill of Rights Act, UCEDDs are obligated to work towards a shared vision in which all Americans will live, work, and play together in their communities.

I am also a proud disabled individual. I was born with a disability that causes my bones to break easily. I use a wheelchair for mobility. My husband also has a disability and we have three children. I share my testimony as both a professor who has studied the implications of access barriers and also as an employee that needs to navigate my community on a daily basis for meetings, a mom that needs to shuttle her children to afterschool events, and an Ohioan who has every right to access every part of her community as each of you.

There are many parts of HB 271 that leave me deeply disappointed at its introduction. Twenty-seven years after the Americans with Disabilities Act, this bill rolls back those promises. Ohioans with disabilities would become the only protected class that would be expected to write and deliver their own legal notification of a violation of the law rather than counting on officials to support our civil right to access. The law's suggestion that this notification can be delivered in person is an additional insult as I can easily think of 10-12 businesses in my own downtown that I could not physically enter the front door to deliver such a notification. Alternatively, I can send notification via certified mail. Certified mail comes at a cost and requires a trip to a post office, both of which can be significant barriers for individuals with disabilities. If notification is delivered, it's unclear who is responsible for tracking the 90 day window of response with another 90 day potential extension. These timelines add up to half a year more without access 27 years after the signing of the ADA.

Sponsors and supporters claim HB 271 is intended to prevent frivolous lawsuits and protect small businesses. Beyond anecdotal stories that are often repeated from state to state by supporters, there's absolutely no data that suggests these lawsuits are actually a significant problem. From the perspective of a nondisabled person, I can understand that accessibility complaints based on a few inches in width of a doorway or the grade of a ramp might seem frivolous to you. The ADA standards aren't perfect but



their careful delineation and updates to standards were designated for a reason. Those few inches or the steepness of a ramp can keep me out of a public place that I should be able to enter. The end result is no different than posting a sign that I am not allowed entry based on my disability status. For representatives near my area, I invite you to join me for just a couple of hours. I love my community but we all still have a great deal of work to do to achieve near equal access.

As a policy wonk, I am left most disappointed by the imbalanced and biased financial analysis of HB 271. I was sincerely hopeful as a citizen to learn about potential costs and savings associated with this rule. My opposition is not taken lightly and I've made every effort to be informed on what this bill would mean. As you've read, the analysis suggests a savings in the reduction of civil actions filed in the courts. There's no recognition that this reduction would also directly result in reduced improvement of accessibility barriers. There are significant costs missed by this analysis. When Ohioans with disabilities can't enter or succeed in the workforce due to physical barriers, their economic power is further diminished. When Ohioans with disabilities can't enter businesses, they can't spend money there. People with disabilities make up a large segment of the population (1 in 5) and that number grows when you consider family members and others touched by a disability. People with disabilities make up a billion dollar segment of the market.<sup>1</sup>

HB 271 would be a slide back in time for Ohioans with disabilities. While the disability community would be most impacted by this bill, their voices are glaringly missing from this bill's language and proposed implementation. The founding principle of this bill assumes that an individual who encounters a violation of their civil rights should automatically be prepared, able, and willing to initiate any attempts at enforcement on their own, without support from the government. Ohioans with disabilities and their families deserve better. Please join me in opposition to HB 271 and let's work together for a more accessible and a more inclusive state for all Ohioans.

Thank-you for the opportunity to provide testimony on an issue that is both personally and professionally very important to me.

Sincerely,

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<sup>1</sup> Nielsen Report on Measuring the Impact of Consumers with Disabilities. Released 4/20/2017 : <http://sites.nielsen.com/newscenter/measuring-impact-consumers-disabilities/>