

**House Civil Justice Committee**

**House Bill 271**

**Opponent Testimony – Ohio Developmental Disabilities Council**

Chairman Butler, Vice-Chairman Hughes, and Ranking Member Boggs. My name is Mark Seifarth and I am currently the chair of the Ohio Developmental Disabilities Council. I am presenting testimony in opposition to House bill 271 on behalf of the members of the Ohio DD Council and the many Ohioans with developmental and other disabilities.

The Ohio Developmental Disabilities Council is created by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000. Contained in the act is the goal of the nation, and subsequently all state councils on developmental disabilities, to provide individuals with disabilities with the skills, opportunities and supports to live free of abuse and neglect, and “violations of their legal and human rights.”

A version of this bill was considered two General Assemblies ago, and during debate on that bill, your committee considered and made changes that made this process permissive, reduced the time frame for businesses to respond to allegations from 30 days to 15 days and reduced the time frame for businesses to correct any violations, from 120 days to 60 days, with the opportunity for the business to extend an additional 60 days if needed for repairs. In the version that was introduced in this General Assembly, the language making notification mandatory was re-inserted and the length of time for a business to correct a violation was increased to 90 days, with an additional 90 days available to the business.

Should these issues be addressed in a revised version of the bill, the Ohio DD Council may move from opposed to neutral. However, the Council is opposed to House Bill 271 for a variety of reasons, some of which I’d like to address here:

While we are not attorneys or legal professionals, it is our understanding that attorneys that bring lawsuits without merit are subject to sanctions or discipline. In all of the examples provided to this committee, we did not see or hear of one example where an attorney was sanctioned or disciplined for bringing a frivolous action related to a violation of the ADA.

And what one business or his or her attorney may view as a technicality, may actually prevent a person with a disability from fully participating in the normal course of business. For example, one witness testified that a suit was brought over the thickness of carpet. As a person in a wheelchair, I can assure you that while seemingly innocuous to a business, it can create a real problem for me to navigate that business. I humbly submit to this committee the idea that while some of these suits may seem outrageous or overly technical, the parameters that have been created are there for a reason.

It is also true that while passing the ADA, federal lawmakers left enforcement solely to the courts. But there was nothing in the law that prevented states from taking proactive steps to support the business community to understand the accessibility guidelines that have been painstakingly developed to ensure full participation of individuals with disabilities in society. Ohio has a network of Independent Living Centers that, often times if resources permit, will provide technical assistance and guidance on accessibility to businesses. The Great Lakes ADA Center also provides webinars and toolkits for businesses interested in coming into compliance with accessibility requirements of the law.

In addition to these resources, businesses are also eligible for a federal tax credit and tax deduction for costs incurred to be ADA compliant.

Rather than eliminate the “stick”, as it were, of enforcement, we would hope the Legislature would look at how to provide some “carrots” and other supports for businesses to come into compliance, without undermining the legal rights of individuals with disabilities.

Thank you for your consideration.