

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

A Bill

Act 1227 of 1999
HOUSE BILL 2044

5 By: Representative Broadway
6
7

For An Act To Be Entitled

9 "AN ACT TO SECURE THE BENEFITS OF ACCESS TO
10 INFORMATION TECHNOLOGY FOR INDIVIDUALS WHO ARE BLIND
11 OR VISUALLY IMPAIRED THROUGH THE PROCUREMENT OF SUCH
12 TECHNOLOGY IN ACCORDANCE WITH STANDARDS FOR EQUIVALENT
13 ACCESS BY BOTH VISUAL AND NONVISUAL MEANS; AND FOR
14 OTHER PURPOSES. "

Subtitle

15
16 "TO SECURE BENEFITS OF ACCESS TO
17 INFORMATION TECHNOLOGY FOR INDIVIDUALS
18 WHO ARE BLIND OR VISUALLY IMPAIRED
19 THROUGH PROCUREMENT OF SUCH TECHNOLOGY
20 WITH STANDARDS FOR EQUIVALENT ACCESS BY
21 BOTH VISUAL AND NONVISUAL MEANS. "

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26
27 SECTION 1. Findings and policy.

28 (a) The Legislature finds that:

29 (1) The advent of the information age throughout the United
30 States and around the world has resulted in lasting changes in information
31 technology;

32 (2) Use of interactive visual display terminals by state and
33 state-assisted organizations is becoming a widespread means of access for
34 employees and the public to obtain information available electronically, but
35 nonvisual access, whether by speech, Braille, or other appropriate means has
36 been overlooked in purchasing and deploying the latest information technology;

1 (3) Presentation of electronic data solely in a visual format is
 2 a barrier to access by individuals who are blind or visually impaired,
 3 preventing them from participating on equal terms in crucial areas of life,
 4 such as education and employment;

5 (4) Alternatives, including both software and hardware
 6 adaptations, have been created so that interactive control of computers and
 7 use of the information presented is possible by both visual and nonvisual
 8 means; and

9 (5) The goals of the state in obtaining and deploying the most
 10 advanced forms of information technology properly include universal access so
 11 that segments of society with particular needs, including but not limited to
 12 individuals unable to use visual displays, will not be left out of the
 13 information age.

14 (b) It is the policy of the State of Arkansas that all programs and
 15 activities which are supported in whole or in part by public funds shall be
 16 conducted in accordance with the following principles:

17 (1) Individuals who are blind or visually impaired have the right
 18 to full participation in the life of the state, including the use of advanced
 19 technology which is provided by the state or state-assisted organizations for
 20 use by employees, program participants, and members of the general public; and

21 (2) Technology purchased in whole or in part with funds provided
 22 by the state to be used for the creation, storage, retrieval, or dissemination
 23 of information and intended for use by employees, program participants, and
 24 members of the general public shall be accessible to and usable by individuals
 25 who are blind or visually impaired.

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 27 SECTION 2. Definitions.

28 For purposes of this act:

29 (1) "Access" means the ability to receive, use, and manipulate data and
 30 operate controls included in information technology;

31 (2) "Blind or visually impaired individual" means an individual who:

32 (A) Has a visual acuity of twenty/two hundred (20/200) or less in
 33 the better eye with correcting lenses or has a limited field of vision so that
 34 the widest diameter of the visual field subtends an angle no greater than
 35 twenty (20) degrees;

36 (B) Has a medically indicated expectation of visual

1 deterioration; or

2 (C) Has a medically diagnosed limitation in visual functioning
 3 that restricts the individual's ability to read and write standard print at
 4 levels expected of individuals of comparable ability;

5 (3) "Covered entity" means the state or any state-assisted organization;

6 (4) "Information technology" means all electronic information processing
 7 hardware and software, including telecommunications;

8 (5) "Nonvisual" means synthesized speech, Braille, and other output
 9 methods not requiring sight;

10 (6) "State" means the state or any of its departments, agencies, public
 11 bodies, or other instrumentalities;

12 (7) "State-assisted organization" means a college, nonprofit
 13 organization, person, political subdivision, school system, or other entity
 14 supported in whole or in part by state funds;

15 (8) "Telecommunications" means the transmission of information, images,
 16 pictures, voice or data by radio, video, or other electronic or impulse means.

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 18 SECTION 3. Assurance of nonvisual access.

19 (a) In general, the head of each covered entity shall ensure that
 20 information technology equipment and software used by employees, program
 21 participants, or members of the general public:

22 (1) Provides blind or visually impaired individuals with access,
 23 including but not limited to interactive use of the equipment and services
 24 which is equivalent to that provided to individuals who are not blind or
 25 visually impaired;

26 (2) Is designed to present information including but not limited
 27 to prompts used for interactive communications in formats intended for both
 28 visual and nonvisual use; and

29 (3) Has been purchased under a contract which includes the
 30 technology access clause required pursuant to Section 4 of this act.

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 32 SECTION 4. Procurement requirements.

33 (a) The technology access clause specified in Section 3 of this act
 34 shall be developed by the Department of Information Systems and shall require
 35 compliance with nonvisual access standards established by the state. The
 36 clause shall be included in all contracts for the procurement of information

1 technology by, or for the use of, entities covered by this act on or after the
 2 effective date of this act.

3 (b) The nonvisual access standards established by the state pursuant to
 4 subsection (a) of this section shall include such specifications as are
 5 necessary to fulfill the assurances in Section 3 of this act and shall include
 6 the following minimum specifications:

7 (1) That effective, interactive control and use of the technology
 8 including but not limited to the operating system, applications programs, and
 9 format of the data presented, is readily achievable by nonvisual means;

10 (2) That the technology equipped for nonvisual access must be
 11 compatible with information technology used by other individuals with whom the
 12 blind or visually impaired individual must interact;

13 (3) That nonvisual access technology must be integrated into
 14 networks used to share communications among employees, program participants,
 15 and the public; and

16 (4) That the technology for nonvisual access must have the
 17 capability of providing equivalent access by nonvisual means to
 18 telecommunications or other interconnected network services used by persons
 19 who are not blind or visually impaired.

20
 21 SECTION 5. Implementation.

22 (a) For the purpose of assuring the effective phasing in of nonvisual
 23 access technology procurement, the head of any covered entity:

24 (1) May not approve exclusion of the technology access clause
 25 from any contract with respect to the compatibility of standard operating
 26 systems and software with nonvisual access software and peripheral devices or
 27 with respect to the initial design, development, and installation of
 28 information systems, including the design and procurement of interactive
 29 equipment and software; or

30 (2) May, with respect to nonvisual access software or peripheral
 31 devices obtained during the three (3) year period, beginning upon the date of
 32 enactment of this act, approve exclusion of such clause to the extent that the
 33 cost of such software or devices for the covered entity exceeds:

34 (A) Fifty thousand dollars (\$50,000)for the first year;

35 (B) One hundred thousand dollars (\$100,000) for the second
 36 year; and

1 (C) Two hundred and fifty thousand dollars (\$250,000) for
 2 the third year.

3 (b) Nothing in this section requires the installation of software or
 4 peripheral devices used for nonvisual access when the information technology
 5 is being used by individuals who are not blind or visually impaired.

6 (c) Notwithstanding the provisions of paragraph (b) of this section,
 7 the applications programs and underlying operating systems including but not
 8 limited to the format of the data used for the manipulation and presentation
 9 of information shall permit the installation and effective use of nonvisual
 10 access software and peripheral devices.

11 (d) Compliance with this act in regard to information technology
 12 purchased prior to the effective date of this act shall be achieved at the
 13 time of procurement of an upgrade or replacement of the existing equipment or
 14 software.

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 16 SECTION 6. Action for injunction.

17 (a) A person injured by a violation of this act may maintain an action
 18 for injunctive relief to enforce the terms of this act.

19 (b) Limitation period for civil action:

20 (1) Any such action shall be commenced within four (4) years
 21 after the cause of action accrues; and

22 (2) For the purposes of this subsection, a cause of action for a
 23 continuing violation accrues at the time of the latest violation.

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 25 SECTION 7. This act shall take effect and be in force from the date of
 26 enactment of this act.

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 28 SECTION 8. All provisions of this act of a general and permanent nature
 29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 30 Revision Commission shall incorporate the same in the Code.

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 32 SECTION 9. If any provision of this act or the application thereof to
 33 any person or circumstance is held invalid, such invalidity shall not affect
 34 other provisions or applications of the act which can be given effect without
 35 the invalid provision or application, and to this end the provisions of this
 36 act are declared to be severable.

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SECTION 10. All laws and parts of laws in conflict with this act are hereby repealed.

APPROVED: 4/8/1999