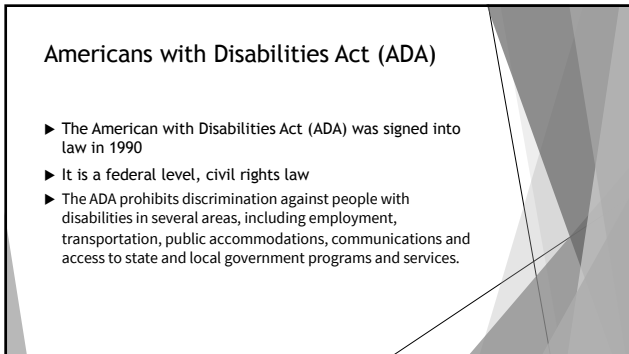


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Overview of ADA

- ▶ Title I (Employment - Employers are subject if they have 15 or more employees)
- ▶ Title II (State and local Government services, programs, and activities; Public Transit)
- ▶ Title III (Businesses open to the public; includes requirements for private transit and commercial facility design compliance)
- ▶ Title IV (Telecommunication companies)
- ▶ Title V (Provides requirements for implementing the law)

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Employers

- ▶ Employers must make **reasonable accommodations to a qualified person with a disability** so long as the accommodations do not cause **undue hardship**
 - ▶ Undue hardship is a tough standard (significant difficulty or expense)
 - ▶ Employees must be a qualified person with a disability and be able to perform essential functions of the job with or without reasonable accommodation
 - ▶ Non-discrimination
 - ▶ Non-retaliation
- ▶ If you would accommodate someone with restrictions due to a worker's comp injury, then you need to accommodate someone with restrictions due to an injury outside of work

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Reasonable Accommodations

- ▶ May include modifications to a job, the work environment, or hiring process
- ▶ Examples
 - ▶ Installing a ramp
 - ▶ Use of visual alerts in addition to audial
 - ▶ Adjusting/modifying work schedules for breaks or medical appointments
 - ▶ Allowing for use of a service animal
 - ▶ Use of FMLA leave

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Accessibility

- ▶ Not just an issue for reasonable accommodations by employers
- ▶ Commercial facilities (such as warehouses, office buildings, and factories) are subject to Title III, and must comply with ADA Standards for Accessible Design
- ▶ Common access requirements for buildings include:
 - ▶ Handrails
 - ▶ Auto-open doors
 - ▶ Ramps
 - ▶ Accessible bathrooms
 - ▶ Adequate accessible parking

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Enforcement and Penalties

- ▶ Equal Employment Opportunity Commission
- ▶ Litigation by individual or EEOC
- ▶ For employers, limits on compensatory and punitive damages vary by size:
 - For employers with 15-100 employees, the limit is \$50,000.
 - For employers with 101-200 employees, the limit is \$100,000.
 - For employers with 201-500 employees, the limit is \$200,000.
 - For employers with more than 500 employees, the limit is \$300,000.
- ▶ Under Title III, civil monetary penalties are available for violations (occurring after 4/28/14):
 - ▶ First violation maximum = \$75,000
 - ▶ Subsequent violations maximum = \$150,000

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Other Considerations

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Michigan Persons with Disabilities Civil Rights Act

- ▶ Michigan corollary to the ADA
- ▶ Applies to an employer, employment agency, or labor organization
- ▶ Employers with 1 or more employees are subject
- ▶ Written requirement
 - ▶ Employees who believe they may need an accommodation must submit a notice of it in writing within 182 days after the date the employee knew or reasonably should have known that an accommodation was needed.

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Pregnant Workers Fairness Act

- ▶ Federal law, enacted in 2022, effective June 27, 2023
- ▶ Applies to employers with 15 or more employees
- ▶ Requires reasonable accommodations to staff with medical conditions related to pregnancy and childbirth, unless accommodation would cause undue hardship to the employer
- ▶ Employers also cannot:
 - ▶ Require an employee to accept an accommodation without discussion
 - ▶ Deny a job or employment opportunity to a qualified employee/applicant based on the need for reasonable accommodation
 - ▶ Require an employee to take leave if another reasonable accommodation could be provided, allowing continuance of work
 - ▶ Retaliate
 - ▶ Interfere with rights under the PWFA

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Questions?

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