

2025

Fall Municipal Law Conference

The Lodge at Gulf State Park, Gulf Shores, Alabama
September 25 - 27, 2025

ADA Compliance in Courthouses and Courtrooms

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ADA Compliance in Courthouses and Courtrooms



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The usual ADA Title II principles apply to courthouses

- ▶ Facility access (new construction and alterations)
- ▶ Access to services
- ▶ Program access
- ▶ Reasonable modifications to policies, practices and procedures
- ▶ Effective communication

... And the usual "defenses": undue burden, fundamental alteration, etc.

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Facilities Requirements

▶ **New construction and alterations work**

- If you build anything, it must comply
- If you alter an element, you must bring it into compliance
- If you alter a primary function area, you must provide a path of travel to allow people with disabilities to get to that area (accessible routes) and use it (toilets, telephones, and drinking fountains)

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Facilities Requirements

▶ **Program Access**

- Physical barriers that limit access to programs, activities, services, benefits, opportunities, etc. in existing facilities must be removed or solved with administrative solutions

▶ **Maintenance**

- Maintenance work that affects accessibility offers opportunities for improving access
- Your maintenance staff may also be able to remove barriers when they have extra time, if they know what is needed

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Existing Facilities {35.150}

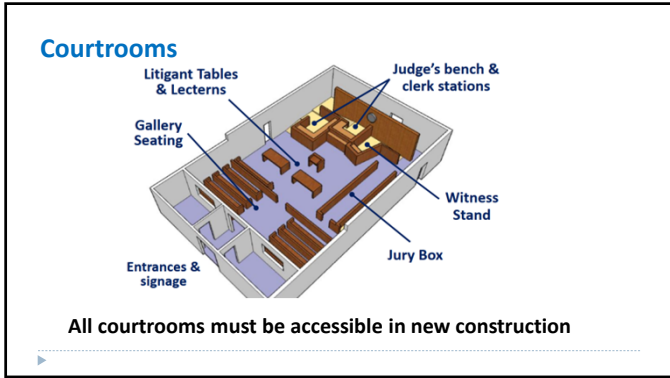
▶ "A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities."

▶ This paragraph does not (necessarily) require:

- Making every existing facility accessible
- Any action that would threaten or destroy the historic significance of historic property where the **primary purpose of that facility is to preserve history**

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Accessing Courtroom Levels – Jury Box

Be careful that the wheelchair clear floor space is properly sized for the route providing access to it and the ADA or stricter building code.

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Clear Floor Space

- Must be provided in each jury box and witness stand.
- In **alterations**, wheelchair spaces may be outside these spaces if:
 - Jury boxes or witness stands are raised, **and**
 - A ramp or platform lift poses a hazard by restricting the required means of egress


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Work surfaces must be compliant for

- ▶ Judges' benches
- ▶ Clerks' stations
- ▶ Bailiffs' stations
- ▶ Deputy clerks' stations
- ▶ Court reporters' stations
- ▶ Litigants' and counsel stations

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Spectator Seating



- Wheelchair spaces cannot overlap circulation paths
- Companion seating with shoulder alignment is required
- Designated aisle seats (with folding or retractable armrests)

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Assistive Listening Systems

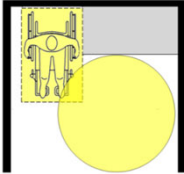
- Required in each courtroom, each assembly area
- Technologies (IR, loop, FM)
- Receivers (number, hearing-aid compatibility)
- Signs about their availability



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Courtroom Holding Cells

- ▶ **Central Holding Cells:**
 - ▶ One of each type must be compliant
- ▶ **Court-Floor Holding Cells**
 - ▶ One of each type must be compliant
 - ▶ All courtrooms that use holding cells must have access to accessible holding cells of each type



If toilets or lavatories are provided, they must also be accessible

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Other Courtroom Related Areas w/specific requirements

- ▶ Judges’ chambers
- ▶ Jury assembly rooms
- ▶ Jury deliberation areas, if different
- ▶ Jury restrooms

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Limited “Exceptions” to the Rules

Technically Infeasible

- ▶ With respect to an *alteration of a building or a facility*, something that has little likelihood of being accomplished because existing structural conditions would require removing or *altering* a load-bearing member that is an essential part of the *structural frame*; or because other existing physical or *site* constraints prohibit modification or *addition of elements, spaces*, or features that are in full and strict compliance with the minimum requirements.

This is not a cost consideration, but a technical one.

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Limited “Exceptions” to the Rules

Historic Facilities

- ▶ When the purpose of the facility is to provide programs, services, activities, or benefits, this exception does **not** limit the requirement to provide accessible programs.
- ▶ When the **primary purpose of the facility** is to preserve history, then the historic exceptions may apply. There are very specific procedures that must be followed including interactive discussions with the State Historic Preservation Officer and people with disabilities to determine what physical changes can be made without threatening or destroying historic elements as well as what alternative methods can be used to provide access.

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Limited "Exceptions" to the Rules

Fundamental Alteration or Undue Financial and Administrative Burdens

- ▶ A public entity is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or create an undue financial and administrative burden
 - Decision must be made by the head of a public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity
 - Accompanied by a written statement of the reasons for reaching that conclusion.
 - Then take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services

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Alternatives to Barrier Removal

A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.

In choosing among available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

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Alternatives to Barrier Removal

Alternative Methods for providing program access

- ▶ Redesign or acquisition of equipment
- ▶ Reassignment of services to accessible buildings
- ▶ Assignment of aides to beneficiaries
- ▶ Home visits
- ▶ Delivery of services at alternate accessible sites
- ▶ Alteration of existing facilities
- ▶ Construction of new facilities
- ▶ Use of accessible rolling stock or other conveyances
- ▶ Any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities.

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Additional Notes For Existing Facilities {35.150}

- ▶ No requirement to make structural changes where other methods are effective in achieving compliance
- ▶ Alterations to existing buildings must meet requirements for alterations in {35.151}
- ▶ Selection of compliance methods should give priority to methods that offer the most integrated setting appropriate. (In a courtroom, this relates primarily to integrated seating. Due to the legal process, it has been interpreted by many courts not to allow segregation of key participants unless necessitated by their disability.)

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Common Types of Physical Barriers

- ▶ Program access not provided in existing facilities
- ▶ New construction and alterations work not compliant with the ADA Standards
- ▶ Alterations projects do not have a “path of travel” serving them
- ▶ Furniture and equipment problems
- ▶ Improper operation of otherwise accessible facilities &/or elements

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Communications {Subpart E}

“A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are **as effective** as communications with others.”

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ALERT: U.S. Attorney actions (1)

- ▶ U.S. Atty. for ND of Georgia compliance review of courts
- ▶ Sent questionnaires to jurisdictions
- ▶ Areas covered:
 - Barrier removal obligations, including fire alarm system upgrades
 - Self-evaluations and transition plans
 - Compliance with standards (about 60+ questions)
 - Courtroom obligations plus typical parking, accessible route, counters, etc.
 - Food service
 - Shuttle van services
 - Detainee shuttle van services

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ALERT: U.S. Attorney actions (2)

- ▶ Policies, practices, and procedures
 - Selection criteria for participation – reviewed?
 - Formal policy for accommodations?
 - Telephone communication
 - Staff trained on how to communicate with people with disabilities?
 - Written documents, forms, guidelines?
 - How distributed?
 - Alternate formats?
 - Audiovisual presentations – captioned?
 - Contractors – formal nondiscrimination policy?
 - If video display boards, alternative formats?

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ALERT: U.S. Attorney actions (3)

- ▶ Remedial plans (6 months out)
- ▶ Complaints since January 26, 1992
 - Name of complainant
 - Nature of allegation
 - Resolution

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Federal guidance: child welfare courts (1)

Rights of parents and prospective parents with disabilities: technical assistance for child welfare agencies and courts, from DOJ and HHS

- ▶ Coverage of state court proceedings, such as termination of parental rights proceedings, covered by Title II (and Section 504 if funding to system)
 - Accessible locations
 - Auxiliary aids and services
 - Reasonable modifications:
 - Adjustments to hearing schedules
 - Provide aide or other assistive services to ensure full participation

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Federal guidance: child welfare courts (2)

- ▶ Focus on communication issues: limits on having children or friends serve as interpreters
- ▶ Equal opportunity to obtain/benefit from reunification
- ▶ Classes on caring for children, other parenting skills
- ▶ Private contractor

Protecting the Rights of Parents and Prospective Parents with Disabilities: Technical Assistance for State and Local Child Welfare Agencies and Courts under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, August 2015
http://www.ada.gov/doj_hhs_ta/child_welfare_ta.pdf

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Policies that should be in place

- ▶ Service animal access
- ▶ Security procedures
- ▶ Mobility devices
- ▶ Processes for obtaining auxiliary aids and services
- ▶ Process for requesting accommodations
- ▶ Process for denying accommodations
- ▶ Availability of assistive listening devices
- ▶ Moving a proceeding to an accessible space

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Inform the public of the processes for providing access

- ▶ Online
- ▶ At the courthouse
- ▶ At other locations for judicial services
- ▶ In documents produced by the court for the public or parties
 - Jury notices
 - Notices of hearing
 - Information about mediation

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Additional Resources

- ▶ [Designing Accessible Courthouses](#)
- ▶ [Accessible Courthouses Webinar](#) (A Refresher)
- ▶ [2010 ADA Standards](#)
- ▶ [2010 ADA Title II Regulations](#)
- ▶ [DOJ ADA Website](#)
- ▶ [Corada.com](#)

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