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## Testimony in strong opposition to HB 5050 An Act Modernizing the Symbol of Access for Persons with Disabilities February 22, 2016

Senator Cassano, Rep. Jutila, and members of the Government Administration and Elections Committee:

I am an autistic adult and one of the leaders of Second Thoughts Connecticut, a grassroots organization of disabled people and allies opposed to the legalization of assisted suicide. Our organization strongly opposes the proposed access symbol change in HB 5050 for several reasons.

First, directly related to our broader advocacy, the new symbol with a “dynamic character leaning forward” is profoundly ableist and conveys prejudice against those of us with severe disabilities, particularly people who have limited mobility. While the current International Symbol of Access (ISA) leaves much to the imagination, the so-called “accessible icon” posits a hierarchy of disability acceptance, reinforcing the lethal stereotype that the more severe the disability, the less desirable it is to continue living. The vast majority of us are not wheelchair athletes as portrayed by the new symbol. This prejudice against those of us who are seen as “too disabled” is no different than the prejudice against people who are seen as “too black” or “too Jewish,” and has no place in progressive Connecticut.

Second, HB 5050 violates the Americans with Disabilities Act and is pre-empted by it under the Supremacy Clause (Article VI, Clause 2) of the US Constitution. Title III of the ADA enshrines the ISA in its Accessibility Guidelines and the ANSI A117 standard. It does not even permit slight deviations of the symbol. The US Access Board, the International Organization for Standardization (ISO) and the Federal Highway Administration (FHWA) all reject the new symbol. An Official Ruling from the FHWA, No. 2(09)-111 (I) – International Symbol of Accessibility, dated May 28, 2015 states their position:

[http://mutcd.fhwa.dot.gov/resources/interpretations/pdf/2\\_09\\_111.pdf](http://mutcd.fhwa.dot.gov/resources/interpretations/pdf/2_09_111.pdf)

**Background:** Requests are being made of State and local authorities to substitute the International Symbol of Accessibility with alternative, “dynamic” designs that have been developed by advocacy groups that constitute a fundamental design change to the International Symbol of Accessibility. One group has encouraged citizens to cover existing symbols on traffic signs and pavement markings with its alternative graphic and, in some cases, has used alternative colors to those prescribed in the MUTCD [Manual on Uniform Traffic Control Devices].

**These alternative symbol designs have not been adopted or endorsed by the U. S. Access Board, which is responsible for promulgating Federal rules on**

**accessibility** and whose members include the U. S. Department of Justice and U. S. Department of Transportation. **Additionally, the International Organization for Standardization, which established the official symbol, has stated that it does not support the alternative symbol design being promoted.** The only symbols allowed for use in traffic control device applications are those adopted in the MUTCD or approved provisionally through the MUTCD official experimentation process.

The FHWA pursues improvements to traffic control devices on a continuing basis. However, such changes must undergo extensive human factors testing to ensure adequate levels of comprehension, recognition, and legibility for optimization in a roadway environment. The process by which a road user views a sign or other traffic control device differs greatly from an architectural function in which smaller signs or graphics are viewed by occupants of buildings from a close, stationary position. **Further, the use of non conforming symbols—whether by approval of local authority or by actions of citizens who deface a traffic control device—compromises the enforceability of these devices.**

The official design for the International Symbol of Accessibility for use in traffic control device applications is that which has been adopted by and is illustrated in the MUTCD and coincides with the design adopted by the *Americans with Disabilities Act Accessibility Guidelines*. Fabrication details can be found in the *Standard Highway Signs* publication.

**Conclusion:** Sections 2A.06, 2A.12, and 3B.20 of the MUTCD require that symbols used in traffic control device applications be "unmistakably similar" to the adopted symbols as depicted in the MUTCD and detailed in the *Standard Highway Signs* publication. **It is the official interpretation of the FHWA that the alternative symbols being advocated do not meet this requirement and are not acceptable for use in traffic control device applications.** The FHWA is receptive to reviewing information supporting the effectiveness of an alternative symbol design that demonstrates equivalent facilitation. However, consideration for implementation in traffic control device applications would depend upon favorable acceptance by and intent of the aforementioned stakeholder organizations to adopt a redesigned symbol for broad implementation. [emphasis added]

Five months ago, the FHWA denied a request from Concord, New Hampshire to use the new symbol in a Main Street revitalization project, citing the above ruling.

The New York law upon which HB 5050 is based is causing havoc in that state. Businesses are caught between conflicting federal and state law, and would have the burden of proof if they complied with the new law and were sued for violating the ADA. Cornell University in Ithaca, NY posts on its website that the D9-6 sign with the International Symbol of Access is still federally mandated in spite of state law requiring use of the "dynamic" symbol. (<http://www.clrp.cornell.edu/q-a/172-handicap.html>). Thus anything required by the ADA, including parking and bathroom signs, cannot be changed through state legislation such as HB 5050.

Third, as pointed out to us by Marilyn Golden, senior policy analyst at the Disability Rights Education and Defense Fund, consistency is very important in accessibility. Changing a globally-recognized symbol like the ISA poses a serious accessibility challenge to people with I/DD, as well as blind or visually impaired people (and I would add many autistics as well). For instance, imagine someone with low vision who does not read Braille going to a public restroom encountering this new symbol and reading it as something different than the ISA. What other variations might matter to different groups of disabled people?

It is also **not** clear that the new symbol is supposed to represent an active disabled person. Several people have commented on Facebook and on our Change.org petition opposing the icon change (<http://tinyurl.com/keep-the-ISA>) that it looks uncannily like someone trying to wipe himself after using the toilet. When the new symbol is painted on the ground on a parking space, it can look like an angel with wings when seen from an angle. It should be eminently clear that the new, flawed symbol does **not** provide “equivalent facilitation” under the ADA as claimed by proponents. If proponents want to change the symbol, they would need to convince the ISO first, and then the US Access Board (and Congress to amend the ADA), as a superseded state law leading to multiple symbols would cause confusion and diminish access.

Fourth, the focus on changing the icon distracts from the real issues facing disabled people in Connecticut. HB 5050 has a misleading stated purpose of “implementing the Governor’s budget” even though its provisions have nothing to do with the budget. Yet that very budget cuts many essential services disabled people need to survive, and most tellingly, completely defunds the state’s five Centers for Independent Living. If we really wanted to improve attitudes and lives, let us fully fund our CILs, make sure people stop blocking access aisles between reserved parking spaces, stop comparing autistics to puzzle pieces, respect the diversity of the disability community when it comes to person-first versus identity-first language, and defend our right to live in the first place when the larger culture views disability as a “burden,” even to the extent of “better dead than disabled.”

That said, we fully support changing the word “handicapped” on parking signs to “reserved”—Section 5 of HB 5050, but without the controversial icon change. This should be a no-brainer; 44 states already have “reserved parking” on their signs. While we are at it, we would also suggest adopting over time something like South Dakota’s sign forbidding parking in access aisles, with its emphatic message, “Wheelchair Access Aisle Absolutely No Parking” with the ISA in the middle: <http://www.safetysign.com/products/p3380/south-dakota-handicap-parking-sign>

When it comes to the life and dignity of disabled people, Connecticut has several things to be proud of. As a result of Second Thoughts Connecticut’s advocacy, we are the first and only state in the nation to include disabled people in our state suicide prevention plan (Connecticut State Suicide Prevention Plan 2020, <http://www.sprc.org/sites/sprc.org/files/CTSuicide-Prevention-Plan-2010.pdf>, pp 43-44). We are a role model for the nation in including the disability perspective on issues of advance care planning and life-sustaining medical care. Let us not betray our state’s leadership by embracing an ableist symbol which sends the wrong message about significant disability—a message that only “able disabled” people are welcome. Disability is part of the human condition; it is nothing to be ashamed of.