

Interim Report: A Review of Accessible Parking for Persons with Disabilities

**Prepared for:
Members of the 85th Texas Legislature**



Texas Governor's Committee on People with Disabilities

November 1, 2016

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“For many Texans with disabilities, accessible parking is the first step in being able to fully participate in the community.”

*Lora Taylor
Parent and Member
Texas Council on Developmental Disabilities*

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Executive Summary

During the [84th Legislative Session, House Bill 1317](#) charged the Governor's Committee on People with Disabilities (GCPD), in coordination with disability advocacy groups and disability-related organizations located in both rural and urban areas of the state, to review:

- (1) laws of this state that apply to parking for persons with disabilities;
- (2) laws of other states that apply to parking for persons with disabilities;
- (3) requirements for parking for persons with disabilities in:
 - (a) the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and related federal regulations;
 - (b) the 2010 Americans with Disabilities Act Standards for Accessible Design; and
 - (c) the 2012 Texas Accessibility Standards; and
- (4) policies on parking for persons with disabilities in state-owned parking lots, including on the grounds of the State Capitol.

The Committee and staff applied a multi-pronged approach to ensure success in meeting legislative mandates in gathering information on accessible⁷ parking issues. Actions taken to comprehensively address assigned tasks included:

- contacting other states through their Governor's Committees on People with Disabilities or similar organizations where possible;
- conducting quarterly GCPD committee meetings around the state to meet with disability advocates, partners and stakeholders;

⁷ The word accessible used throughout this report refers to a site, facility, work environment, service, or program that is easy to approach, enter, operate, participate in, and/or use safely and with dignity by a person with a disability.

- conducting an accessible public hearing at the State Capitol on the charge concerning accessible parking;
- participating in multi-agency meetings and/or conference calls regarding accessible parking in state-owned parking lots, including parking on the Capitol grounds;
- distributing and analyzing results from two online surveys, one to individuals with disabilities and one to businesses, that gathered information and opinions on the status of accessible parking in local communities around the state;
- gathering additional direct input from the public on accessible parking through e-mails and telephone calls to the GCPD office; and
- researching laws, regulatory requirements, standards and policy provisions on accessible parking applicable to persons with disabilities at the federal, state and local level as mandated.

Primary Findings

First: The Committee found that enforcement of current accessible parking laws was a leading concern to Texans with disabilities. This theme was common in comments received at a public hearing on accessible parking as well as from survey responses from individuals with disabilities. In an open-ended question where survey respondents could share information on any concern they had about accessible parking, enforcement was the topic that generated the most responses for this question (13.7% or 269 responses of 1959 responses received for this question). In addition to conveying an overall general need for enforcement of current accessible parking laws, survey responses shared a perception of general reluctance by both law enforcement officers and/or private property owners/managers to enforce accessible parking laws including those times when they tried to report real-time violations to local authorities.

Second: An insufficient number of accessible parking spaces was reported to the Committee as a particular concern for persons with disabilities. Again, anecdotal information was gathered from the public by public hearing and an anonymous online survey. Statistical data gathered from survey results disclosed that approximately 87% of persons with disabilities used a vehicle for

transportation at least weekly (17.5%) or daily (69.6%) as part of their life routine. More importantly, 79.4% of respondents stated they had difficulty finding an accessible parking space at least once a week (20.8%) to several times a week (40%) to every day (18.6%) when they made trips to the store, to a restaurant or to the doctor. Most of the time (according to 93% of the responses), this was because designated accessible parking spots were all filled.

Third: Placard fraud and abuse is recognized as a prevalent problem in the world of accessible parking. Some perceive it as partly responsible for the accessible parking space shortage due to the “convenience” factor. Actions causing placard fraud and abuse may include: (1) someone without a disability parking in an accessible parking space fraudulently by using a vehicle displaying a specialty parking plate or disability parking placard belonging to a family member or friend; (2) illegally buying or selling disability placards (on Craig’s List or similar sites); and (3) illegally altering or manufacturing disability parking placards for use by persons without a disability.

Conclusion

After an extensive review of state and federal accessible parking laws and input from the public, the Committee finds opportunities exist to improve accessible parking laws, rules and policies affecting persons with disabilities. Suggested improvements will benefit not only current Texans with disabilities but those who may acquire them in the future. In our belief that continuing efforts must be made to ensure that persons with disabilities have the opportunity to enjoy full and equal access to lives of independence, productivity and self-determination, the Committee offers 12 recommendations that we believe are practical solutions to accessible parking challenges in Texas.

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Recommendations

1. Strengthen enforcement of accessible parking laws as follows:
 - a. Strengthen/bolster language in Texas [Transportation Code, Title 7. Vehicles and Traffic, Subtitle H. Parking, Towing, and Storage of Vehicles - Chapter 681, Privileged Parking, Section 681.010 – Enforcement](#) so that it is unequivocal in its mandate for all individuals with enforcement responsibilities to enforce accessible parking laws; i.e., change “may” to “shall” or “must”.
 - b. Strengthen/bolster language in enforcement responsibilities as they apply to accessible parking on private property or areas of public accommodation as required by the ADA.
 - c. Reconsider judicial discretion to discourage frequent dismissal of accessible parking citations.
 - d. Consider mandatory towing for vehicles illegally parked in accessible parking spaces and have the violator bear the costs for towing in addition to any fines incurred.
2. Control accessible parking placard fraud and abuse through tighter laws and administrative remedies, such as:
 - a. cross-checking current disability placard holder lists against the state registry for death records and cancelling any placard for an individual identified as deceased.
 - b. requiring the next of kin of someone who has died to surrender the disability placard within 60 days after the death of the placard holder or be fined.
 - c. prioritizing enforcement of accessible parking placard fraud and abuse by establishing a task force for placard abuse enforcement or designating a state agency to assign resources to enforce current laws.
 - d. re-designing the disability parking placard to increase the tamper-resistance and comprehension of instructions on the placard.

3. Develop statewide public awareness on accessible parking and its impact on Texans with disabilities through public awareness campaigns.
4. Change the language in the transportation code from “Handicapped Parking” to “Accessible Parking” to align with the spirit of [Texas Government Code, Chapter 392, Person First Respectful Language Initiative](#).
5. Promote the development of volunteer accessibility parking enforcement programs to improve statewide enforcement of accessible parking laws.
6. Improve accessibility for visitors and residents within the Capitol Complex area by:
 - a. installing sheltered accessible drop off stations within the capitol complex perimeter;
 - b. expanding overall parking availability by diagonally striping parallel parking spaces on the east side of the Capitol in front of the Texas State Library and Archives Commission Building; and
 - c. developing a map marking accessible parking spots in the capitol complex area and downtown Austin for residents and visitors who need accessible parking.
7. Amend [Transportation Code § 681.011 Offenses; Presumption](#) to permit alternative sentencing which includes:
 - a. required education classes on disability awareness and accessible parking with a reduced fine upon completion of said education; and
 - b. community service/restitution requirements at a nonprofit organization that serves persons with disabilities or disabling diseases or any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities
8. *Redefine the van accessible requirements in the Texas Accessibility Standards (TAS) standards for medical facilities to increase the number of van accessible spaces at these locations.

9. *Update the Texas Accessibility Standards through legislation or rule-making by:
 - a. painting the International Symbol of Accessibility in an accessible parking space if the space is paved; and
 - b. painting the words "No Parking" in access aisles if the space is paved.
10. *Include on accessible parking signs regulatory language that informs of:
 - a. fines and penalties (e.g. \$550 - \$1,100 fine), and
 - b. consequences of illegal parking in accessible parking spaces (Violators will be towed).
11. Consider expanded statutory authority in [Human Resources Code, Title 7, Chapter 115.009](#) based on [New Mexico Statute § 28-10-3.3.D](#) to grant additional authority to GCPD to:
 - a. provide education, training and assistance to law enforcement agencies and accessible parking enforcement volunteers on accessible parking enforcement; and
 - b. work with other state agencies to provide public education and awareness on accessible parking issues and compliance with accessible parking laws.
12. Consider further study on the alignment of state law with federal law to conserve accessible parking privileges for those veterans with mobility disabilities rather than for any veteran with a disability who may not have mobility issues as prescribed in law; i.e., hearing loss or mental health disability.

*This may require a change to the Texas Accessibility Standards (TAS), which would require the Texas Department of Licensing and Regulation (TDLR) to seek recertification of TAS by the U.S. Department of Justice (DOJ).

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Background



In existence since September of 1950, the [Texas Governor's Committee on People with Disabilities](#) (GCPD) works toward a State where people with disabilities have the opportunity to enjoy full and equal access to lives of independence, productivity and self-determination. The Governor appoints [twelve members](#) to serve on the Committee, seven of whom must be people with disabilities. Representatives from six State agencies serve as ex-officio or advisory members.

The Committee makes [recommendations](#) to the Governor and Legislature on disability issues; promotes compliance with disability-related laws; promotes a network of local committees doing similar work; recognizes employers for hiring and retaining employees with disabilities; and recognizes media professionals and students for positively depicting Texans with disabilities. The members and staff also provide technical assistance, information and referral services to citizens of Texas on issues affecting Texans with disabilities. Members of the Committee work on issues related to Access, Education Communications, Emergency Management, Health, Housing, Recreation, Transportation, Veterans and Workforce. The Committee's enabling law is outlined in the [Human Resources Code, Chapter 115](#).

This interim report is to help inform the Governor and Legislature on accessible parking and applicable laws for people with disabilities. In addition to furnishing historical and contextual background on accessible parking, this report will provide a comprehensive understanding of the needs, preferences, and priorities of people with disabilities.

The Americans with Disabilities Act of 1990



The Americans with Disabilities Act (ADA) ² was signed into law on July 26, 1990, by President George H.W. Bush. The [United States Department of Justice](#) describes the ADA as:

. . . one of America's most comprehensive pieces of civil rights legislation that prohibits discrimination and guarantees that people with disabilities have the same opportunities as everyone else to participate in and enjoy—employment; public transportation; public accommodations, such as stores, shopping malls, restaurants, and hotels; and services provided by state and local government. To be protected by the ADA, one must have a disability, which is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.³

²[Americans with Disabilities Act of 1990, \(42 U.S.C. 12101 et seq.\)](#)

³ United States Department of Justice Civil Rights Division. (n.d.). [Introduction to the ADA](#). Retrieved October 10, 2016

"This act is powerful in its simplicity." Remarked George H.W. Bush at the signing of the Americans with Disabilities Act. "It will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard: independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the rich mosaic of the American mainstream. Legally, it will provide our disabled community with a powerful expansion of protections and then basic civil rights. It will guarantee fair and just access to the fruits of American life which we all must be able to enjoy...The ADA ensures access to public accommodations such as restaurants, hotels, shopping centers, and offices and expanded access to transportation services."⁴

⁴ [Americans with Disabilities Act of 1990, \(42 U.S.C. 12101 et seq.\)](#)

ADA Amendments Act of 2008



The Americans with Disabilities Act Amendments Act (ADAAA) of 2008ⁱ was a response to a number of decisions by the Supreme Court that narrowly interpreted the original text of the ADA⁵. Members of the U.S. Congress viewed these decisions as a trend that increasingly limited the rights of persons with disabilities. The ADAAA, signed into law on September 25, 2008, clarified the civil rights protections for persons with a disability under the ADA, thus making it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the Americans with Disabilities Act. Changes regarding the definition of disability resulted in revisions to the implementing regulations for Title II (state and local governments)⁶ and Title III entities (public accommodations)⁷ and to the ADA Standards for Accessible Design (ADAAG)⁸ in 2010 which apply to new construction and alterations in facilities covered by the ADA. These enforceable standards apply to places of public accommodation, commercial facilities, and state and local government facilities.

⁵ FindLaw for Professionals. (n.d.). *Three Recent Cases from the United States Supreme Court Narrow the Scope of Actionable "Disability" Under the ADA.*

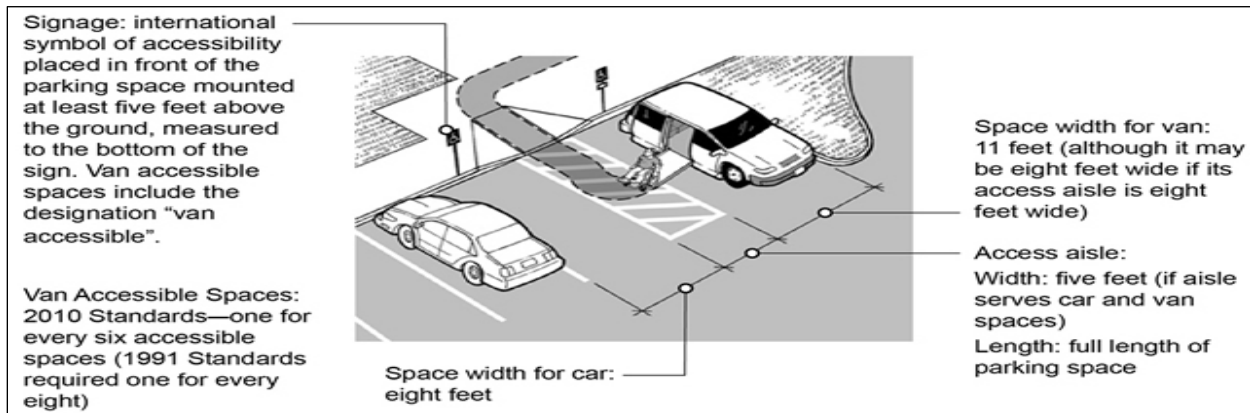
⁶ [28 C.F.R. §36.108 Definition of "Disability"](#)

⁷ [28 C.F.R. §36.105 Definition of "Disability"](#)

⁸ [ADA Standards for Accessible Design "2010 Standards"](#)

What is Accessible Parking?

Passage of the Americans with Disabilities Act created a national mandate for accessible parking and created standards that apply to accessible parking spaces reserved for drivers with disabilities. Specifications for accessible parking spaces are established in the ADA Accessibility Guidelines [Chapter 208 \(Scoping Requirements - Parking Spaces\)](#) and [Chapter 502 \(General Site and Building Elements - Parking Spaces\)](#). However, the state of Texas follows the Texas Accessibility Standards⁹ (TAS) for accessible parking spaces which received equivalency certification from the U. S. Department of Justice (DOJ) on September 23, 1996. The TAS, administered by the Texas Department of Licensing and Regulation (TDLR), was found to have met or exceeded the new construction and alteration requirements of Title III of the ADA and was consistent with the 1991 ADA Accessibility Guidelines (ADAAG), except as noted in TAS by italics.



⁹ Architectural Barriers Texas Accessibility Standards (TAS), [2012 Texas Accessibility Standards \(TAS\)](#), Texas Government Code, Chapter 469, Administered by the Texas Department of Licensing and Regulation

History of Accessible Parking

Handicap parking, or accessible parking, to use person-first terminology, began in the 1960s when protections for persons with disabilities grew out of the Civil Rights Movement and major pieces of legislation were passed. Although individuals with disabilities were not included as a protected class of citizens at this time, the groundwork was established for preventing discrimination and making accommodations for equal access. Legislation that the federal government adopted that would ultimately affect accessible parking included:

- The Architectural Barriers Act of 1968¹⁶, which requires that federal facilities be accessible to members of the public who have disabilities.
- The Rehabilitation Act of 1973¹⁷ which extends those federal regulations to include organizations receiving federal funds.
- The Fair Housing Act¹⁸, as amended in 1988, which protects people from discrimination, including those with disabilities, when they are renting, buying, or securing financing for any housing.
- Public Law 100-641 Section 3. Handicapped Parking System,¹⁹ which establishes a uniform system for accessible parking designed to enhance the safety of individuals with disabilities and encourages the adoption of this system by all the states.
- The Americans with Disabilities Act of 1990 (ADA), which protects persons with disabilities from discrimination and requires reasonable accommodations for equal access.

With passage of the ADA, the Department of Justice (DOJ) published, on July 26, 1991, the ADA Title III regulations, which included the ADA Standards for Accessible Design (1991 Standards). Accessible parking requirements were first addressed in Section 4.6 - Parking and Passenger Loading Zones. Paralleling the ADAAG, the Texas Accessibility Standards (TAS) were first issued in 1994. Accessible parking was addressed in TAS Section 4.6 - Parking

¹⁶ [Architectural Barriers Act of 1968, as amended 42 U.S.C. §§ 4151 et seq.](#)

¹⁷ [Rehabilitation Act of 1973, Public Law 93-112 \(87 Statute 355\) codified as 29 U.S.C. § 701 et seq.](#)

¹⁸ [Fair Housing Act of 1968 \(FHA\) \(42U.S.C.A. §§ 3601-3631\)](#)

¹⁹ [Public Law 100-641 Section 3. Handicapped Parking System](#)

and Passenger Loading Zones. The original ADAAG was later supplemented to address state and local government facilities (1998). Guidance has been updated with the 2010 standards. The U.S. Department of Transportation issued guidelines at 23 C.F.R. 1235 establishing a uniform system for parking for persons with disabilities that “provides guidelines to States . . . to enhance access and the safety of persons with disabilities which limit or impair their ability to walk.” (Appendix B.)

Eligibility for Disability Parking Placard or Plates

States follow in varying degrees the guidelines in 23 C.F.R. 1235 that define whether a person has a disability which limits or impairs the ability to walk. The guidelines specify that the determination must be made by a licensed physician but does not require certification in any particular area of medical specialty. When determined eligible based on established criteria, the individual becomes entitled to receive a combination of special license plates, removable windshield placard(s) or temporary removable windshield placard(s) that permits the person to park in spaces specifically reserved for persons with disabilities which limit or impair the ability to walk.

Criteria to qualify for the disability parking placard include:

- a. Cannot walk 200 feet without stopping to rest; or
- b. Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or another assistive device; or
- c. Are restricted by lung disease to such an extent that the person's force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or
- d. Use portable oxygen; or
- e. Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or
- f. Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

Some states have additional qualifications for receiving a disability parking placard. Texas includes the following conditions in addition to those found in 23 C.F.R. 1235:

- a) Visual acuity of 20/200 or less in the better eye with correcting lenses; or
- b) Visual acuity of more than 20/200 but with a limited field of vision in which the widest diameter of the visual field subtends an angle of 20 degrees or less; or

- c) Variation of item "f" above: Has a disorder of the foot that in the opinion of a physician licensed to practice podiatry in this state or in a state adjacent to this state, limits or impairs the person's ability to walk; or
- d) Has another debilitation condition that, in the opinion of a physician licensed to practice medicine in this state or a state adjacent to this state, or authorized by applicable law to practice medicine in a hospital or other health facility of the Veteran's Administration, limits or impairs the person's ability to walk.

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Committee Action

The 84th Texas Legislature required the Governor's Committee on People with Disabilities (GCPD) to review and prepare a report covering:

1. the laws of this state that apply to parking for persons with disabilities;
2. the laws of other states that apply to parking for persons with disabilities;
3. the requirements for parking for persons with disabilities in:
 - a. the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and related federal regulations;
 - b. the 2010 Americans with Disabilities Act Standards for Accessible Design; and
 - c. the 2012 Texas Accessibility Standards; and
4. the policies on parking for persons with disabilities in state-owned parking lots, including on the grounds of the State Capitol.

Information Gathering

As part of the information gathering phase, GCPD staff met or spoke with members of disability groups, disability advocates, parents and caregivers, state agency representatives, enforcement officials and other constituents. The following is a list of organizations, individuals, and constituents GCPD communicated with during the information gathering phase:

Mack Marsh, Parking Mobility	Tammera Parr-Lamb, Texas DMV Vehicle Titles & Registration
Nancy Crowther, Parking Mobility	
Renee Lopez, Parking Mobility	Taurie Randermann, Texas DMV Government & Strategic Communications
Jeff Miller, Disability Rights Texas	
Lora Taylor, Texas Council on Developmental Disabilities	Vinh Nguyen, ILRU
Ileene Robinson, advocate	Commander Joe Ortiz, Texas Department of Public Safety (DBS)
Dennis Borel, Coalition of Texans with Disabilities (CTD)	Major Raul Vargas, DPS
Chase Bearden, (CTD)	Sergeant Victor Taylor, DPS
Tanya Winters, Travis County Constable Precinct #5	Leslie Pawelka, State Preservation Board (TSB)
Bob Posey, Texas Department of Licensing and Regulation (TDLR) - Architectural Barriers	Chris Currens, TSB
Norman Kieke, TDLR Architectural Barriers	Laura Hall, Texas Facilities Commission (TFC)

Public Hearing

The Texas Governor's Committee on People with Disabilities held a public hearing on August 10, 2016 at 1:00 p.m. in Austin, Texas in the Capitol Extension, Room E1.016. The following Committee members and staff were in attendance at the meeting:

Committee Members:

Aaron Bangor, Austin

Richard Martinez, San Antonio

Elizabeth Dickey, Austin

Linda Millstone, Austin

Marilou Fowler, Katy

Dylan Rafaty, Plano

Heather Griffith, Fort Worth

Diane Rose, Bellmead

Archer S. Hadley, Austin

Faye Kuo, Austin

GCPD Staff:

Ron Lucey, Executive Director

Randi Turner, Accessibility & Disability Rights Coordinator

Nancy Van Loan, Executive Assistant

Public Hearing Testimony

The following individuals testified on the charges:

- Taylor, Lora; Houston, TX – Individual
- Robinson, Ileene; Houston, TX – Individual
- Guzman, Roland; San Antonio, TX – Individual
- King, Gaylon; Travis County – Individual/Volunteer
- Marsh, Mack; Statewide – Business: Parking Mobility
- Lopez, Rene; Austin, TX – Individual
- Crowther, Nancy; Austin, TX – Individual
- Carter, Marilyn; Weatherford, TX – Individual
- Hadley, Barbara; Austin, TX – Individual
- White, Brian; Austin, TX – Business: Texas Independent Living Council
- Borel, Dennis; Statewide – Business: Coalition of Texans with Disabilities

Testimony from individuals who use accessible parking, transport individuals with disabilities, or advocate for individuals with disabilities was used to develop recommendations made by the GCPD. (Appendix C.)

Online Survey – Individuals with Disabilities

In September 2016, GCPD staff developed a comprehensive *Accessible Parking Survey for Persons with Disabilities* or their personal attendants or family members and friends who may provide transportation for someone with a disability (Appendix D). The survey asked citizens to provide input about their experiences with accessible parking. Citizens were also given the opportunity to provide open-ended responses on accessible parking issues that are important to them. GCPD staff sent an e-mail invitation with a link to the accessible parking survey via the GovDelivery system - a push notification system of information that fosters citizen engagement. GCPD's GovDelivery distribution list includes more than 5,000 individuals with disabilities and Texas non-profit organizations and agencies serving Texans with disabilities. The survey was sent directly by GCPD or by the following partners, stakeholders or interested state agencies, community organizations, and associations willing to assist us in our efforts to survey the public:

- Texas Department of Motor Vehicles list of disability placard/license plate holders
- Health and Human Services Commission stakeholder relations list
- Texas Workforce Commission stakeholder relations list
- Texas Council on Developmental Disabilities Facebook an e-mail distribution list
- State Independent Living Centers distribution list
- Coalition of Texans with Disabilities distribution list
- Texas Parent-to-Parent e-mail list
- Texas Disabled Veterans Post Commanders distribution list
- Travis County Disabled Parking Enforcement Statewide Parking Enforcement list
- GCPD database of transportation stakeholders
- GCPD accessible parking workgroup
- GCPD public hearing sign-in list
- Texas Association of Counties

Survey results can be found in Appendix E

Online Survey – Businesses

Concurrently, in October 2016, GCPD staff developed a comprehensive *Accessible Parking Survey for Businesses* (Appendix F). The survey asked businesses to provide input related to their experience with accessible parking issues. Businesses were also given the opportunity to provide open-ended responses on accessible parking issues important to them. GCPD staff sent an e-mail invitation with a link to the accessible parking survey via the GovDelivery system through the following partners, stakeholders, state agencies and business associations:

- Texas Small Business Administration regional directors
- Texas Workforce Commission – *Texas Business Today* list
- Texas business journals and business editors of major Texas newspapers
- Governor’s Office of Economic Development
- Texas Restaurant Association
- Texas Medical Association

Survey results were reviewed and consideration was used in developing GCDP’s recommendations. (Appendix G)

Charge 1

Review laws of this state that apply to parking for persons with disabilities

Charge 1: Texas Laws Applicable to Accessible Parking

- [Texas Elimination of Architectural Barriers Act Chapter 469, Government Code](#)
- [Transportation Code, Title 7. Vehicles and Traffic, Subtitle A. Certificates of Title and Registration of Vehicles. Chapter 504 - License Plates.](#)
- [Transportation Code, Title 7. Vehicles and Traffic, Subtitle H. Parking, Towing, and Storage of Vehicles. Chapter 681 - Privileged Parking.](#)
- [Occupations Code, Title 10. Occupations Related to Law Enforcement and Security, Chapter 1702 - Private Security](#)

Rules governing accessible parking cover two areas of law:

1. Permit regulation – rules for the issuance of disabled parking permits; and
2. Site regulation – rules governing accessible parking sites and design, including the number of accessible spaces in parking lots, size of spaces, etc.

Charge 1 covers accessible parking permit regulation. A permitting system will generally include:

1. Eligibility for receiving a permit
2. Types of permits, including how permits are to be displayed
3. The permit application and certification process
4. How long a permit is valid
5. Implementation of the permitting system, including:
 - a. Prohibitions against permit abuse
 - b. Enforcement
 - c. Fines and penalties

While states are not required to comply with the Uniform System for Parking for Persons with Disabilities, Texas follows many of the federal guidelines set forth in 23 C.F.R. Part 1235. For instance, Texas:

- Includes the International Symbol of Accessibility on the special license plate issued to persons with mobility disabilities.
- Uses a two-sided, hanger-style placard which includes on each side the International Symbol of Accessibility which is at least three-inches in height, centered on the placard, and is white on a blue shield for permanent placard and white on red shield for temporary placard; has an identification number (sticker with number); a date of expiration (handwritten in); and the seal or other identification of the issuing authority (Texas Department of Motor Vehicles)
- Issues one special plate and one placard or a limit of two placards if no special license plate is issued; and no more than two temporary placards for a condition which may impair a person's ability to walk for up to six months.
- Addresses issuance of a special license plate to an organization which transports persons with disabilities.
- Addresses reciprocity with another state.

How Texas Law Differs from Federal Regulations

Texas's definition of disabilities is broader in statute regarding the conditions under which one may receive a disability parking placard. These additional conditions include:

1. Visual acuity of 20/200 or less in the better eye with correcting lenses; or
2. Visual acuity of more than 20/200 but with a limited field of vision in which the widest diameter of the visual field subtends an angle of 20 degrees or less; or
3. Variation of item "f" above: Has a disorder of the foot that in the opinion of a physician licensed to practice podiatry in this state or in a state adjacent to this state, limits or impairs the person's ability to walk; or

4. Has another debilitation condition that, in the opinion of a physician licensed to practice medicine in this state or a state adjacent to this state, or authorized by applicable law to practice medicine in a hospital or other health facility of the Veteran's Administration, limits or impairs the person's ability to walk.

Texas law is also broader in extending accessible parking privileges to disabled veterans who received specialty disabled veterans plates under Chapter 502.202 which require a minimum 50% service-connected disability which may or may not be a mobility-related disability or a 40% service-connected disability because of an amputation of a lower extremity.

The Uniform System for Parking for Persons with Disabilities does not contain rules regarding renewals, parking space time limitations, or enforcement. States may design their own legal framework surrounding these areas pertaining to accessible parking.

Texas may benefit from the research of other state's parking laws to update the state's legal framework for more effective parking enforcement and reduction of fraud and abuse of accessible parking. See the recommendations section of this report for opportunities to more effectively enforce accessible parking.

Charge 2

Review laws of other states that apply to parking
for persons with disabilities

Charge 2: Laws of Other States That Apply to Parking for Persons with Disabilities

In November 1988, Public Law 100-641 was passed which established a uniform system for handicapped (accessible) parking. This system was designed to enhance the safety of individuals with disabilities. Adoption of this system was encouraged, but not required, by all the states. Later, in 1991, model definitions and rules for eligibility, application and issuance procedures for special license plates and placards were provided to the states in federal guidance 23 C.F.R Part 1235 Uniform System for Parking for Persons with Disabilities. Although the federal government maintained a strong advisory role on accessible parking, states maintained ultimate responsibility for developing rules and regulations for accessible parking privileges.

In examining statutes for the different states on parking laws as they apply to persons with disabilities, it was apparent that standards varied greatly from state to state. (Appendix H.) Most states appeared to adopt 23 C.F.R Part 1235 Uniform System as a foundation for permit eligibility criteria, types and styles of placards/specialty plates, and application and certification process. There were variations in the criteria for determining eligibility, with some states offering broader definitions of disability. The most notable differences were in the areas of time limits for placards (2 years to non-expiring), parking signs (minimal markings according to ADAAG to inclusion of statutory language for fines/penalties, towing or who can use the space), and enforcement (minimal civil penalties to criminal penalties). (Appendix I.)



Examples of signage differences among the states:

- [California Vehicle Code § 22511.7\(b\)](#) - A parking space shall be indicated by blue paint on the curb or edge of the paved portion of the street next to the space; a posted sign with a profile view of a wheelchair with occupant in white on a blue background. The sign shall clearly and conspicuously state: "Minimum Fine \$250." If the loading and unloading area of the pavement next to a parking stall or space is designated for disabled persons or disabled veterans, the border shall be painted blue and the hatched lines shall be painted a suitable contrasting color to the parking space. Blue or white paint is preferred. In addition, within the border the words "No Parking" shall be painted in white letters no less than 12 inches high.
- [New Mexico Statute § 66-7-352-4.C](#) – A sign at an accessible parking space shall include the language "Violators are subject to a fine and/or towing." [Statute 66-1-4-1.B](#) - the words "NO PARKING" in capital letters, each at least one foot high and two inches wide shall be placed at the rear of the access aisle so as to be close to where an adjacent vehicle's rear tires would be placed. [Statute 66-1-4-4.E](#) - designated accessible parking space shall have a conspicuously posted sign bearing the international symbol of access and, if the parking space is paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space.
- [North Carolina General Statute § 20-37.6\(d\)](#) - A sign designating a parking space for handicapped persons shall state the maximum penalty for parking in the space in violation of the law.

- [Tennessee Code § 55-21-105](#) - Each such parking space shall be marked and maintained with the stylized wheelchair symbol designated by § 55-21-104. The marking may be by a sign on a pole. Van accessible parking spaces shall have an additional sign marked "Van Accessible Priority for Wheelchair User" mounted below the sign. The van accessible parking spaces may have an additional sign marked "Priority Should Be Given to Disabled Van Access."
- [Texas Transportation Code § 681.009\(b\)](#) - A political subdivision must designate a parking space or area by conforming to the standards and specifications adopted by the Texas Commission of Licensing and Regulation under Section 5(i), Article 9102, Revised Statutes, relating to the identification and dimensions of parking spaces for persons with disabilities. A person who owns or controls private property used for parking may designate a parking space or area without conforming to those standards and specifications, unless required to conform by law.

Examples where enforcement differs among the states where penalties range from civil to criminal penalties:

- [Connecticut General Statute § 14-253a\(l\)\(1\)](#) - for a first violation a person may be fined \$150 and for a subsequent violation fined \$250.
- [Georgia Code § 40-6-226\(f\)\(2\)](#) - any person shall be subject to a fine of not less than \$100 and not more than \$500.
- [625 Illinois Comp. Statute § 5/11-1301.3\(c-1\)](#) – if not an authorized user of a disability placard, a first time violator shall be fined \$600; if guilty a second or subsequent time shall be fined \$1,000. If the person to whom the placard was issued is deceased, the violator is guilty of a Class A misdemeanor and shall be fined \$2,500. The circuit clerk shall distribute 50% of the fine imposed to the law enforcement agency that issued the citation or made the arrest. If more than one law enforcement agency is responsible for issuing the citation or making the arrest, the 50% of the fine imposed shall be shared equally. If an officer of the State Department Police arrested a person for a violation of this Section, 50% of the fine imposed shall be deposited into the State Police Services Fund.
- [Louisiana Revised Statute § 47:463.4A\(3\)\(c\)](#) - Any person who violates the provisions of this Subsection may be fined not less than \$50 nor more

than \$250, or may be imprisoned for not more than 30 days, or both, for the first offense and, on the second and subsequent offenses, a fine of not less than \$250 nor more than \$500 may be imposed, or imprisonment for not more than 30 days, or both.

- [Texas Transportation Code § 681.011 \(g\)–\(k\)](#) - An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$750; if the person has been previously convicted one time of an offense under this section, the offense is punishable by a fine of not less than \$550 or more than \$800 and 10 hours of community service; if the person has been previously convicted two times of an offense under this section, the offense is punishable by a fine of not less than \$550 or more than \$800 and not less than 20 or more than 30 hours of community service; the person has been previously convicted three times of an offense under this section, the offense is punishable by a fine of not less than \$800 or more than \$1,100 and 50 hours of community service; if the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,250 and 50 hours of community service.

An analysis of accessible parking fines among all states indicates that Texas has one of the highest accessible parking fine penalties in the nation. The Committee does not recommend a further increase in Texas accessible parking fines. However, the results of the Committee's study indicate that alternative sentencing such as required disability awareness and accessible parking education with a reduced fine may result in greater compliance with accessible parking laws.

As noted in Charge 1, Texas may benefit from the research of other state's parking laws (Appendix J) to update the state's legal framework for more effective parking enforcement and reduction of fraud and abuse of accessible parking. See the recommendations section of this report for opportunities to more effectively enforce accessible parking.

Charge 3

Review requirements for parking for persons with disabilities in:

- a) federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and related federal regulations;
- b) 2010 Americans with Disabilities Act Standards for Accessible Design; and
- c) 2012 Texas Accessibility Standards

Charge 3: ADA and 28 CFR Parts 35 & 36; 2010 ADAAG; and 2012 TAS

The American with Disabilities Act (ADA) of 1990 was a piece of civil rights legislation that established rights and protections for people with disabilities. The ADA prohibited discrimination against people with disabilities and provided guarantees of equal access and reasonable accommodation to achieve equal access at public accommodations. In order to implement the ADA, the Department of Justice developed two sets of rules: one for states and local governments (28 C.F.R. Part 35 - Nondiscrimination on the Basis of Disability in State and Local Government Services) and one for public accommodations (28 C.F.R. Part 36 - Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities). Accessibility design standards (the ADA Standards for Accessible Design) were developed that established scoping and technical requirements for site and accessible parking design at commercial buildings, workplaces, medical facilities, residential buildings, and public streets. Standards also include the number of accessible spaces in parking lots, size and configuration of spaces, etc. Accessible parking standards were published in Section 4.6 – Parking and Passenger Loading Zones. These implementing rules and design standards were published in 1991.

In 1994, Texas developed its own standards for accessible design based on the federal standards: the Texas Accessibility Standards (TAS) which received equivalency certification from the U. S. Department of Justice (DOJ) on September 23, 1996. The TAS, administered by the Texas Department of Licensing and Regulation (TDLR), was determined as meeting or exceeding the new construction and alteration requirements of Title III of the ADA and being consistent with the 1991 ADA Accessibility Guidelines), except as noted in TAS by italics. The TAS included accessible parking standards at Section 4.6 – Parking and Passenger Loading Zones.

With passage of the Americans with Disabilities Act Amendments Act (ADAAA) of 2008 changes in the definition of disability resulted in revisions to the implementing regulations for Title II - state and local governments (28 C.F.R. Part 35) and Title III - public accommodations entities (28 C.F.R. Part 36) and to the ADA Standards for Accessible Design (ADAAG) in 2010. Texas updated the TAS in 2012 to conform to changes made in the ADAAG. Thus, any changes made to accessible parking provisions were addressed at this time.

Charge 4

Review policies on parking for persons with disabilities in state-owned parking lots, including on the grounds of the State Capitol

Charge 4: Review parking policies for persons with disabilities in state-owned parking lots, including State Capitol grounds

Capitol Complex and State Facility Parking

Background and Research

The GCPD gathered research on parking policies and issues at the Capitol Complex and other state facilities through previously issued reports, meetings with state agencies and disability stakeholders, and a public hearing on accessible parking held at GCPD's August 2016 quarterly meeting and GCPD's "2016 Survey on Accessible Parking."

The GCPD reviewed information from the following previous parking reports:

- "Texas Capitol Accessibility Report", Coalition of Texans with Disabilities (CTD) (August 28, 2014) (Appendix K.)
- "Parking Usage Study", Texas Facilities Commission (TFC) (2010) (Appendix L.)

In 2014, the State Preservation Board asked the CTD to study and provide feedback on the overall accessibility of the State Capitol and surrounding complex. The report provided an overview of some of the barriers faced by Texans with permanent disabilities.

The 2010 TFC report provided a helpful baseline for the number of accessible parking spaces in the parking lots and garages near the Capitol Complex and at major state facilities. This previous study did not address the sufficiency of accessible parking.

Stakeholder Input

The GCPD obtained input on accessible parking at state-owned facilities and at the Capitol Complex through a public hearing held at the Capitol on August 10, 2016. Additional input came from GCPD's "2016 Accessible Parking survey."

Interagency Parking Meeting

On September 22, 2016, the GCPD met with subject matter experts on accessible parking through an Interagency Meeting on Accessible Parking at the Capitol.

Interagency Meeting Participants:

Ron Lucey –Office of the Governor
(OOG) - GCPD

Sergeant Victor Taylor - DPS

Fran Robertson – OOG - GCPD

Leslie Pawelka – State Preservation
Board (SPB)

Randi Turner – OOG - GCPD

Chris Currens - SPB

Commander Joe Ortiz –
Department of Public Safety (DPS)

Laura Hall – Texas Facilities
Commission TFC

Major Raul Vargas - DPS

The purpose of the meeting was to discuss accessible parking close to the State Capitol building. DPS and TFC noted that there are approximately 9,500 parking spaces located in parking structures and lots in the Capitol Complex. DPS provides state employees 255 “handicap” placards for designated parking in the Capitol Complex parking garages.

The State Preservation Board (SPB) administers another 1,800 structured parking spaces for visitors and elected officials and their staff. There are also 800 metered public parking spaces throughout the Capitol Complex, also managed by the SPB. There are 19 publicly designated accessible parking spaces within one block of the Capitol grounds. Persons with accessible parking placards or license plates may park free of charge at parking meters without a time limit. Up to 150 - 180 parking meters are used daily by state employees with mobility impairments or other qualifying disabilities. Plus, the nineteen on-street publicly designated handicap parking spaces are used by state employees, leaving few options for mobility impaired visitors.

All parties agreed that parking during legislative sessions is difficult and close-in parking spaces (including metered spaces) for visitors with mobility

impairments is very limited. The interagency workgroup identified a potential solution to free up close-in parking for visitors by adopting human resources policies for the agencies at the Capitol Complex requiring employees with mobility impairments to use off street assigned parking. DPS, TFC, SPB would have to designate and strictly enforce use of these designated spaces to ensure non-disabled employees do not use them. Additionally, there would need to be a long range re-education program to make parking a human resources policy related program. This reorientation would free up on-street parking at accessible designated parking spaces and parking meters. Legislation may be needed to mandate changes to agencies' human resources policies to restructure parking rules.

The interagency group discussed designating a pickup/drop-off zone for use by any visitor to the Capitol. This pickup/drop-off zone would include amenities to accommodate visitors with mobility impairments and would be located as near as possible to the Capitol. This location may also serve as a designated para-transit pickup/drop-off location for Capital Metro – Metro Access passengers.

The SPB will coordinate with the TFC, Capital Metro, DPS and the City of Austin - all of which have some form of jurisdiction on right-of-way and public property use in the Capitol Complex - to identify the most suitable location.

Summary of Capitol Complex Accessible Parking Issues:

1. Visitor parking within the Capitol Complex is very limited and most visitors must park on the street utilizing the State Preservation Board parking meters or in the Capitol Visitors Parking Garage.
2. Much of the accessible parking surrounding the Capitol including metered parking spaces are used by state employees, which offers even fewer accessible parking spaces for visitors.
3. The visitor parking shortage is particularly acute for visitors that require van accessible parking. Often these accessible parking spaces are occupied by employees with an accessible parking permit or by another visitor who does not have a van but still has a legal right to park in one of the few van accessible parking spaces.

4. Accessible parking spaces are not evenly distributed around the Capitol and there are few spaces that are protected from having to unload in traffic.
5. Of the five protected accessible parking spaces located on the east side of the Capitol at 12th Street and two at the corner of 12th and Brazos, these spaces are typically inaccessible to visitors as they are used by state employees from 8:00 am to 5:00 pm.
6. Parking in the Visitor Garage at 12th and San Jacinto Blvd. is controlled by a gate. Many people with a physical disability who are driving can't reach to activate and remove the ticket that raises the gate arm due to their disability. The garage also has an eight-foot maximum height clearance which prevents many raised roof accessible vans and converted trucks that use cranes to unload their wheelchair.
7. Many visitors with a mobility impairment or those who are aging and have difficulties with the distance from the garage to the Capitol identified a need for a shuttle service to and from the Visitors garage.
8. The use of an unloading zone at each entrance of the Capitol would be helpful for people with disabilities. The Committee received comments of unpleasant confrontation with DPS security while trying to get someone close enough to unload then go find parking.
9. There is currently no close parking or drop off zone near the Capitol Visitors Center where visitors can rent a wheelchair.

Below are a sample of comments collected from Capitol visitors with disabilities:

- "The members of the Coalition of Texans with Disabilities park at meters due to loss of previously designated accessible parking spaces when they made security improvements around the capitol. However, meters are full of mostly state employee vehicles with placards most of whom have parking provided but use street parking with their placard to get block or two closer. It is legal, but is it the best use of placard?"
- "The last time I was there, disabled parking had been removed from the grounds of the Capitol. The walk from the parking garage is lengthy and uphill. This makes it difficult to visit the Capitol."

- “Once inside, the building is reasonably accessible. However, there are very few parking places that are reserved for permits and they are not close. The location requires being able to navigate slopes that are difficult for many. Those spaces that are designated for permit holders are rarely available. When available, usually require getting out in traffic of on curbs. I have been yelled at and treated very rudely by guards when looking for a parking place, or having a colleague drop me off. We would have been happy to move when asked, but the delivery of the message was really inappropriate. ”
- “It is not possible to get someone in a wheelchair any closer to the Capitol than about 2 blocks away. To my knowledge there are only two handicapped parking places (still 2 blocks away). One day, I was trying to unload my passenger from my car so she could get on her crutches and move into her wheelchair. I had driven as close to the Capitol as I could (but was not in a parking space while I unloaded her). A security guard very unpleasantly yelled at me to move my car even though he could see what we were doing (it would not have taken more than 2 minutes). The current situation is very difficult when it is raining, or extremely cold or extremely hot. As you know, only one entrance to the Capitol is wheelchair accessible so depending on where you park, the distance to get into the building can be even further. I encourage you to greatly improve access to the Capitol, especially since that is where the decision makers are. Disabled people do not need any additional barriers to participating in the legislative process.”
- “Parking in front of Texas archives bldg. is assigned to a specific house district yet is accessible & could be designated as accessible and allocated as resources for citizen’s w/disabilities. Also, public parking at the garage is uphill to rear entrance of the capitol. This is a deterrent for people to come speak their mind at capitol. Would like to see more designated spots near GCPD or a solution like accessible golf cart or shuttle from the parking structure (during legislative session).”

Parking at Other State Facilities - North Austin Complex

The North Austin Complex is generally defined as the state office buildings that are south of North Loop, and 51st Streets, adjacent to North Lamar, and bordering Grover, 49th Street and Sunshine Blvd. These buildings include: the Brown Heatly Building, Winters Building, TWC North Lamar Building (formerly DARS Administration Building), Criss Cole Rehabilitation

Center, Department of State Health Services Buildings, DSHS State Laboratory and the TFC Warehouse Building on North Loop.

This state agency complex has a greater need for accessible visitor parking due to the larger number of agencies and programs that serve Texans with disabilities. Of the 4,598 available parking spaces at the North Austin complex, 515 spaces are designated as reserved for assigned personnel, fleet vehicles, or as accessible parking spaces.

Of the 4,083 open parking spaces listed on TFC's inventory at the North Austin complex, an additional 98 spaces are reserved for visitors. Not listed on the TFC parking inventory are 30 parking spaces at the Brown-Heatly Building and Department of Assistive and Rehabilitative Services (DARS) entrance reserved for handicap accessible only, visitors, and fleet vehicles. The fleet vehicle parking includes very desirable parking spaces near the front entrance of the Criss Cole Rehabilitation Center that are currently being used to park agency trailers. Some of these spaces could be converted to van-accessible parking by requiring that fleet vehicles park on spaces in more remote lots or on the top floors of the adjacent parking garages at the intersection of 49th and Sunshine Blvd.

Additional accessible visitor parking may be obtained in the circle drive between the Brown Heatly Building and the TWC North Lamar Building through a study to restripe the parking spaces and moving the placement of concrete bollards. Further parking may also be gained by applying permeable parking surfaces to convert unused landscape beds on the south side of the brown Heatly Building.

In the next year the Texas Facilities Commission has plans for new construction at the North Austin Complex at the Winters Building (701 West 51st Street, Austin). This construction will include a new parking garage. The GCPD recommends that the Texas Facilities Commission plan for a higher number of accessible parking spaces than the minimum requirement based upon applying the Texas Accessibility Standards for medical facilities:
208.2.2 Rehabilitation Facilities and Outpatient Physical Therapy Facilities

Recommendations for Accessible Parking at the Capitol and State Facilities:

See the Recommendation section of this report for a detailed list of accessible parking improvements for the Capitol Complex and State Facilities

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Recommendations

Recommendation #1:

1. Strengthen enforcement of accessible parking laws as follows:
 - a. Strengthen/bolster language in [Texas Transportation Code, Title 7. Vehicles and Traffic, Subtitle H. Parking, Towing, and Storage of Vehicles - Chapter 681, Privileged Parking, Section 681.010 – Enforcement](#) so that it is unequivocal in its mandate for all individuals with enforcement responsibilities to enforce accessible parking laws; i.e., change “may” to “shall” or “must”.

Position statement: The term “may” does not **require** enforcement action. Examples of states that require enforcement action:

- [625 Ill. Comp. Statute 5/11-1301.3\(c-1\)](#) - Any person found guilty of violating the provisions of subsection (a-1) a first time **shall** be fined \$600. Any person found guilty of violating subsection (a-1) a second or subsequent time **shall** be fined \$1,000
 - [Kansas Statute § 8-1,130a\(a\)](#) - Any person who utilizes any accessible parking identification device issued to another person . . . shall be guilty of an unclassified misdemeanor punishable by a fine of not less than \$100 nor more than \$300.
- b. Strengthen/bolster language in enforcement responsibilities as they apply to accessible parking on private property or areas of public accommodation as required by the ADA.

Position statement: The term “may” does not **require** enforcement action. Examples of states that allow enforcement on private property:

- [Alabama Code § 32-6-233.1\(b\)](#) - Any authorized municipal, county, or state law enforcement officer may go on private property to enforce this section.
- [Missouri Revised Statute § 301.143.7](#) - Law enforcement officials may enter upon private property open to public use to enforce the provisions of this section and section 301.142, including private property designated by the owner of such property for

the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142.

- c. Reconsider judicial discretion to discourage frequent dismissal of accessible parking citations.

Position statement: Ticket dismissals send the wrong message to the community about accessible parking abuse. Example of state that does not allow accessible parking violation ticket dismissal:

- [Florida Statute § 316.1955\(1\)](#) - The violation may not be dismissed for failure of the marking on the parking space to comply with s. 553.5041 if the space is in general compliance and is clearly distinguishable as a designated accessible parking space for people who have disabilities.

- d. Consider mandatory towing for vehicles illegally parked in accessible parking spaces and have the violator bear the costs for towing in addition to any fines incurred.

Position statement: Towing will reduce repeat accessible parking violations. Example of state that enforces towing:

- [625 Ill. Comp. Statute 5/11-1301.3\(b\)](#) - Any person or local authority owning or operating any public or private off street parking facility may, after notifying the police or sheriff's department, remove or cause to be removed to the nearest garage or other place of safety any vehicle parked within a stall or space reserved for use by a person with disabilities which does not display person with disabilities registration plates or a special decal or device as required under this Section.
- [New Mexico Statute § 66-7-352.5.D-E - Unauthorized use; penalties.](#) A vehicle parked in violation of Subsection A or B of this section is subject to being towed at the expense of the vehicle owner upon authorization by law enforcement personnel or by the property owner or manager of a parking lot. A law enforcement officer may issue a citation or authorize towing of a vehicle for a violation of Subsection A or B of this section regardless of the presence of the driver.)

Recommendation #2:

2. Control accessible parking placard fraud and abuse through tighter laws and administrative remedies, such as:

- a. cross-checking current disability placard holder lists against the state registry for death records and cancelling any placard for an individual identified as deceased.

Position statement: Cross-checking registry records will reduce placard fraud and abuse. Example of state currently practicing record checks:

- [Connecticut General Statute § 14-253a\(o\)](#): The commissioner shall periodically check the Department of Public Health's state registration of deaths and shall cancel any placard issued to an individual identified in such registry as deceased.

- b. requiring the next of kin of someone who has died to surrender the disability placard within 60 days after the death of the placard holder or be fined.

Position statement: Required submission of placards upon death of family member will reduce placard fraud and abuse. Example of state currently practicing enforcing this practice:

- [Louisiana Rev. Stat. § 47:463.4.A\(4\)-\(5\)](#): Within 45 days of the death of a person to whom a special license plate has been issued, it shall be the responsibility of the next of kin of that person to surrender the plate to the secretary. Any person who fails to surrender a special license plate in compliance with this subsection may be fined not less than fifty dollars nor more than five hundred dollars.

- c. prioritizing enforcement of accessible parking placard fraud and abuse by establishing a task force for placard abuse enforcement or designating a state agency to assign resources to enforce current laws.
- d. re-designing the disability parking placard to increase the tamper-resistance and comprehension of instructions on the placard.

Position statement: Increasing tamper-resistance will reduce placard fraud and abuse. Example of state who strengthened their placards:

- New Mexico re-designed their placard to include a hologram that wraps around to both sides of the placard; imprinted serial number and expiration date; and photo of placard holder with flap to cover photo. Instruction language is simplified to be easily understood.

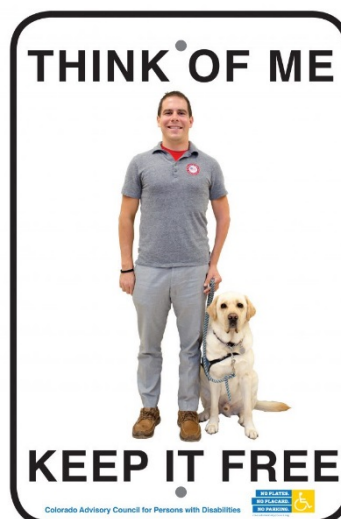


Recommendation #3:

3. Develop statewide public awareness on accessible parking and its impact on Texans with disabilities through public awareness campaigns.

Position statement: Public education and awareness will help reduce accessible parking fraud and abuse. Examples of successful public awareness campaigns including an accessible parking campaign from another state:

- a. ["Think of Me, Keep it Free"](#) - accessible parking campaign (Colorado)
- b. ["Don't Mess with Texas"](#) - anti-litter campaign (Texas)
- a. ["Click It or Ticket"](#) – seat belt campaign (National)



Recommendation #4:

4. Change the language in the transportation code from “Handicapped Parking” to “Accessible Parking” to align with the spirit of [Texas Government Code, Chapter 392, Person First Respectful Language Initiative](#).

Position statement: Person first language focuses on the individual not the disability. The Committee believes the term “accessible parking” better describes the function of the parking space rather than using the outdated statutory term “handicapped parking”. Using the term accessible parking will serve as a reminder to the public that the parking is intended as an accommodation for people with disabilities. It eliminates generalizations and stereotypes.

Recommendation #5:

5. Promote the development of volunteer accessibility parking enforcement programs to improve statewide enforcement of accessible parking laws.

Position statement: Will augment already stretched resources for low-priority accessible parking enforcement activities. Example of state statute for promoting development of volunteer enforcement services:

- [Louisiana Revised Statute § 40:1400G](#) - The office of state police may utilize funds to promote the program for the purpose of soliciting volunteers, for salaries of police personnel involved in the program, materials, and supplies necessary for operation of the program, and any other purpose authorized by the office of disability affairs.

Recommendation #6:

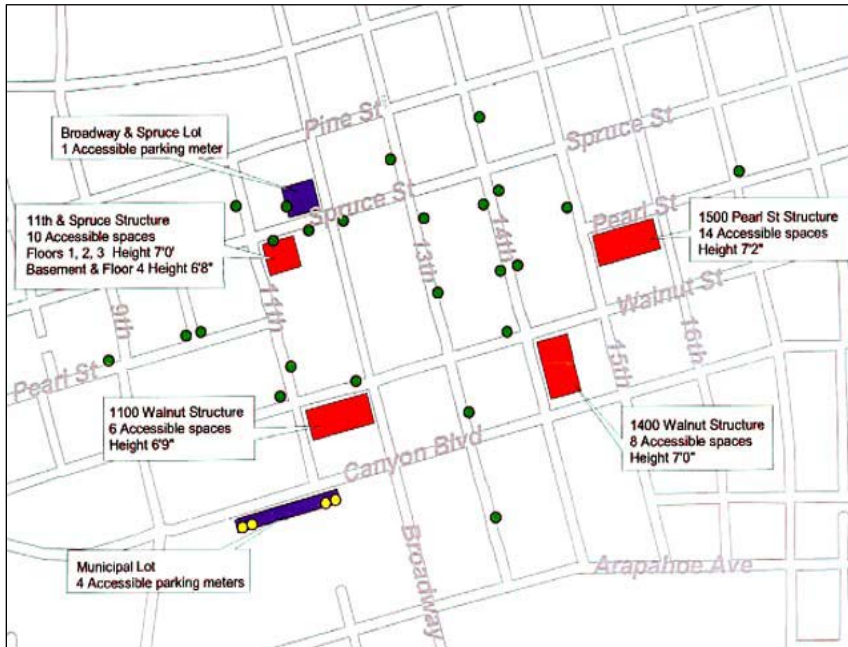
6. Improve accessibility for visitors and residents within the capitol complex area by:
 - a) installing sheltered accessible drop off stations within the capitol complex perimeter;
 - b) expanding overall parking availability by diagonally striping parallel parking spaces on the east side of the Capitol in front of the Texas State Library and Archives Commission Building;
 - c) developing a map marking accessible parking spots in the capitol complex area and downtown Austin for residents and visitors who need accessible parking;
 - d) increasing the amount of accessible parking spots on the east side of the Capitol grounds;
 - e) designating an additional van accessible parking space at 13th and Brazos near the State Insurance Building;
 - f) consider restricting this accessible parking at 13th and Brazos to visitor only parking;
 - g) designating the State Preservation Board to study the feasibility of diagonally striping the existing parallel parking in front of the State Archives Building to add additional accessible parking for vans with no loss of general parking spaces;
1. SPB indicated there are approximately 380 accessible parking spaces based on the total parking spaces available within the Capitol Complex. Of these, 255 spaces are being used by state employees with a disability according to DPS records on parking permits issued. DPS should continue current patrols ensuring enforcement of accessible parking within the Capitol Complex parking facilities.
2. The State of Texas and City of Austin Inter-local partners established a standing Transportation Planning Committee to address downtown and Capitol Complex parking issues. The Committee recommends the Transportation Planning Committee members annually review accessible parking issues in the Capitol

Complex area. This standing committee includes representation from Capital Metro, the City of Austin, the University of Texas, the State Preservation Board, the Department of Public Safety, and the Texas Facilities Commission.

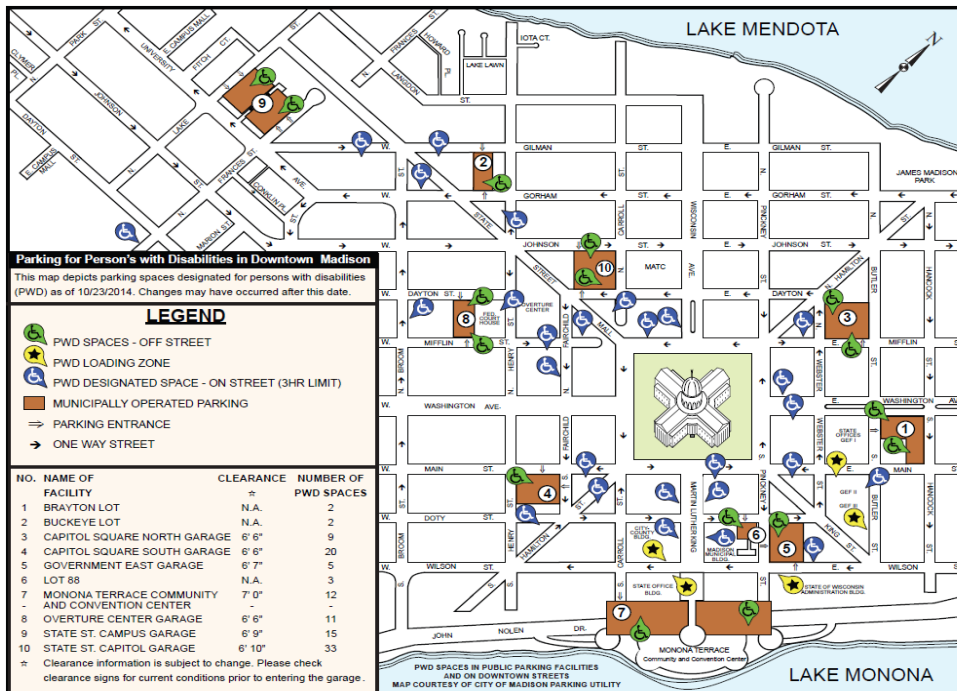
- h) considering legislation to mandate changes to agencies' human resources policies to restructure parking rules to require that employee's park in designated parking garages, leaving on-street metered parking for visitors to the Capitol who have disabilities.
- i) designating the State Preservation Board to create designated loading and unloading zones for use by people dropping off someone with a disability or any visitor to the Capitol. This pickup/drop-off zone should include amenities to accommodate visitors with mobility impairments and would be located as near as possible to the Capitol. This location may also serve as a designated para-transit pickup/drop-off location for Capital Metro – Metro Access passengers. DPS Capitol security officers should be trained on directing visitors to this amenity. A potential location is the area at 14th and Colorado. Examples of amenities and accessibility accommodations should include curb cuts, seating, overhead cover for shade and rain, and a map to orient Capitol visitors.
- j) For state agency facilities that provide substantial programs that serve Texans with disabilities, Texas Facilities Commission should voluntarily exceed the minimum accessible parking standards under TDLR's Texas Accessibility Standards by applying the higher standard under the Texas Accessibility Standards for medical facilities in 208.2.2 Rehabilitation Facilities and Outpatient Physical Therapy Facilities, which are adopted by reference in 16 Tex. Admin. Code § 68.100. This standard should also apply to the new parking construction at the Winters Building on North Lamar in Austin.
- k) State facilities should place priority for creating accessible visitor parking over fleet vehicle parking for use by employees.

[Position statement: Will provide accessible parking accommodations to visitors and residents in the capitol complex. Example of communities who provide maps reflecting accessible parking spots:](#)

Boulder, Colorado:

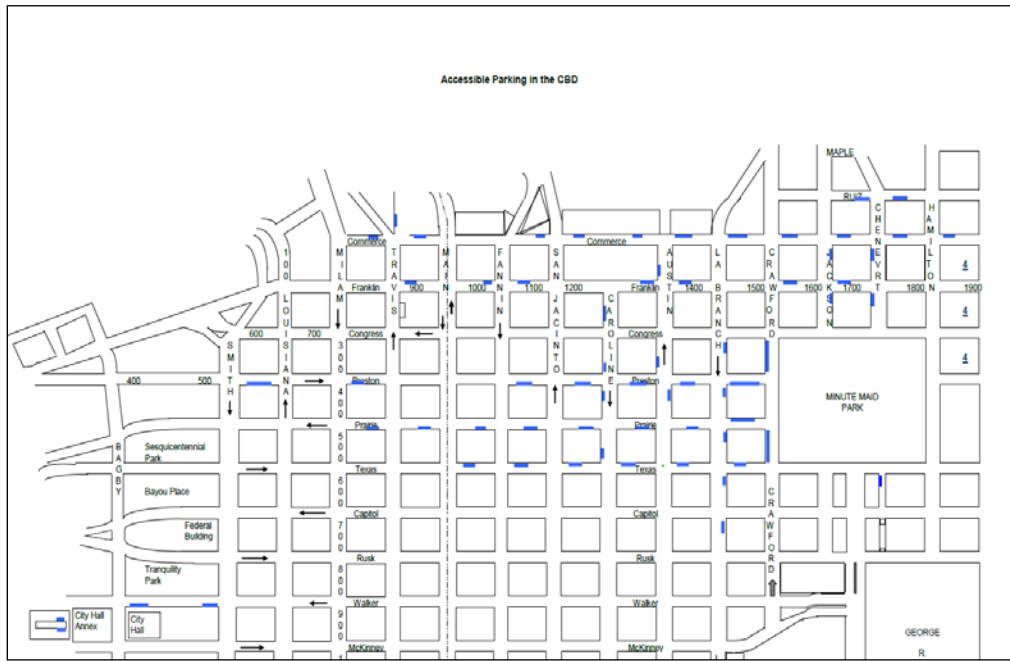


Madison, Wisconsin:



Houston, Texas:

<http://www.houstontx.gov/parking/accessibleparking.html>



Recommendation #7:

7. Amend [Transportation Code Chapter 681, Section 681.011 Offenses; Presumption](#) to permit alternative sentencing which includes:
 - a. required education classes on disability awareness and accessible parking with a reduced fine upon completion of said education; and
 - b. community service/restitution requirements at a nonprofit organization that serves persons with disabilities or disabling diseases or any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities

Position statement: Education and sensitivity training may reduce repeat violations. Example of state that provides alternative sentencing:

- [Washington Rev. Code § 46.19.050\(12\) Community restitution](#). For second or subsequent violations of this section, in addition to a monetary penalty, the violator must complete a minimum of forty hours of: (a) Community restitution for a nonprofit organization that serves persons with disabilities or disabling diseases; or (b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities.

Recommendation #8:

8. *Redefine the van accessible requirements in the TAS standards for medical facilities to increase the number of van accessible spaces at these locations.

Position statement: Hospital Outpatient, Rehabilitation Facility and Outpatient Physical Therapy Facilities already require between 10-20% more accessible parking spaces due to the nature of business. Angled parking and shared access aisles will assist in making this goal possible.

*This may require a change to the TAS, which would require TDLR to seek recertification of TAS by the DOJ.

Recommendation #9:

9. *Update TAS through legislation or rule-making by:

- a. painting the International Symbol of Accessibility in an accessible parking space if the space is paved; and
- b. painting the words "No Parking" in access aisles if the space is paved.

Position statement: Increased markings to identify accessible parking spaces are likely to reduce accessible parking abuse. Example of state that provides this type of marking in parking spaces and access aisles:

- [New Mexico Statute § 66-1-4-1.B](#) - the words "NO PARKING" in capital letters, each at least one foot high and two inches wide shall be placed at the rear of the access aisle so as to be close to where an adjacent vehicle's rear tires would be placed.
- [New Mexico Statute § 66-1-4.4.E](#) - designated accessible parking space shall have a conspicuously posted sign bearing the international symbol of access and, if the parking space is paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space.

*This may require a change to the TAS, which would require TDLR to seek recertification of TAS by the DOJ.

Recommendation #10:

10. *Include on accessible parking signs regulatory language that informs of:
 - a. fines and penalties (e.g. \$550-\$1,100 fine), and
 - b. consequences of illegal parking in accessible parking spaces (Violators will be towed).

Position statement: Regulatory language on signs to identify penalties or consequences of actions for parking in accessible spaces are likely to reduce accessible parking abuse. Example of state that provides this type of parking signage:

- [California Vehicle Code § 22511.7\(b\)\(1\)-\(2\)](#) - a parking space shall be indicated by blue paint on the curb or edge of the paved portion of the street next to the space; a posted sign with a profile view of a wheelchair with occupant in white on a blue background. The sign shall clearly and conspicuously state: "Minimum Fine \$250."
- [New Mexico Statute § 66-7-352.4.C](#) - sign at an accessible parking space shall include the language "Violators are subject to a fine and/or towing."

*This may require a change to the TAS, which would require TDLR to seek recertification of TAS by the DOJ.

Recommendation #11:

11. Consider expanded statutory authority in [Human Resources Code, Title 7, Chapter 115.009](#) based on [New Mexico Statute § 28-10-3.3.D](#) to grant additional authority to GCPD to:
 - a. provide education, training and assistance to law enforcement agencies and accessible parking enforcement volunteers on accessible parking enforcement; and
 - b. work with other state agencies to provide public education and awareness on accessible parking issues and compliance with accessible parking laws.

Position statement: The education function is in keeping with current responsibilities of GCPD. Example of state that provides this type of function:

- [New Mexico Statute § 28-10-3.3.D](#) The “placard abuse prevention program” is created in the governor’s commission on disability to ensure compliance with statutes affecting parking privileges for persons with severe mobility impairment and safe and effective use of designated disabled parking space. The commission shall design and implement a program to provide education, training and technical assistance to local law enforcement agencies and volunteers on enforcement of statutes affecting use of designated disabled parking space.

Recommendation #12:

12. Consider further study on the alignment of state law with federal law to conserve accessible parking privileges for those veterans with mobility disabilities rather than for any veteran with a disability who may not have mobility issues as prescribed in law; i.e., hearing loss or mental health disability.

Position statement: Not all veterans have a mobility disability that entitle them to use the accessible parking space per federal regulations in 23 CFR Part 1235 and ADA guidelines. Example of states that limit veteran use of accessible parking space to veterans with a mobility disability:

- [Alabama Code § 32-6-231.1\(b\)](#) - Any person qualified to receive a military distinctive license plate pursuant to this chapter, who submits to the judge of probate, license commissioner, or other issuing official authority medical proof satisfactory to the Commissioner of Revenue that he or she is a handicapped individual in accordance with Public Law 100-641 and rulemaking resulting therefrom, shall be issued a distinctive military license plate which is inscribed with the International Symbol of Access designating the vehicle owner as being a handicapped individual. The Commissioner of Revenue shall adopt procedures for the issuance of these distinctive military license plates containing the International Symbol of Access. Handicapped individuals displaying these plates shall be allowed to park in parking zones designated for handicapped persons upon the payment of parking fees the same as any other person.
- [Virginia Code § 46.2-739.A](#) Virginia statute 46.2-739.A - On receipt of an application, the Commissioner shall issue special license plates to applicants who are veterans who have been certified by the U.S. Department of Veterans Affairs to have a service-connected disability or unremarried surviving spouses of disabled veterans as defined in § 46.2-100. These license plates shall be special permanent red, white, and blue license plates bearing the letters "DV." The application shall be accompanied by a certification from the U.S. Department of Veterans Affairs that the veteran's disability is service-connected. License plates issued under this subsection shall not permit the vehicles upon which they are displayed to use parking spaces reserved for persons with disabilities that limit or impair their ability to walk.

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Concluding Remarks

The Texas Governor's Committee on People with Disabilities appreciates the opportunity to serve the Texas Legislature by conducting the state's first comprehensive Accessible Parking Study that analyzed and compared Texas accessible parking laws with federal laws and the laws of all 50 states. Our research and meetings with the members of the National Association of Governor's Committees (NAGC) informed us that the parking challenges facing Texans with disabilities are not unique to our state.

Demographic trends show a growing population of aging Americans will increase demand for the existing accessible parking spaces in our communities. More Americans are living longer, and as they age, they are choosing to live in their communities rather than nursing homes or institutions. Although Texas' vibrant economic growth is creating more opportunity, the resulting increased population density in Texas cities also creates more competition for the same number of parking spaces, making it much more difficult for individuals with disabilities to find parking.

Our research of other state's efforts to improve access to parking for their residents with disabilities identified many innovative parking laws, enforcement strategies and model public education campaigns. While there were many models to choose from, GCPD has identified and recommended to the Texas Legislature only the best solutions that are most likely to yield better parking enforcement and improve opportunities for people with disabilities to access parking.

One future opportunity to produce greater compliance with parking laws and make it easier to find accessible parking is the use of smart phone apps. These apps can use crowd sourcing and geotagging technology of accessible parking locations to make it easier for persons trying to find an accessible parking space. Individuals trained as volunteers may also use smart phone apps with the phone's camera to ticket accessible parking violators. The most common parking enforcement app is the Parking Mobility app produced by the non-profit company, Accessible Parking and Mobility Solutions. This app is currently used in Travis and Hays counties. However, specific authority allowing this form of enforcement technology does not appear to be addressed in state law.

GCPD supports greater use of accessible parking enforcement programs by trained volunteers throughout the state. Among the few communities that have these programs, they are either revenue neutral or generate additional revenue for their community while freeing up local police to focus on other law enforcement priorities.

In the process of meeting the charges for this study, GCPD found immediate administrative solutions that may not require new laws to improve accessible parking availability or enforcement. A few such opportunities are some of the recommendations to improve parking at the Capitol. One recommendation to SPB would create an accessible pick-up/drop-off area to serve all visitors at the Capitol. GCPD appreciates the cooperation of SPB, TFC and DPS to work cooperatively to study and implement several consensus recommendations.

GCPD also identified an opportunity for the Department of Motor Vehicles (DMV) and the Department of State Health Services (DSHS) to cooperate and exchange data from the DSHS Bureau of Vital Statistics on death records. This data may be used by DMV to reduce the fraudulent use of deceased individual's parking placards. Both agencies are already in the process of exploring implementation of this recommendation once it was shared by GPCD.

In order to best illustrate the great importance of accessible parking issues for Texans with disabilities to the Texas Legislature, GCPD concludes this study with Ms. Lora Taylor's statement and the story of her family's experiences with accessible parking. Ms. Taylor is a parent and caregiver to her 35-year old daughter Julie, who has developmental disabilities and complex medical needs. "For many Texans with disabilities, accessible parking is the first step in being able to fully participate in the community," says Ms. Taylor. She makes frequent trips with her daughter to a Houston-area medical center in her family's accessible van where they often could not find a van accessible parking spot even though the center had the legally required number of accessible parking spaces. The prized van accessible spaces were often occupied by sedans displaying accessible parking placards or license plates. Even though the van accessible spaces are designed for vans, any vehicle with an accessible parking placard or license plate can legally park there. What makes van accessible spaces unique is the eight-foot-wide access aisle that can accommodate a van's wheelchair ramp or lift.

The inability to park in a van accessible space posed a problem to Lora and her daughter Julie. When arriving at the center on one of their common trips and unable to find a van accessible spot, Lora would often have to improvise and use two adjacent parking spots. In order to find two adjacent spots, she would often have to park on the roof of the parking garage. Julie's severe seizure disorder can be triggered by exposure to extreme heat, resulting in a major medical problem. Getting back into an extremely hot van on the roof of the center just exacerbates the problem.

Lora improvised yet again and now uses a sedan to transport Julie to her medical appointments. Lora keeps a fold-up wheelchair in the trunk and physically picks Julie up to help her get in and out of the wheelchair. In the meantime, their accessible van sits idle in their driveway. Did I mention that Lora is a 60-year-old piano teacher, and her slight build is not well-suited for lifting another adult?

Eventually, the years of frustration from no van accessible parking and a sore back caught up with her. Lora Taylor got so frustrated with the lack of van accessible parking that she decided to do something about it. She contacted her state senator to initiate this state parking study. Lora is optimistic that the 85th Texas Legislature will take action to address the accessible parking needs for her and millions of other Texas families who depend upon accessible parking every day to travel to work, attend medical appointments or enjoy an evening out with their family at a restaurant and fully participate in their community.

Respectfully submitted,

Ron Lucey
GCPD Executive Director

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Appendices

Appendix A: House Bill 1317, 84th Texas Legislative Session (R)

Appendix B: U.S. Department of Transportation Guidelines at 23 C.F.R. 1235 establishing a Uniform System for Parking for Persons with Disabilities

Appendix C: Comments from Public Hearing

Appendix D: Accessible Parking Survey for Person with a Disability – Questions Only

Appendix E: Accessible Parking Survey for Person with a Disability – Survey Results

Appendix F: Accessible Parking Survey for Businesses – Questions Only

Appendix G: Accessible Parking Survey Businesses – Survey Results

Appendix H: Parking Laws in the 50 U.S. States

Appendix I: Coppolo, George. (2007, January 10). [Handicapped Parking Laws](#)

Appendix J: Accessible Parking Studies by Other States

Appendix K: "Texas Capitol Accessibility Report", Coalition of Texans with Disabilities (CTD) (August 28, 2014)

Appendix L: "Parking Usage Study", Texas Facilities Commission (TFC) (2010)

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