

THE 2007 DISABILITY POLICY SEMINAR

NEW CONGRESS, NEW OPPORTUNITIES
THE ARC, AAIDD, AUCD,
UCP AND NACDD

FACT SHEET

RESTORATION OF THE AMERICANS WITH DISABILITIES ACT (ADA)

Background

Unfair discrimination harms all Americans, and it significantly harms those with disabilities who want to work to their full ability and not have to completely rely on public assistance to live.

The Americans with Disabilities Act of 1990 (ADA) was passed with overwhelming bipartisan support and signed by President George H.W. Bush in order to give people with disabilities a chance to be judged fairly in getting hired and in being treated fairly on the job.

The ADA is a civil rights law, and just as other civil rights laws prohibit employers from basing decisions on characteristics like race or sex, Congress wanted the ADA to stop employers from making decisions based on disability. The ADA was designed to create a level playing field so that everyone who wants a job has an equal opportunity to work.

But this is not happening for many people with disabilities!

- When a worker with disabilities takes an employment discrimination case to court, the court's decision is in favor of the employer 97% of the time, often before the person has even had a chance to show that the employer treated her/him unfairly.
- The employment rate of people with disabilities has not improved since the passage of the ADA.
- Two-thirds of people with disabilities who do not have jobs indicate they would work if they could find employment.

The courts have created an absurd Catch-22!

Court rulings have allowed employers to say a person is "too disabled" to do the job but "not disabled enough" to be protected by the law. The case is then thrown out of court, and the individual is never given the chance to do the job.

People with conditions like epilepsy, diabetes, HIV, cancer, hearing loss and mental illness who manage their disabilities with medication, prosthetics, hearing aids, etc. are frequently viewed as "too functional" to have a disability and are denied the ADA's protection from employment discrimination.

Action Taken by Congress and the Administration

In the waning days of the 109th Congress, House Judiciary Committee Chairman James Sensenbrenner, Jr. (R-WI), House Minority Whip Steny Hoyer (D-MD) and Representative John Conyers (D-MI) introduced H.R. 6258, the “Americans with Disabilities Act (ADA) Restoration Act of 2006” to clarify that Congress intended the ADA to be like the Civil Rights Act of 1964 and other civil rights laws that prohibit discrimination “on the basis of race, color, religion, national origin, and sex.” The ADA Restoration Act would have added new language to the ADA to prohibit discrimination “on the basis of a disability”, focusing on the discrimination that people experience rather than focusing on their ability to prove that they have a disability. To date, in the 110th Congress no legislation has been introduced, but ADA champions in the Senate, Senators Edward M. Kennedy (D-MA) and Tom Harkin (D-IA), and in the House Representatives Hoyer, Sensenbrenner and Conyers, are seeking support among their colleagues for legislation that will restore the ADA’s integrity and the Congress’ intent.

Recommendations

- The Congress should enact legislation to restore the coverage and the protections lost under the ADA due to court decisions limiting who is protected;
- The Congress should reject any amendments to the ADA or new legislation that would weaken protections under the law; and
- The Congress should appropriate adequate funds for enforcement of the ADA by all responsible federal agencies.

Relevant Committees

Senate Health, Education, Labor and Pensions (HELP) Committee
House Judiciary Committee
House Committee on Education and Labor
House Committee on Energy and Commerce
House Committee on Transportation and Infrastructure

For more information, please contact The Arc and United Cerebral Palsy Disability Policy Collaboration (202) 783-2229, Association of University Centers on Disability (301) 588-8252, American Association on Intellectual and Developmental Disabilities (202) 387-1968 or the National Association of Councils on Developmental Disabilities (703) 739-4400.

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