

The National Council on the Handicapped has developed a draft of a comprehensive civil rights bill for handicapped people, and is interested in having it introduced in the Senate. The enactment of such a law was a principal recommendation in the Council's Toward Independence report. The draft statute, which the Council is calling the Americans with Disabilities Act of 1987, is about seven typed pages long. It appears to be a fairly straightforward attempt to carry through on the Council's recommendation that Congress should enact a comprehensive equal opportunity law for individuals with disabilities, incorporating:

- o clear, consistent, and enforceable standards prohibiting discrimination on the basis of handicap; and
- o broad coverage addressing areas of discrimination not covered by current statutes such as Section 504, e.g.,
 - public accommodations
 - housing
 - employment by employers engaged in interstate commerce
 - interstate transportation
 - insurance discrimination.

The substance of the proposal seems to be right on target with your overall objective of eliminating discrimination and increasing opportunities for persons with disabilities, and it responds to many of the complaints about discrimination that we have repeatedly heard from constituents and at hearings. The biggest question about introducing the Council's proposal seems to be in regard to timing. With the current backlog resulting from the Bork nomination and the status of the Restoration Act, when is the best time to introduce such a bill?

The general wisdom has been not to introduce any bills relating to civil rights until after there has been a full Senate vote on the Restoration Act. The Council, on the other hand, is pushing to have its proposal introduced before the end of the current session. The Council has been a supporter of the Restoration Act and testified in favor of it during the Committee hearings, but Council members view the Restoration Act as merely restoring the limited civil rights protection previously available to persons with disabilities, while failing to address the underlying fact that the statutes addressing handicap discrimination do not apply to many areas of discrimination where women and racial and ethnic minorities are protected. Based upon the consumer forums held around the country in developing Toward Independence, and feedback since its publication, they believe that the Council's proposal of a comprehensive law is a top priority of grassroots consumers. While continuing to support the Restoration Act, the Council would like to introduce its bill prior to the end of the session, which may be before a Senate vote on the Restoration Act has occurred. Among other advantages of this timing in the Council's eyes, formal introduction of a bill would permit the Council and disabled consumers to present it to the various Presidential candidates and get them to take a position on it.

It is not clear to what extent the Council's proposal would interfere with or endanger the Restoration Act. It is probably true that positions for or against the Act have generally not been based on the disability issue; a new piece of disability rights legislation might not have any substantial impact upon the Restoration Act outcome. Yet, there is a possibility that opponents of the Act could try to use the Council's bill to argue for the piecemeal approach -- address only the disability piece and the higher education piece, rather than the comprehensive approach of the Restoration Act. It is important to note, however, that the Department of Justice has already begun to circulate a bill that would address employment discrimination on the basis of handicap; the piecemeal argument will probably have to be met with or without the Council's bill. If we hold back on the introduction of the Council's proposal, we may risk having the Administration beat us to the punch with a much narrower and less effective bill.

It would seem to be in our and the Council's best interest to try to devise a strategy for introducing the Council's bill, but to carefully control its progress in the Subcommittee and full Committee so that it can pose no threat to the passage of the Restoration Act. If a bill could be introduced before the end of this session, it would give us and other sympathetic Senate offices the opportunity to hold field hearings between sessions, and would allow the Council and its friends to begin to rally grassroots support for the bill to assist its progress during the second session. Moreover, with a Senate bill introduced, the Council might be able to move ahead with efforts to pass a House version of its bill while the Senate is busy with Bork, the Budget, and the Restoration Act.