

TALKING POINTS

A. Name of Proposed Act

-- The Americans with Disabilities Act.

B. Where Does It Come From?

-- Was a key recommendation in the Council's statutorily mandated report to Congress and the President -- Toward Independence.

-- Based upon views of persons with disabilities heard by the Council at consumer forums all around the country.

C. Need for the Act

-- Numerous statutes, rules and regulations prohibiting discrimination on the basis of handicap exist but provide inadequate protection.

-- Civil rights protections available to other minorities and women are not available to persons with disabilities; comparable coverage is missing in regard to discrimination in:

- housing
- public accommodations
- employment by employers in the private sector
- interstate transportation
- activities of State and local governments.

--Piecemeal approach has led to inconsistencies in coverage and interpretation of statutes.

-- No comprehensive national policy against discrimination on the basis of handicap has ever emerged.

D. What will this Act do?

-- This Act will prohibit discrimination against people with disabilities.

-- It will guarantee the right to be free from discrimination in such areas as employment, housing, public accommodations, travel, insurance, and activities of state and local governments.

E. Whom will it cover?

This Act prohibits discrimination on the basis of handicap by:

- the Federal Government
- Federal contractors and grantees
- employers who engage in interstate commerce and have more than 15 employees
- housing providers covered by Federal fair housing laws
- public accommodations
- state and local governments

F. Who will enforce it?

Architectural and Transportation Barriers Compliance Board will issue minimum guidelines for accessibility.

Regulations in the relevant areas will be issued by:
U.S. Equal Employment opportunity
commission
Secretary of Housing and Urban Development
Secretary of Transportation
Secretary of Commerce (public accommodations)
Secretary of Labor
Attorney General (state & local governments)

G. Enforcement Procedures

Enforcement procedures include administrative remedies, a private right of action, monetary damages, injunctive relief, attorney's fees and cutoffs of Federal funds.

H. Effect on the Rehabilitation Act of 1973

This Act will not repeal the Rehabilitation Act but may supersede provisions where there is overlap.

A provision is included so that regulations under the Act may not provide less protection to a person with a disability than under current Section 504 regulations.

Definition of "physical or mental impairment" is identical to the definition in current regulations under section 504.

Other more limiting definitions have been replaced by the simple phrase "on the basis of handicap," paralleling the language of other civil rights statutes.

A concise definition of "reasonable accommodation" is included.

I. Similarities and Differences with Other Civil Rights Laws

Fundamental rights guaranteed by this Act are the same as those underlying other civil rights statutes.

The coverage is parallel but different standards must apply.

This Act specifically defines discrimination as:

- intentional or unintentional exclusion;
- segregation;
- unequal, inferior or less effective services, benefits, or activities;
- architectural, transportation and communication barriers;
- failing to make reasonable accommodations
- discriminatory qualifications and standards

E.

J. Amending section 504 and Other statutes: A Simpler Approach?

-Amending section 504 would involve a risk of opening up for reconsideration and possible weakening of hard fought gains under section 504.

-Amending Section 504 would incorporate into the new broader statute the problems and shortcomings that have emerged under section 504.

-Amending existing civil rights laws to add disability to the types of discrimination prohibited has been opposed by traditional civil rights groups as endangering the existing protections and raising the possibility of refighting old battles.

-Piecemeal legislative and regulatory overhaul will leave inconsistencies and fragmentation.

K. Council's Involvement

Congress directed the Council to assess to what extent Federal programs:

-provide incentives or disincentives to the establishment of community-based services for individuals with disabilities

-promote the full integration of such individuals in the community, schools and the workplace

-contribute to the independence and dignity of such individuals

In studies of numerous Federal laws, regulations and programs, the Council heard over and over that discrimination is the primary problem people with disabilities face.

The Council concluded that the best means of eradicating discrimination and achieving the goals implicit in its mandates is the enactment of a strong, unequivocal law banning discrimination against people with disabilities.