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01/08/87

THE AMERICANS WITH DISABILITIES ACT OF 1987

A BILL

To establish a clear and comprehensive prohibition of discrimination on the basis of handicap.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Americans with Disabilities Act of 1987".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that

[TO BE INSERTED)

(b) The purposes of this Act are --

[TO BE INSERTED)

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) "Physical or mental impairment" means --

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, infectious diseases, and drug addiction and alcoholism.

(2) " Perceived impairment" means being mistakenly regarded as having or treated as having a physical or mental impairment.

(3) "Record of impairment" means having a history of, or having been misclassified as having, a mental or physical impairment.

(4) "Reasonable accommodation" means providing or

modifying devices, services, or facilities, or changing practices or procedures for the purpose of responding to the specific functional abilities of a particular person with a physical or mental impairment in order to provide an equal opportunity to participate in a particular program, activity, job, or other opportunity.

#### SCOPE OF DISCRIMINATION PROHIBITED

SEC.? No person shall be subjected to handicap discrimination by any of the following:

(1) The Federal Government, any of its agencies and Departments, or the United States Postal Service;

(2) Any recipient of Federal financial assistance.

#### Section B. Unlawful Handicap Discrimination.

(1) Subject to the standards and limitations established in section C of this Act, it shall be an unlawful act of handicap discrimination to subject a person to any of the following because of that person's mental or physical impairment, perceived impairment, or history of impairment:

(a) intentional exclusion; (b) unintentional exclusion; (c) segregation; (c) unequal or inferior services, benefits, or activities; or d) Less effective services, benefits, or activities.

(2) Subject to the standards and limitations established in section C of this Act, it shall be an unlawful act of handicap discrimination to fail or refuse to make practicable modifications to permit an individual with a mental or physical impairment to apply or participate in a program, activity, job, or other opportunity.

(3) Subject to the standards and limitations established in section C of this Act, it shall be an unlawful act of handicap discrimination to fail or refuse to remove architectural, transportation, and communication barriers that prevent or limit the access or participation of individuals with physical or mental impairments.

(4) Subject to the standards and limitations established in section C of this Act, it shall be an unlawful act of handicap discrimination to impose or apply qualifications standards, selection criteria, and eligibility criteria that screen out or disadvantage an individual because of a physical or mental impairment, or that disproportionately screen out or disadvantage persons with particular types of physical or mental impairments, unless such criteria or standards can be shown to be related to ability to perform or participate in essential components of the particular job, program, activity, or opportunity.

(5) The failure to make practicable modifications required under subsection (2) and to remove architectural, transportation, and communication barriers as required under subsection (3) shall not constitute an unlawful act of handicap discrimination if such modifications or barrier removal would fundamentally alter the essential nature or threaten the existence of the program, activity, business, or facility in question.

C. Standards for and Enforcement of Nondiscrimination Requirement.