

JFNA Recommended Talking Points on Opposing the ADA Education and Reform Act (H.R. 620)

- The Americans with Disabilities act of 1990 (ADA), which passed Congress with overwhelming bipartisan support and was signed into law by President George H.W. Bush, has been good for business. It has allowed millions of people with disabilities to frequent businesses which they previously could not due to architectural barriers and offers these businesses a vast new clientele of 57 million Americans with disabilities.
- H.R. 620 would undermine this now long-standing law that has improved the lives of millions of people with disabilities. The bill would impose several new burdens on plaintiffs before they can file a civil action for an accessibility violation in a public accommodation case. **Most egregiously, H.R. 620 improperly would shift the burden of ensuring compliance with the ADA to individuals with disabilities who are being denied access to public accommodations by business owners' failures to comply with the ADA.** Under H.R. 620, an individual with a disability who seeks to challenge a public accommodation violation would have to wait 180 days before being allowed to file a civil action with the U.S. Department of Justice (DOJ). There is no waiting period under current law.
- The 180-day waiting period is particularly problematic if an individual with a disability has to wait months to be able to access a business essential to activities of daily living such as a laundromat, doctor's office or supermarket. No other members of a constitutionally protected class have to wait to exercise their legal rights alleging discrimination, and people with disabilities should not be forced to wait for months to enforce their civil rights under the ADA
- In a compromise with the business community in negotiations leading to passage of the ADA, when a person with a disability files a Title III complaint with DOJ, the person can seek injunctive relief (requiring the business to fix the ADA violation) and attorney's fees, but not monetary damages. A few states have gone beyond the ADA to allow monetary damages in ADA lawsuits, as is permitted by the Tenth Amendment. Difficulties arising from a state's decision to go beyond the ADA, such as increased litigation over public accommodations violations should be dealt with at the state, not the federal, level.
- Proponents of the legislation often say H.R. 620 is needed because many violations are "minor," such as a toilet or bathroom mirror being set at an improper height. However, these issues matter a great deal to a person with disability and make a significant difference in a person's ability to participate in and contribute to society.

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