



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

March __, 2018

The Honorable Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Chuck Schumer
Senate Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley
Chair, Senate Judiciary Committee
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member, Senate Judiciary Committee
331 Hart Senate Office Building
Washington, DC 20510

Re: Opposition to the Americans with Disabilities Act Education and
Reform Act of 2017 (H.R. 620)

Dear Leaders McConnell and Schumer, Chair Grassley and Ranking Member Feinstein:

The undersigned members and allies of the Consortium for Citizens with Disabilities (CCD) write to express our strong opposition to the ADA Education and Reform Act of 2017 (H.R. 620), which recently passed the House of Representatives by a narrow margin. We urge you not to bring up this bill for Senate consideration. CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

H.R. 620 would create significant obstacles for people with disabilities to enforce their rights under Title III of the Americans with Disabilities Act (ADA) to access public accommodations. Further, it would impede their ability to engage in daily activities and participate in the mainstream of society. The bill provides that, before an individual with a disability may enforce his or her right under the ADA to have architectural barriers removed so that he or she can access a place of public accommodation, the person must first send a complex written notice to the owner or operator of the business informing them that the business is violating the law. After that, the business would have four months to remove the barrier or, if there were circumstances beyond its control, to “make substantial progress.” Meanwhile, the person with a disability would be left waiting for access.

If it were to become law~~passed~~, this legislation would remove any incentive for businesses to comply proactively with the law, allowing them to wait to see if they receive a written notice

from a person with a disability who has been excluded based on the business's failure to comply with a 28-year old law. Only after receiving such a notice would a business even have to begin considering its obligations and how to bring itself into compliance. We know of no other law that outlaws discrimination but permits entities to discriminate with impunity until victims experience that discrimination and educate the entities perpetrating it about their obligations not to discriminate. Such a regime is absurd. Passage of this bill would convey a clear message that Congress considers people with disabilities to be second-class citizens—people whose decades-old right to access public accommodations is not important enough to be addressed until after they have been excluded.

The ADA was carefully crafted as a bipartisan compromise to take the needs of covered entities, including small businesses, into account. Among the compromises reflected in the ADA was the absence of any damage remedy in Title III; only injunctive relief and attorney's fees are available for violations of this part of the law. The fact that, 28 years after enactment, there are still organizations, businesses, and companies that violate the law and deny access to people with disabilities suggests that businesses should be better educated about their legal obligations under the ADA—just as they are expected to be about the other legal obligations that they undertake in running a business—not that we should limit the rights of people with disabilities to participate in their communities.

As Senator Tammy Duckworth has observed, “If Congress passed this misguided legislation, it would send a disgraceful message to Americans with disabilities that their civil rights are not worthy of strong enforcement.”¹ Similarly, Tom Ridge, former Governor of Pennsylvania and the nation's first Homeland Security Secretary, pointed out that “it is unacceptable to roll back the civil rights of people with disabilities” twenty-eight years after the ADA was passed, and that:

We should expect businesses to know and comply with their obligations, not require our neighbors and colleagues with disabilities to shoulder the burden of informing and educating businesses about those obligations. We should not turn the simple business of everyday life into a complex and lengthy ordeal for people with disabilities.”²

We urge the Senate not to consider H.R. 620 or any other similar legislation. Please feel free to contact Jennifer Mathis, Bazelon Center for Mental Health Law, at jenniferm@bazelon.org or (202) 467-5730 ext. 1313, or Heather Ansley, Paralyzed Veterans of America, heathera@pva.org, (202) 416-7794, with any questions.

Sincerely,

¹ Tammy Duckworth, *Congress wants to make Americans with disabilities second-class citizens again*, Washington Post (Oct. 17, 2017), at https://www.washingtonpost.com/opinions/congress-is-on-the-offensive-against-americans-with-disabilities/2017/10/17/f508069c-b359-11e7-9e58-e6288544af98_story.html?utm_term=.d73c2899ba05.

² Tom Ridge, *Rolling Back the Civil Rights of the Disabled Harms Us All*, The Hill (Feb. 13, 2018), <http://thehill.com/opinion/civil-rights/373546-rolling-back-the-civil-rights-of-the-disabled-harms-us-all>.