

# Americans with Disabilities Act (1990)

In 1990, the United States Congress passed the Americans with Disabilities Act, or the ADA, which prohibits discrimination against people with disabilities by employers, governments, or public accommodations. Following gains made during the civil rights movements of the 1900s, people with disabilities sought similar anti-discrimination legislation. The ADA was the culmination of decades of protest and advocacy from the disability rights movement. After the ADA, federal law protected people with an impairment that limited major life functions like sight or mobility from discrimination. The ADA changed the lives of millions of Americans with disabilities by expanding the opportunities they had to work, travel, and participate in their communities legally protected from discrimination.

Prior to the ADA, people with disabilities faced legal discrimination statutorily and socially in education, workplaces, public spaces, medical facilities, transportation and more. Most places in the United States were not accessible for wheelchair users to navigate, children were forced out of public schools or institutionalized for intellectual disabilities, and employers could refuse to hire qualified applicants based on their disability status. Starting in 1907, many states like Indiana passed compulsory sterilization laws that targeted people with disabilities to prevent them from having children. In 2022, the National Women's Law Center reported that compulsory sterilization laws against people with disabilities remain in thirty-one states. Similarly, beginning in 1867 in the US, some states and cities passed laws that forbade people with visible disabilities from being in public. Referred to as ugly laws, those ordinances determined that disabled people should not be allowed to intermingle with non-disabled people and gave police the right to jail and fine people deemed unsightly who went into public view. Chicago was one of the last municipalities to repeal their ugly law in 1974. Other state laws allowed school districts to deny students with a wide array of disabilities including blindness, mobility issues, and attention disorders. People with disabilities often struggled to use public transportation or access public services like courthouse, libraries, or restaurants due to a lack of regulations for accommodations such as ramps, elevators, or braille signage.

During the 1900s, as a result of several civil rights movements, the US Congress passed legislation promoting equality for marginalized populations, including racial and ethnic minorities and women, but that legislation did not protect people with disabilities. When Congress passed the Civil Rights Act of 1964, which prohibited discrimination on the basis of race, color, religion, sex, or national origin, it did not include people with disabilities in the legal protection. Other civil rights legislation that followed, including the Voting Rights act of 1965 and the Fair Housing Act of 1968, similarly did not prevent discrimination on the basis of disability.

People with disabilities used the progress under the law by other marginalized groups as a framework for legislation that would protect their civil rights. One success of the disability movement came in 1972 with the Rehabilitation Act, one of the first civil rights laws protecting the rights of disabled Americans, protected people with disabilities in federally funded programs, federal employment, and federal contractors. In 1975, Congress passed the Education for all Handicapped Children Act, later renamed the Individuals with Disabilities Education Act, to protect the right to education for children with disabilities by requiring states to provide free public education to all children regardless of disability status. The Department of Education reported that only about twenty percent of students with disabilities received an education as many state and local governments explicitly barred them from classrooms. While the Rehabilitation Act and Education for all Handicapped Children Act demonstrated progress for disabled Americans, the significant barriers and discrimination that remained led the disability rights movement to continue to push for more comprehensive legislation.

The original draft of the ADA was written by Robert Burgdorf in January 1987. Burgdorf worked as an attorney at the National Council on Disability, a federal agency that began in 1978 and provides recommendations and guidance to federal and state governments about disability issues. Burgdorf wrote in the Washington Post that his inspiration for writing the ADA was the pervasive and systemic discrimination against disabled people in the US. He cited education inequality, transportation inaccessibility, institutionalization, forced sterilization, denial of voting rights, and denial of life-saving medical care among the reasons for writing the original bill.

The introduction of the bill crossed party lines, garnering support from both Democrats and Republicans in Congress. Republican Senator Lowell Weicker from Connecticut introduced the bill to the Senate in 1988, and Democratic Representative Tony Coelho of California sponsored the bill in the House of Representatives the following day. Both legislators spoke about their personal relationship to disability during their advocacy for the ADA's passage. Weicker spoke about being a parent of a child with Down Syndrome, and Coelho spoke about the discrimination he faced as a person with epilepsy. However, the bill did not pass through Congress before the end of the 1988 election cycle.

In 1989, the newly elected Congress and the administration of President George H.W. Bush continued to revise the previous versions of the bill, which Coelho sponsored again in the House of Representatives in 1989. Senator Tom Harkin of Iowa sponsored the bill in the Senate. Harkin also spoke about his personal relationship with disability, as he had a Deaf brother who faced discrimination. Harkin delivered a portion of his introduction to the bill on the Senate floor in American Sign Language so that his brother and other Deaf people could understand him.

While the ADA had supporters from both political parties, the inclusion of employment protection for people with acquired immunodeficiency syndrome, or AIDS, threatened to derail the legislation. During the 1980s, AIDS was a new and misunderstood disease, that many people, including members of Congress, associated with gay men. Fear and bias about AIDS led many politicians and legislators to propose laws that unfairly discriminated against people with AIDS, including during the writing of the ADA. On behalf of the National Restaurant Association, Representative Jim Chapman, a Democrat from Texas, argued for the inclusion of an addition, called the Chapman Amendment, which would have allowed restaurant owners to remove employees with AIDS from food-handling positions. Chapman argued that public fears about AIDS and the human immunodeficiency virus, or HIV, that causes it could force a business to close if the public finds out an employee has AIDS, despite no evidence that food handling could spread the disease.

The House passed the Chapman Amendment in May of 1990, which caused people in the disability community to threaten to withdraw their support for the bill. Other members of Congress, including Representative John Lewis, compared the Chapman Amendment to racially motivated attempts to sabotage the Civil Rights Act of 1964. Congress found an eventual compromise when Senator Orrin Hatch of Utah proposed and passed another amendment to replace Chapman's. Hatch's amendment required the US Secretary of Health and Human Services to issue guidance on which communicable diseases can spread through food handling and did not allow restaurant employers to fire employees solely on the basis of their having AIDS. Since there was no evidence that the human immunodeficiency virus could be spread through preparing food, the bill once again protected people with AIDS from employment discrimination. A few months later, on 12 July 1990, the House passed the ADA with a vote of 377 to twenty-eight. The following day the Senate passed the bill with a ninety-one to six vote. Bush signed the bill into law at a ceremony on 26 July 1990.

The final version of the 1990 bill included four general subject areas of protection, called titles, and one miscellaneous provisions title. The bill also included sections that discussed the purpose of the bill and defined terms used in the legislation. Among the definitions was the term disability, which the bill defined as an impairment that interferes with important everyday activities like walking or speaking, a documented history of an impairment, or being considered to have an impairment. Title I of the ADA prohibits the discrimination of people with disabilities in employment by organizations that employ more than fifteen people, including private employers, governments, and labor unions. The title also requires employers to make reasonable accommodations to provide people with disabilities equal opportunity in the workplace. Title II prohibits discrimination against people with disabilities by state or local governments, including public transportation, education,

and state-run medical facilities. Title III prohibits discrimination against people with disabilities in public accommodations, which includes locations like hotels, restaurants, and doctor's offices. Title IV of the ADA requires telecommunications companies to provide voice transmission relay services so that Deaf and hard-of-hearing people could communicate over the telephone. And finally, Title V of the ADA covers several additional areas, including allowing disability discrimination plaintiffs to recover attorney fees, specifying that illegal drug use is not a disability, and stating that any state or local law that goes beyond the protection of the ADA will not be limited to the protections outlined in the bill.

Enforcement of the ADA came through lawsuits by individuals with disabilities who believed they experienced unfair discrimination based on their disability. Lawsuits involving the ADA resulted in expanding the coverage of the law to include disabled people in courthouses, prisons, and medical institutions. One of the most common arguments in ADA lawsuits involved whether or not the plaintiff was actually disabled as defined by the ADA. In *Sutton v. United Airlines* (1999), hereafter *Sutton*, judicial interpretation of disability as defined by the ADA allowed United Airlines to fire employees because of their physical condition but argued that the employee was not disabled under the law, thus not protected by the ADA. In *Toyota v. Williams* (2002), hereafter *Toyota*, the Supreme Court interpreted the ADA's definitions of disability to find that a woman with carpal tunnel that made opening and closing her hands more difficult was not disabled and therefore had no right to reasonable accommodations under the ADA.

In response to those lawsuits, Congress passed the ADA Amendments Act of 2008, or the ADAAA. The ADAAA clarified their definition of disability, stating that the courts used too strict of a standard when determining substantial limitations of life functions. The clarified definition of disabilities included impairments that reduce the ability for a person to complete major life functions including walking, speaking, learning, or working. The ADAAA specifically overturned the rulings in *Toyota* and *Sutton* by stating that even if accommodations can relieve some of the effects of a person's impairment, a person remains disabled and thus protected from discrimination.

As of 2022, to what extent the ADA covers people with disabilities remains an open question, particularly when the allegedly discriminatory person or organization claims the discrimination is unintentional. In 2017, two blind students attending the Los Angeles Community College District, or the LACCD, did not receive the accommodations they required such as audio recording of texts, and computer screen readers. The students, in coordination with the National Federation of the Blind, filed a lawsuit against the LACCD for federal civil rights violations under the ADA. The LACCD argued that they did not violate the ADA since any discrimination against the students was unintentional. Despite losing in the district and appellate courts, the LACCD petitioned the Supreme Court to review the case in the fall of 2021. Following months of public protests by disability activists and advocates, the LACCD withdrew their petition and agreed to an outside settlement. The LACCD followed a similar case brought against CVS Pharmacies in 2021 that alleged discrimination under Section 504 of the Rehabilitation Act. CVS used the same defense that unintentional discrimination is not protected under federal civil rights law. The Supreme Court agreed to hear the CVS case in December of 2021, however CVS also withdrew their petition following public pressure.

As of 2022, the ADA as amended by the ADAAA is still federal law in the US, protecting the approximately one in four Americans with a disability from discrimination under the law. However, a lack of enforcement of legal protections and continued prejudice about the competence of people with disabilities leads to fewer opportunities for employment, education, and civil rights. Decades after the passage of the ADA, disabled Americans still find employment, graduate high school, and vote at a fraction of the rate for non-disabled Americans. Nonetheless, the ADA was one of the most substantial laws protecting the rights of disabled people in the United States, allowing for greater opportunity for the inclusion of all Americans in broader society, regardless of ability.

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