



October 5, 2017

The Honorable Paul Ryan
Speaker of the House
United States House of Representatives
H-232, The United States Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
H-204, The United States Capitol
Washington, DC 20515

Dear Speaker Ryan and Leader Pelosi:

Recently, the House Judiciary Committee marked up and passed out of committee, H.R. 620 the Americans with Disabilities Act (ADA) Education and Reform Act. It is now waiting to be addressed by the House for a full vote. The National Disability Leadership Alliance (NDLA) is strongly opposed to H.R. 620, the Americans with Disabilities Education and Reform Act of 2017.

The National Disability Leadership Alliance's Steering Committee is a national cross-disability coalition that includes fifteen (15) national organizations that are led by people with disabilities and represents thousands of constituents. The NDLA is also supported by allies that work in collaboration to build a strong and unified cross-disability movement across the United States so that individuals with disabilities have the power to influence national policies that have a negative impact on our community. The NDLA Steering Committee includes: ADAPT, American Association of People with Disabilities, American Council of the Blind, Association of Programs for Rural Independent Living, Autistic Self Advocacy Network, Hearing Loss Association of America, Little People of America, National Association of the Deaf, National Coalition for Mental Health Recovery, National Council on Independent Living, National Federation of the Blind, National Organization of Nurses with Disabilities, Not Dead Yet, Self-Advocates Becoming Empowered, and United Spinal Association.

H.R. 620 severely undermines the landmark civil rights law, the Americans with Disabilities Act (ADA) because it will ultimately harm individuals with disabilities and at a time where there are already effective mandates, programs and initiatives that are established through the Department of Justice Civil Rights Division. This bill works to protect businesses instead of ensuring the rights of people with disabilities are

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protected. The National Disability Leadership Alliance strongly urges you not to present this bill to the House for the following reasons:

1. The ADA Protects the Rights of People with Disabilities

H.R. 620 significantly weakens the ADA and requires that people with disabilities assume the responsibility to inform public facilities and businesses of access challenges they have encountered with their facilities. People with disabilities are the only protected class that would bear the burden of independent notification of accessibility issues to businesses. H.R. 620 would amend the ADA to require the individual with a disability to send a letter of notification to the business that was out of compliance with the law, and cite the exact Title III violation under the ADA. Businesses are given a grace period of a total of 180 days before someone can file suit. The bill allows 60 days for businesses to acknowledge the barrier after receipt of a notification letter and another 120 days for businesses to fix the access problem. Since 1990, the ADA has required that existing commercial establishments remove barriers that impede access by people with disabilities provided such barriers can be removed in a readily achievable manner. H.R. 620 would permit businesses to remain out of compliance with the ADA and maintain inaccessible facilities until they receive written notice from an aggrieved person with a disability.

Proponents of H.R. 620, such as the International Council of Shopping Centers and business trade associations, are misinterpreting and miscommunicating facts which will result in depriving people with disabilities of their rights under the ADA. What proponents refer to as “a time period fix” does in fact harm people with disabilities. This means that people with disabilities will not be able to gain access to the respective businesses for months or possibly years, and it removes any incentive for businesses to comply proactively with the ADA. This legislation requires people with disabilities to navigate additional administrative barriers before they can commence a lawsuit to protect their rights.

2. What is “Substantial Progress”?

H.R. 620 is written in a way that permits businesses to potentially wait years without having to remove access barriers without penalty as long as the business can show that “substantial progress” was made. There is no definition for “substantial progress.” This would remove the incentive for a business to learn about ADA compliance or take any steps to comply prior to notification. ADA Title III provisions on public accommodation would effectively change. **Progress is not access.**

The “drive-by” lawsuits are not addressed in this bill. There are ways to address the

problem of unscrupulous attorneys without placing the burden on individuals with disabilities. These frivolous lawsuits stem primarily from state laws that include damages which encourage such unscrupulous behavior. It is not the federal ADA that needs to be changed. There are established and tested avenues to address the lawsuit issue. Courts and state bar examiners have the tools needed to shut down unscrupulous lawyers through sanctions, disciplinary measures and other steps.

3. H.R. 620 Fails to Recognize Mandates That Already Exist

H.R. 620 does not acknowledge that the Department of Justice (DOJ) under their Civil Rights Division already has mandates under Title III of the Americans with Disabilities Act, and that there is already a mediation process established that is readily available to businesses and people with disabilities directed to public access issues. DOJ recently published comments stating that the ADA already calls for compliance on barrier removal issues without any additional delays as stated in HR 620. In addition, DOJ hosts a toll-free ADA information line, provides exceptionally helpful information on the DOJ Website, www.ada.gov, provides educational materials, and conducts presentations and trainings to businesses, people with disabilities, state and local governments and other entities. The Civil Rights Division also works in collaboration with the ADA National Network to support training and outreach while partnering with ten Regional ADA Centers located across the United States which are funded by the Department of Health and Human Services National Institute on Disability, Independent Living and Rehabilitation Research. Without question, information regarding how a business can be compliant with ADA in making facilities accessible has been available to businesses for years.

NDLA requests your careful consideration of our request to reject H.R. 620, the Americans with Disabilities Act Education and Reform Act of 2017. For additional information or questions, please contact Jasey Cárdenas, Senior Policy Associate, United Spinal Association at 202-556-2076, x7104 or jcardenas@unitedspinal.org or Karen McCulloh, Director, National Organization of Nurses with Disabilities at 847-966-4699 or NOND2003@gmail.com.

Sincerely,

National Disability Leadership Alliance Steering Committee Signatories

ADAPT

American Association of People with Disabilities

American Council of the Blind
Association of Programs with Rural Independent Living
Autistic Self Advocacy Network
Little People of America
National Association of the Deaf
National Council on Independent Living
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Not Dead Yet
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