

Judge David L.

BAZELON CENTER

for Mental Health Law

NEWS

High Praise for Bipartisan Legislation Reviving ADA Protections

September 25, 2008 - The Bazelon Center commends the President and members of Congress in both parties for their overwhelming support for the ADA Amendments Act of 2008. The legislation, signed today, expands the definition of disability in the Americans with Disabilities Act and makes it easier for people with disabilities to obtain protection against disability-based discrimination.



[Members of the negotiating team rejoiced outside the Capitol. Left to right: the Bazelon Center's Jennifer Mathis, Mike Eastman of the U.S. Chamber of Commerce, Chai Feldblum of the Georgetown University Federal Legislation Center and Randy Johnson, also of the Chamber of Commerce.]

"We are particularly gratified that Congress voted to rescue people with psychiatric disabilities from the Catch 22 in which Supreme Court rulings left them—that when medications reduce their symptoms, however temporarily, many no longer qualified for protection as 'people with disabilities' under the ADA," said executive director Robert Bernstein. The amended law explicitly rejects the narrow standards used by the Court to determine who has a disability.

"Mental health advocates will again be able to use the ADA as an effective tool to secure the protections that help people with psychiatric disabilities participate fully in society," said Jennifer Mathis, the Bazelon Center's deputy legal director. "People with disabilities experience real discrimination and deserve real protections," she added. "Now those who have been denied protections will at last be able to claim them."

Mathis was among several members of a unique team of disability advocates that engaged in intensive negotiations with representatives from the business community over the past year to reach a compromise that became the basis for a legislative fix. The negotiators also worked with a unique coalition of disability, civil rights and business representatives collaborating with a bipartisan group of congressional members and staff to finalize and secure passage of the legislation. The groups' leaders received kudos from House sponsors of the bill (see their statements, linked in the sidebar).

The law as amended will provide important new coverage for individuals with disabilities. The amended ADA:

- specifically overturns Supreme Court decisions that have caused many people with disabilities whom Congress intended the ADA to cover to lose important protection;
- makes it clear that Congress intended the ADA's coverage to be broad, in contrast to the narrow scope afforded by the courts;
- clarifies that the courts must apply a less demanding standard than they have been using to determine who has a disability;
- ensures that medication and other measures taken to overcome the effects of a person's condition cannot be used to conclude that the person does not have a disability
- makes it easier for people with episodic impairments to be protected by the ADA;

- provides that in determining whether someone is “substantially limited in a major life activity” and thus disabled, major life activities include major bodily functions, such as brain and neurological functions;
- affords broad coverage for individuals “regarded as” having a disability under the ADA. A person will now be covered under this part of the ADA if he or she is treated adversely based on an actual or perceived impairment, whether or not it limits or is perceived to limit a major life activity.

The House of Representatives passed the ADAAA in June 2008 by a vote of 402-17. The Senate recently passed a slightly revised version by unanimous consent, and that measure was subsequently approved by the House. The legislation becomes effective on January 1, 2009.

September 25, 2008 update:
President Signs ADA Amendments Act