

## TALKING POINTS

### EXCLUSION OF PEOPLE WITH HIV DISEASE FROM COVERAGE UNDER THE BILL

#### Nature of Amendment

The amendment may exclude HIV disease from the definition of "disability." Probable arguments in favor of the exclusion are because public health authorities are still learning about HIV, it is unwise to risk even the possibility that people with HIV may pose a threat to those around them; and 2) that inclusion of protection for people who may incorrectly be regarded as having HIV makes this legislation a "gay rights" bill.

#### Talking Points Against the Amendment

1. Although it is true that much is still being learned about the HIV disease, the consensus in the public health community is that the disease is difficult to contract, and that it is not spread through casual contact in schools, in public accommodations, or in the workplace. In general, coverage of individuals with HIV poses no danger to other people. If in a specific case, a person is found by a physician, using reasonable medical judgment, to constitute a direct threat to other people that cannot be mitigated by reasonable accommodation, that person will not be considered to be "qualified" under this bill.
2. This bill is not a "gay rights" bill. It provides protection to those people who have, or are believed to have, HIV disease. It provides no protection to people who experience discrimination solely on the basis of their sexual orientation.
3. Enactment of this bill will impose no hardship on covered entities. The only individuals to whom protection is provided by this bill are those who are fully qualified for employment or participation in the program at issue. The bill imposes no requirement to change the nature of the program or service offered.
4. Enactment of this bill will fulfill one of the principal recommendations of the President's Commission on the HIV Epidemic, which specifically urged the prohibition of discrimination against people with HIV in employment, housing, public accommodations, and participation in government programs.
5. Inclusion of people with HIV within the scope of this bill is consistent with existing disability rights law. In 1987, in School Board of Nassau County v. Arline, the Supreme Court held that people with contagious diseases were entitled to protection under section 504 of the

Rehabilitation Act of 1973, as amended. In 1988, the Congress rejected efforts to exclude people with HIV from coverage under section 504, and amended the definition of individual with handicaps to provide that only those individuals with contagious diseases that posed a direct threat to the health and safety of others would be excluded from coverage. In addition, Congress amended the Fair Housing Act to provide housing protection to people with disabilities, including HIV. It is now time to complete the task of providing protection to people with HIV in such fundamental areas as employment, receipt of government services and the use of public accommodations and public transportation facilities.

6. Failure to include people with HIV among the individuals protected by this bill will seriously hinder the nation's efforts to combat the disease. In 1988 the President's Commission on the HIV Epidemic found that there is widespread and significant discrimination against people with HIV. As long as such discrimination persists, people who are at risk, will be unwilling to seek testing and treatment for HIV because they fear the effects of discriminatory action against themselves and their families.
7. The effects of this bill on the government's ability to combat the spread of the HIV epidemic will be significant. It is now estimated that as many as 1.5 million people are infected by HIV, most of whom are asymptomatic and unaware of their illness.
8. President Bush has endorsed the enactment of statutory protection for people with HIV so that they will feel free to seek testing, counseling, and treatment necessary to stem the spread of the disease.