

August, 1990

COALITION OF TEXANS WITH DISABILITIES NEWSLETTER



VICTORY!

THE AMERICANS WITH DISABILITIES ACT EQUAL ACCESS TO THE AMERICAN DREAM

President George Bush signed into law the Americans with Disabilities Act (S 933) on Thursday, July 26, 1990, thus guaranteeing basic civil rights to persons with disabilities in the key areas of transportation, employment, access to telecommunications, and public accommodations.

We as persons with all types of disabilities and allies of people with disabilities should feel proud of the part we played through our united efforts in securing passage of the bill. We also recognize that a few key legislators refused to allow the bill to die in committee or in endless debate in Congress. Many final hour battles were fought over job protection for persons with contagious diseases working in the food industry and whether or not an individual could sue members of Congress for failing to abide by the same anti-discriminatory hiring practices that other employers will have to abide by under the new law. An amendment offered by Orrin Hatch, Republican from Utah, resolved the controversial food handling issue. The Hatch amendment requires the Secretary of Health and Human Services to publish on a yearly basis, a list of diseases which can be transmitted through the handling of food. Employers may then transfer individuals who have any of the listed diseases to other positions at an equal level of compensation. The Hatch amendment would not override any state, county or local public health ordinances which are more protective of the

public health. The compromise reached regarding the hiring practices of members of Congress states that individuals do not have a right to sue individual Congressmen, but that a complaint can be filed with the appropriate standing Congressional committee. **The final version of the bill passed the House on July 12 with a vote of 337-28, and the Senate passed the bill on July 13 by a margin of 91-6.**

Our thanks to those members of Congress who championed the cause of basic civil rights for all persons with disabilities. Congressman Steve Bartlett worked to achieve passage of ADA within the Texas Delegation and specifically within the Republican party. Although he did support some weakening amendments on the bill, his overall support was crucial to its passage. Congressman Craig Washington voted in support of a strong ADA without exception, and his staff was a great resource for the latest news on the progress of the bill. Congressman J.J. "Jake" Pickle took the message "ADA WITH NO

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be kept confidential and maintained in separate, medical files. Questions on whether an applicant has a disability or the severity of it are not allowed.

The bill does not protect persons with current drug or alcohol related conditions who cannot perform their job satisfactorily or who pose a threat to the property or safety of others, even if their chemical addiction is the cause.

Regulations on this title are due from the Equal Employment Opportunity Commission (EEOC) by July 26, 1991.

TITLE 2 - TRANSPORTATION

New buses, railcars and other vehicles purchased by public entities must be accessible unless after making a good faith effort, the purchaser finds that they are unavailable. Public entities must also make a good faith effort to locate accessible vehicles when purchasing or leasing used equipment. New public transportation facilities must be accessible, but existing sites only have to be made accessible if structural alterations are being made anyway.

Intercity rail stations have up to 20 years to be made accessible. Heavily used commuter rail stations are to be accessible in no more than three years although that can be extended if the structural changes are "extraordinarily expensive." Commuter rail trains must have at least one accessible car in no more than 5 years from enactment. If a public entity operates an inaccessible public transportation system, it must provide some form of special transit at a comparable level of service. However, if so doing would create an **undue level of hardship**, the entity may provide the level of service to which it is able. The Secretary of Transportation must issue regulations to implement Title 2 within 1 year after its enactment. Public entities affected must then submit action plans to be implemented within 18 months after Title 2's effective date.

TITLE 3 - PUBLIC ACCOMMODATIONS

Persons with disabilities can not be discriminated against with regards to access to places of public accommodation such as hotels, restaurants, bars, places of entertainment, auditoriums, stores, banks, offices, public transportation terminals, libraries, parks, places of education, social service centers and places for exercise and recreation, etc. The bill covers all places of public accommodations without regard to size. However no lawsuits can be brought for six months against businesses with 25 or less workers with gross annual receipts of \$1 million or less and for the first year for businesses with 10 or fewer employees and \$500,000 or less in annual receipts. Businesses can not screen out persons with disabilities from their services unless they can show that doing so is necessary to their providing the goods or services offered (such as rockclimbing adventures and persons in wheelchairs).

Businesses must make reasonable changes to allow persons with disabilities the use of the public accommodation they provide. Removing of structural and architectural barriers which are **readily achievable**, i.e., easily carried out, must be performed. Size, type and wealth of the business will be considered along with nature of the modification will be considered when determining whether or not the change is **readily achievable** (a flight of stairs may not be achievable for some businesses, but any business could manage one step). New facilities must be accessible unless it is structurally impractical to do so under the regulations to be issued by the Attorney General. As it stands, the bill does not require buildings of under 3,000 square feet or less than three stories to have elevators unless those buildings serve as shopping malls or professional health care providers' offices.

Private transportation companies (except airlines) are to ensure that all new vehicles they buy are accessible and usable by people with disabilities or else they must provide equivalent accessible service. New rail passenger cars must be accessible, and remanufactured cars with an extended life of 10 or more years must also be made as accessible as possible.

TITLE 4 - TELECOMMUNICATIONS

Within three years telecommunications companies must provide relay services throughout their service areas 24 hours per day, 7 days a week, maintain confidentiality of calls handled, at rates no higher than those for equivalent voice communication services. Also, public service announcements that receive any federal funding must include closed captioning.

TITLE 5 - MISCELLANEOUS PROVISIONS

ADA does not invalidate other federal or state laws that provide greater or equal protection already. States are subject to the provisions of the bill and may be found to be in violation of it by the courts.

Title 5 also permits insurers to continue deny or limit coverage based on disability.

WHAT ADA MEANS IN OUR DAY-TO-DAY LIVES

The following are excerpts of speeches made by individuals who have spoken out so that others might have a greater understanding of the necessity of the passage of the ADA.

Nancy Crowther, speaking at an ADA Press Conference held in Austin:

"Transportation is one of the key factors of a person's ability to access employment. With accessible transportation, people are provided with the opportunity to become taxpayers, instead of recipients of tax dollars. I know that this can happen; I am an example. Systems across the state and nation have been encouraged by advocates and civil rights activists to address the lack of access and to open their eyes to the ever growing need in America to provide access to transportation. They say that it will cost too much. How much does it cost to allocate tax dollars to support one disabled person who cannot get a job because they cannot get transportation?"

Evan Kemp, Jr., Commissioner of EEOC pointed out that the cost to society of excluding just those disabled people of working age is estimated by the US Department of Labor to be \$300 billion a year! ...As you all know, we will ride!"

Ralph Rouse, from an article entitled, "The Americans with Disabilities Act, an Economic Imperative:"

"ADA makes good economic sense. It will free millions of Americans to become employees, taxpayers, customers and full participants in our society while simultaneously breaking the welfare cycle by providing basic access to jobs, transportation and public accommodations."

CIVIL RIGHTS ACT OF 1990

The Civil Rights Act of 1990, recently passed by the U.S. House of Representatives and Senate, is designed to restore and strengthen basic civil rights which the Supreme Court has usurped through recent court decisions. This act has great significance because a provision of the newly passed ADA specifies that subsequent civil rights legislation can increase the amount of damages available to a person who experiences disability related discrimination. Under the 1990 act, victims of employment discrimination can obtain compensatory damages and in some cases, punitive damages as well if the discrimination is intentional. Jury trials will be available in cases in which intentional discrimination is claimed.

President Bush, who has been lambasted by the minority community for his lack of support for civil rights, has said he will veto the bill because he feels it sets up a quota hiring system and he opposes the awarding of punitive damages even if discrimination is intentional. Congress is in recess from August 6 through September 4 and will presumably have to attempt to override Bush's veto when they return.

REGULATIONS INCREASE ACCESS TO AIR TRAVEL

New regulations that went into effect this spring significantly improve access for passengers with disabilities. The Department of Transportation (DOT) now requires that airlines pro-

lavatories and movable aisle armrests on at least half of the seats. Airlines may not require that a person with a disability be accompanied by an attendant unless that person is allowed to fly free of charge, nor may airlines charge passengers for boxes which the airline requires for the transport of wheelchair batteries. In a hotly contested decision, DOT has also ruled that airlines can refuse seating in an exit row to persons with disabilities who would be incapable of operating emergency exits. Both the Air Transport Association (ATA) which represents the airline industry and the National Federation of the Blind objected to portions of the new rulings. The ATA feels the cost for the changes will be too great, while the Federation of the Blind feels the ruling on denying certain seating to persons with disabilities is discriminatory.

CTD 1990 AUSTIN FUN*RUN A BIG SUCCESS

CTD held the 1990 Austin Fun*Run on April 29, 1990 at the University of Texas Memorial Stadium. Thirty Austin non-profit organizations participated in the event along with CTD and together raised about \$20,000. The amount raised is important since it is a major portion of CTD's annual budget, but it is also an exciting accomplishment to have had sixteen groups participating for the first time in this event. Through this affiliation, they can learn about the goals and work of CTD and thus help to build working relationships throughout the community. For the first year we also secured business sponsorships of the event from I Can't Believe It's Yogurt!, The Rehabilitation Hospital of Austin, and the law firm of Vinson & Elkins and Lynch, Chappell & Associates.

We are planning to expand the event later this year by holding Fun*Runs in other cities in the fall when the worst of the Texas summer heat is over. Look for notices!

CTD SECURES FUNDING

In recent months, CTD has received grants totaling \$31,000 from three separate private sources. We have also received a grant for \$3500 from the Texas Planning Council for Developmental Disabilities.

In March, CTD secured a grant from the Texas Rehabilitation Association in the amount of \$1900 to purchase an IBM compatible computer, printer and modem to replace the outdated system that was donated to us in the early 1980s. Among other things, the new system will be used to improve our information network with the membership and to set up a bulletin board to spread the word to persons across the state about job postings we receive in the central office.

The Live Oak Fund for Change, a progressive non-profit foundation based in Austin, awarded CTD \$4200 to be used towards the leadership development and training program we are currently engaged in. The money will be used to bring low income persons interested in developing leadership skills and building power for persons with disabilities to quarterly trainings led by Jim Dickson, national disability rights organizer.

The Campaign for Human Development has granted \$25,000 to us to continue for a second year the work already begun in the Texas Disability Rights Network. During the second year the goals of the project are to begin placing organizers in El Paso, San Antonio and Dallas in order to improve our presence at the local level. The lead organizers' job will be to work with a sponsoring committee of leaders to develop strategies and actions on the issues for persons with disabilities in that community. We did not however receive as much funding for the Texas Disability Rights Project as we requested. Other funding sources for the project will have to be found if all our second year goals are to be realized this year.

The Texas Planning Council for Developmental Disabilities has also accepted our grant proposal to provide \$3500 for lodging and registration to persons with developmental disabilities to attend this year's convention, on November 9-11 in Amarillo. Applications for these stipends are available in the central office.

STATE BRIEFS

STATE RELAY SERVICE TO BEGIN SEPTEMBER 1ST

Beginning September 1, 1990, Sprint Services will begin operating a statewide telecommunications system to enable calls to be made between deaf and hearing impaired people and hearing people anywhere in the state. Operators at Sprint Services will receive an incoming call, either from a Telecommunication Device for the Deaf (TDD) user or someone wishing to place a call to a person using a TDD. The operators, who are trained to strictly adhere to the content and maintain confidentiality of the call, will then relay the conversation between the two parties. For the first time, hearing and speech impaired Texans will be able to communicate with any individuals or businesses that they wish to, regardless of whether or not that person or business owns a TDD. The service will operate 24 hours per day, seven days a week. TDD users can access system by dialing 1-800-RELAYTX, voice callers by dialing 1-800-RELAYVV. There will be no charge for calls made locally, and long distance intrastate (within Texas) calls will be billed at 1/2 the regular billing rates for day, evening, or night/weekend rates depending upon the time of day the call is placed. This price break is built into the system because the relaying of messages by the operator will add time to the length of the call. Persons within Texas may also initiate calls to other states either using their TDD or to a TDD at the other end. These calls will be billed at the full daytime rate regardless of the time of day the call is placed. An additional surcharge may also apply to the out of state calls. You do not have to designate Sprint as your long distance carrier to use the service; just use the 800 numbers provided. Town meetings are set in 16 Texas cities from mid-September through mid-November to help publicize the service.

INDEPENDENT LIVING PLACE OPENS NEAR DALLAS

In conjunction with the annual 504 Day Celebration, the citizens of Dallas, Texas welcomed the opening of a new, accessible 40 unit apartment complex, the Independent Living Place in Garland, outside of Dallas. The complex was built through a \$1.8 million grant from the Department of Housing and Urban Development and more than \$100,000 in private donations that allowed for amenities such as dishwashers and disposals to be included in the units. According to Ralph Rouse, director of the Office of Civil Rights, who delivered an address at the opening ceremonies, the money obtained through the private sector allows this complex to be "a very nice, cozy, individualized environment in which persons with disabilities who have families can live and enjoy life. It's what all apartment complexes should be and hopefully someday will be. Then there will be no need for an Independent Living Place." CTD member organization, Dallas Association for the Disabled, is administering the project which is specially designed to include families with children. Donations are currently being accepted to build a playground at the complex. Now with the passage of the Fair Housing Amendments Act, protection against discrimination has been extended beyond the public sector to privately financed housing. In the future, persons with disabilities and families with children will be able to find accessible rental properties built with significant design changes for improved accessibility.

FLEX YOUR MUSCLES! EXERCISE YOUR RIGHT TO VOTE!

Accompanying your newsletter is a voter registration card. If you are not already registered, take a few minutes and do so. It could be one of the best things you've ever done for yourself and the rest of the 2.2 million Texans with disabilities.

MAKE PLANS TO ATTEND CTD CONVENTION IN AMARILLO, NOVEMBER 9-11

CTD's 13th annual convention is right around the corner. The annual convention provides you with a great opportunity to be involved in CTD. The board election and resolution process allow you to help set the goals for the coming legislative session and beyond.

This year's convention will be held at the Harvey Hotel in Amarillo, Texas, November 9-11, and our slogan will be "ADA IN ACTION." We will discuss what is included in the bill, the impact it can potentially have on our lives and strategies to put in motion to ensure its implementation.

We will work on empowering individuals and developing action at the local level. Invitations have been extended to several nationally known disability rights leaders to serve as keynote speaker, but final arrangements are still being made at this time.

The advance registration fee (received by October 26) will be \$40 and late registration will be \$55. These fees include handouts, continental breakfasts and the annual awards luncheon. The group rate at the hotel is \$42 per night for double occupancy.

Listed below are current roundtrip airfares from various Texas cities to Amarillo. There are a limited number of seats available at these prices. A better rate is also available for groups traveling together. Ten or more people traveling on the same flight out of a given city constitute a group.

Round-trip to Amarillo:

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|-------------|-------|
| El Paso | \$108 |
| Dallas | \$58 |
| San Antonio | \$98 |
| Austin | \$116 |
| Harlingen | \$148 |
| Houston | \$98 |

(Note: Prices are for 21 day advance tickets and are always subject to change.)

We are also pleased to inform you that we will be providing a limited number of need based stipends to attend the convention to persons who have developmental disabilities through funding from the Texas Planning Council for Develop-

mental Disabilities. As always, a few general registration scholarships are available through CTD. For further information on either type of scholarship, write or call the central office at 316 W. 12th Street, Suite 405, Austin, TX 78701 (512) 478-3366 v/tdd.

Exhibit space and space in the program book are available. Please contact the central office or CTD President Margaret Robinson for details.

CTD Board Meeting September 14-16

The CTD Board of Directors will hold their third quarter 1990 meeting in Houston, September 14-16 and will address the issues of successful fundraising for CTD and continued planning for the annual convention to be held in Amarillo, November 9-11. We invite your participation at the meeting. Any CTD member who wants to be a part of the planning committee for the convention or who wishes to develop and enhance fundraising skills for CTD please make plans to join us. A location for the meeting has not yet been set; contact the central office for more information.

INCREASED ACCESS TO CHILD SUPPORT ENFORCEMENT SERVICES

The Texas Attorney General's Office Child Support Enforcement Program now provides sign language interpreters to hearing impaired individuals to increase access to services provided by the program such as locating non-custodial parents, establishing paternity, establishing and enforcing child support and medical support payments. For further information, contact Rosie Serna, Coordinator, Deaf Outreach Program at (512) 477-1209 (TDD) or (512) 463-2181 ext. 4075 (voice).

DHS SHORTFALLS AFFECTING PERSONS WITH DISABILITIES

The Texas Department of Human Services is facing a severe budgetary shortfall. An emergency appropriation of \$45 million from the Legislature in June allowed their doors to remain open and to avoid cuts until next spring. Even with this infusion of money to the agency, it remains in a crisis situation. Services to people with disabilities are in jeopardy with Medicaid payments to private providers and nursing homes being suspended.

The solution for fiscal year (FY) 1990 proposed by the Texas Department of Human Services calls for cuts in programs or transfers from one program within DHS to another to pay for August bills. DHS has proposed that funds designated for disability related programs, already severely underfunded, should be cut and used to cover the costs of other programs required by the federal government such as Aid to Families with Dependent Children (AFDC). DHS is looking for cuts wherever the federal government has not built in adequate safeguards to prevent it from happening. Current proposals include the following cuts to programs for people with disabilities:

- \$12.3 million designated for community based care
- \$45.5 million for community based care for developmentally disabled individuals.

However, DHS can not implement these proposed transfers from disability programs, among others, without the approval of the Legislative Budget Board (LBB) at the meeting scheduled for August 24, 1990. While it is unclear whether or not the Board will take public comment at that time, it is crucial that persons with disabilities who will be affected by the cuts be there in full force. DHS announced on August 6 that they will stop paying the Medicaid service providers, including those who provide in-home and community services to persons with disabilities, an estimated \$4.5 million per day affecting 1 million Texans. We must not allow the LBB to ignore the state's responsibility to those 1 million people to continue to provide the necessary services to them and the thousands of other Texans who wish to attain greater independence and

control of their lives through access to in-home and community services. We must demand an acceptable resolution to this crisis. Cutting much needed services is not an option.

For FY 1991, which begins September 1, 1990, the prospect is also grim as DHS faces a \$314 million shortfall. It is an abomination to continue to deny persons with disabilities the programs, services and options they deserve. Even from a purely financial viewpoint, it costs the state more to institutionalize a person than to provide him or her with in-home or community services. The cost of in-home care for a client is an average of less than \$300 per month, compared with \$1200 per month for Medicaid paid nursing home care. Therefore cuts to community based services are not in the state's best interest and are certainly not in the best interest of persons with disabilities who have fought to expand the options available to them. At the August 2nd meeting, CTD's Attendant Services Task Force presented a resolution to the DHS Board which we feel they should endorse.

SEE RESOLUTION--next page.

The basis of the current funding crisis is that DHS refuses to present realistic budgetary goals to the Legislature in terms of quality and quantity of services necessary to address the needs of the people of Texas. The DHS board has recently shown some improvement on this score: at the August 2nd board meeting held in Amarillo, the board set their Legislative Appropriations Request (LAR) at \$2.7 billion for 1992 and \$3.1 billion for 1993. The 1993 budget request is more than double the \$1.5 billion the agency received this year. It now remains to be seen if the Legislature will appropriate all the funds that DHS requested or if they will make cuts to the proposal and determine which services will be scaled back.

In response to the proposed cuts to services to persons with disabilities, we must continue to challenge the DHS board to stop pitting one group that receives DHS services against another. The DHS board expanded their LAR for 1992 and 1993, but they must work on behalf of Texans with disabilities to see that the Legislature

RESOLUTION--From CTD's Attendant Services Task Force to the DHS Board

It reads as follows:

WHEREAS every major advocacy group representing older and disabled Texans have recommended that individuals and their families should have options and alternatives to institutional services,

WHEREAS the number of older and disabled persons who want and need these in-home services is growing every year,

WHEREAS the funding patterns of our state have historically and continue to put substantially more dollars into institutional services than community in-home alternatives.

THEREFORE BE IT RESOLVED that the Board of Human Services adopt policies and programs that will:

- 1) redirect current institutional dollars to community in-home alternatives
- 2) allocate all new dollars in a way that lowers the ratio between institutional program dollars and community in-home options,

BE IT FURTHER RESOLVED that the DHS Board set a goal by which community in-home options will be the major focus of the agency,

BE IT FURTHER RESOLVED that the DHS Board direct the Office on Disabilities in conjunction with the Aged and Disabled Advisory Committee to develop recommendations to start this process for the 1992-93 Legislative Request and all future appropriations requests.

produces the funding for disability related programs requested from them. While it would appear that such advocacy on the part of the DHS board would be an integral part of their job, remember that the board does not have a single member with a disability and there are only two members of the Aged and Disabled Advisory Committee who have disabilities, **the same number that there were ten years ago!**

A new Office on Disability has been added at DHS, headed by Alan Meyer, a former executive director of CTD, but beyond that, a real commitment and concern for disability issues, has yet to occur. Our state continues to serve only an estimated 1/4 of the persons with disabilities within the state who are eligible for and need DHS services.

DHS has made no effort to draw upon the expertise and talent of this committee in formulating DHS policy.

Persons with disabilities in Texas demand a greater voice in the decisions that affect them, access to the services which currently exist and development of community based options.

COOPER NAMED NEW CHAIR FOR GOVERNOR'S COMMITTEE

Governor Bill Clements recently made new appointments to the Governor's Committee for Disabled Persons to fill the vacancy left by former Chairperson Kent Waldrep and other members whose terms had expired. New appointments include Betty Wintroth of Lubbock, Gerald Turner of Hillsboro and Richard R. Johnson of Corpus Christi. The new chairperson is Jerry D. Cooper of Dallas. He replaces Waldrep who resigned to assume a position on the Texas Rehabilitation Commission Board. With this appointment, Mr. Cooper begins his third year as a member of the Governor's Committee. He is vice president for Human Services of HCB Contractors, a former chair of the Dallas Mayor's Committee and has served on the boards of the Dallas Epilepsy Association and the Dallas Minority Business Council. His appointment as Chairman of the Governor's Committee for Disabled Persons marks the first time since its formal organization in the late 1970s that the Committee has been chaired by a person without a disability.

Coalition of Texans with Disabilities

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