



A M E R I C A N
C O N S T I T U T I O N
S O C I E T Y F O R
L A W A N D P O L I C Y

New ACS Issue Brief Explores State of Disability Rights

Author Says Amended ADA Responds To Courts' Weakening of Law

FOR IMMEDIATE RELEASE:
Sept. 21, 2009

CONTACT: Jeremy Leaming
202-393-6181
jleaming@acs.org

WASHINGTON, D.C. – A series of federal court decisions has weakened the Americans with Disabilities Act (ADA), but a new law should help end discrimination based on disabilities, writes Emily A. Benfer in an Issue Brief released today by the American Constitution Society for Law and Policy (ACS).

Benfer, the Supervising Attorney and Teaching Fellow at Georgetown University Law Center's Federal Legislation and Administrative Clinic, maintains that the ADA Amendments Act (ADAAA), which took effect earlier this year, restores the scope and strength of the law to prevent discrimination. But, she writes, the law must "be implemented consistently with Congress's intent to allow for individuals with disabilities to fully participate in a society free from discrimination."

According to Benfer, the ADA, which was enacted in 1990, was intended to deter discrimination based on disability, but was undermined by Supreme Court and lower federal court decisions, which too often focused on defining disability.

"Courts interpreting the ADA engaged in a long, arduous process to determine whether a disability covered under the law existed, a process that often intruded upon the personal lives of the individuals seeking protection from discrimination," Benfer writes.

The ADAAA, she states, broadens the definition of disability and emphasizes prohibiting discrimination. The new law "further increases the focus on the prohibition of discrimination by aligning the ADA with other civil rights laws. This was accomplished by eliminating language in the ADA that had prohibited discrimination of an individual 'with a disability because of a disability,' and replacing it with a simple prohibition on 'discrimination on the basis of disability.'"

The Issue Brief, “The ADA Amendments Act: An Overview of Recent Changes to the Americans with Disabilities Act,” is [available here](#). Please contact the ACS Communications Department to arrange interviews with the author.

The American Constitution Society for Law and Policy is one of the nation’s leading progressive legal organizations, comprised of lawyers, judges, students and policy makers committed to promoting the vitality of the Constitution and the fundamental values it expresses. The views of the authors are their own and should not be attributed to ACS.