

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR



[Connie Elder Carrigan](#) is a partner in the firm, with a practice concentration in Business Law. Her focus is assisting clients with issues regarding employment law, business advice and litigation, construction law, equipment leasing and creditor bankruptcy. Connie has lectured on topics ranging from employment law, bankruptcy, and equipment leasing to construction law.

Bush Legacy Lives On Through Americans With Disabilities Act

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As tributes to former [President George H.W. Bush](#)'s legacy continue in the wake of his passing, I find myself reflecting on one particular piece of legislation – the Americans with Disabilities Act – which has impacted millions of American lives. On July 26, 1990, with bipartisan Congressional support, President Bush signed into law the [Americans with Disabilities Act \(ADA\)](#). Title I of the ADA prohibits employers from discriminating against job applicants and employees on the basis of disability. The law also protects applicants and employees who do not have disabilities, but whom others may regard as having disabilities, as well as persons with a history of having a disability.

In his remarks at the [1990 enactment ceremony](#), President Bush recognized the more than 43 million Americans with disabilities who deserved an opportunity to have equal access to employment and places of public accommodation, declaring “[L]et the shameful wall of exclusion finally come tumbling down.” Noting that the ADA was the world’s first comprehensive declaration of equality for persons with disabilities, President Bush stated that these individuals could “now pass through once-closed doors into a bright new era of equality, independence, and freedom.” For these individuals, the ADA represents their Civil Rights Act.

A disability, as originally defined by the ADA, is a physical or mental impairment that *severely or significantly* limits one or more major life activities or constitutes a record of such an impairment. An individual with a disability also qualifies if he or she is subjected to a prohibited action due to an actual or perceived impairment. As explained by the Equal Employment Opportunity Commission, the federal agency that oversees ADA enforcement, if an employee or applicant can perform, with or without reasonable accommodation, the essential functions of the job, that individual qualifies for the position. A reasonable accommodation involves a change in the way of doing things for the express purpose of enabling an individual with disabilities to perform the job at hand. Reasonable accommodations must be offered within the context of an interactive assessment whereby any undue hardship to the employer providing the accommodation is also evaluated.

In recognition of the ADA's stated intent of providing broad protections to those who

face discrimination on the basis of disability, Congress amended the Act in 2008 – changing the standard from “severe or significant” impairment to the more lenient standard of “substantial” limitation or impairment, as well as expanding the scope of what constitutes “major life activities”. It was [President George W. Bush](#) who signed the [ADA Amendments Act of 2008](#) into law, with changes effective as of January 1, 2009.

We commemorated the 25th anniversary of the Americans with Disabilities Act in 2015. To this day, it remains an important consideration for employers when crafting legally defensible employment policies and procedures or providing training to their managers to avoid employment discrimination on the basis of a disability.

If you have questions regarding this legislation or other legal issues about the employment relationship, please feel free to contact [Connie Carrigan](#) at ccarrigan@smithdebnamlaw.com.

[Photo Credit: National Museum of American History Smithsonian Institution]

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