BEYOND LEGISLATION: THE CASE FOR CONSTITUTIONAL DISABILITY RIGHTS

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Abstract: Disability protections in the United States are relatively few. Most specifically, this research asks, "Should states implement and expand disability protections in their constitutions?" To support this claim, this research analyzes the U.S. Constitution, state constitutions, U.S. territory constitutions, and relevant disability rights legislation, particularly in the context of demographic trends drawn from the U.S. Census. Federal protections like the ADA can be repealed, and constitutional amendments are difficult to pass; therefore, states should incorporate explicit disability protections into their constitutions. This research clarifies the current status of disability protections and guides future efforts to expand them.

Keywords: Constitutions; Disability; State; Federal; Territory

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Disability protections in the U.S. are heavily reliant on legislation, however in the event of a bad actor legislation can be repealed. Due to this and the process by which the U.S. Constitution is amended, it would be far easier for states to amend their won constitutions. With disability cases on the rise, more individuals are relying on faulty legislation. As someone with a disability witnessing how individuals with disabilities in the U.S. are exposed to discrimination even in the present day, I realized the need for an increase in protections is of utmost importance.

INTRODUCTION

Disability protections in the United States are relatively few. Most specifically, this research asks, "Should states implement and expand disability protections in their constitutions?" To support this claim, this research analyzes the U.S. Constitution, state constitutions, U.S. territory constitutions, and relevant disability rights legislation, particularly in the context of demographic trends drawn from the U.S. Census. Federal protections like the ADA can be repealed, and constitutional amendments are difficult to pass; therefore, states should incorporate explicit disability protections into their constitutions. This research clarifies the current status of disability protections and guides future efforts to expand them.

Imagine living in a world where tasks such as opening a door, eating, or talking on the phone are impossible. What would this look like? How would this feel? For many with disabilities, this is not a matter of imagining, but instead a reality they face every day.

Disabilities are increasingly prevalent in American society. Could this be due to increasing cases of individuals who have disabilities, expanding social and health programs, or a decrease in social stigma around those with disabilities?

When looking at disabilities it is important to consider Veteran Affairs (V A) disability protections, as people who fall into this category are entitled to further benefits and protections. There are several ways to analyze protections to which people with disabilities are entitled; some of these protections can be observed through a constitutional analysis of both the U.S. Constitution as well as individual state and territory constitutions. Although some states do explicitly state their protections and acknowledge those with disabilities, some do not, and with this absence of clearly defined protections, a level of moral interpretation is required to elucidate these protections. When protections are not stated in such constitutions, there must be legislation to make up for this undeniable gap, the most notable legislation being the Americans with Disabilities Act (ADA), Individuals with Disabilities Education Act (IDEA), and The Fair Housing Act. A culmination of these different forms of protection is meant to embody the protections that seek to keep people with disabilities safe every day; however, do they actually protect those with disabilities?

I. LITERATURE REVIEW

Disability protections can be a complicated subject; some protections can be inferred, while others are explicitly written, and many are designed to be undiscovered. According to Harris, there are three distinct time periods associated with disability: the pre-industrial era, when people with disabilities were integrated into society but culturally excluded; the industrial era, which led to widespread institutionalization; and

a post-industrial period marked by a gradual shift toward social and cultural integration.[1] Despite having undergone a lowering of industrialization ideas since the end of the Cold War, the United States has witnessed social and cultural integration return through a relatively slow process. Oakes also observes that legislation concerning disability rights has historically lagged behind social and cultural developments.[2] Until the 1990 passing of the American Disabilities Act (ADA), certain disability protections were reliant on the Rehabilitation Act of 1973.[3] Raj considers the Individuals with Disabilities Education Act (IDEA) in conjunction with the ADA to note that these pieces of legislation do not protect individuals at different times, and instead argues that people with disabilities are simultaneously protected by both.[4]

This is an important viewpoint to acknowledge in regard to disability protections that people are entitled to, as all of the benefits that they fall under actively protect them at the same time demonstrating that these laws function together, not in a sequential or exclusive manner. Oakes also looks at the constitutional interpretation of disabilities and acknowledges that although the United States Constitution does not explicitly cover disability protections or discrimination, it could be implied under the equal protection and due process clauses.[5] Noting the different policies that were passed with disability protections in mind, other legislation seems to have fallen through the cracks as Oakes declines to discuss the Individuals with Disabilities Act or Fair Housing Acts. Oakes does talk about the United States Constitution; however, a gap can be noted with regards to state constitutions. Across the spectrum of research that scholars and researchers have access to, there seems to be a common gap with reference to state constitutions and their disability protections, as a whole. Green discusses the various types of discourse behind disabilities and draws attention to categories in which people with disabilities can fall into, which in itself could be seen as somewhat of a discriminatory practice as it compares one's disabilities and pain to others.[6] This is not an adequate system that seeks to cover an entire spectrum of people and should not be set into categories.

II. JUSTIFICATION OF IMPORTANCE OF RESEARCH QUESTION

While legislation provides many protections for individuals with disabilities, research has also shown that constitutional protections are limited—and even among the state constitutions that include them, the language is often insufficient or inconsistent. These constitutions lack the proper wording to be considered all-encompassing for individuals with disabilities. Conversely, states that do not include disability protections often include offensive wording which is counterintuitive to furthering protections for individuals with disabilities. The documented rise in

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[1] Harris, Jennifer L., and Roulstone, Alan. *Disability, Policy and Professional Practice*. London: SAGE Publications, Limited, 2010. Accessed March 12, 2025. ProQuest Ebook Central, 15.
[2] Oakes, Wayne Thomas. *Perspectives on Disability, Discrimination, Accommodations, and Law: A Comparison of the Canadian and American Experience*. New York: LFB Scholarly Publishing LLC, 2004. Accessed March 12, 2025. ProQuest Ebook Central, 47.
[3] Wayne Thomas Oakes, *Perspectives on Disability, Discrimination, Accommodations, and Law,* 48.
[4] Raj, Claire. "THE LOST PROMISE OF DISABILITY RIGHTS." *Michigan Law Review* 119, no. 5 (2021): 933–85. http://www.jstor.org/stable/45386463, 933.
[5] Wayne Thomas Oakes, *Perspectives on Disability, Discrimination, Accommodations, and Law,* 48.
[6]Green, Sara E., and Loseke, Donileen R., eds. *New Narratives of Disability: Constructions, Clashes, and Controversies*. Bingley: Emerald Publishing Limited, 2019. Accessed March 12, 2025. ProQuest Ebook Central.

disability cases, combined with the fact that legislation can be easily repealed, underscores the need for widespread constitutional protections.

III. METHODOLOGY

Research for this paper takes into account a multi-method approach that takes a qualitative, quantitative, and historical approach to the issue of disability protections. This study used an analysis of United States (U.S.) Census and Social Security Administration (SSA) data to track disabilities as a whole, while looking to see if there were any groups that were disproportionately affected, either by race, gender, or location. The research was also guided by qualitative research through analysis of the United States, state, and United States territory constitutions, as well as relative U.S. Supreme Court cases. The qualitative methodology in this research also spanned to include federal legislation and policies set to protect those with disabilities. With regards to the historical approach, this research is further guided by historical legislation that has protected those with disabilities such as the Americans with Disabilities Act (1990) and the All Handicap Children Act (1975). Through these three different methodologies, this paper examines why so many individuals rely heavily on the ADA, despite the presence of some protections in federal, state, and territorial constitutions. This research further investigates whether these constitutional provisions are sufficient to adequately protect individuals with disabilities.

IV. BACKGROUND ON DISABILITIES

Individuals with disabilities represent one of the most marginalized groups in the United States. Individuals with disabilities have been subject to abuse, abandonment, institutionalization, and ignominy; a group that has faced public defamation by some of the most powerful people in the world. The United States (U.S.) government defines disability under the Americans with Disabilities Act (ADA) 1990 as:

> The term "disability" means, with respect to an individual—
>
> (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
>
> (B) a record of such an impairment; or
>
> (C) being regarded as having such an impairment[7]

Building on this definition, the historical treatment of individuals with disabilities reveals significant shifts in policy and perception over time. Starting with the turn of the seventeenth century, the United States saw an increase of facilities known as almshouses; other names for these facilities were poorhouses and asylums.[8] These

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[7] ADA.gov. "Americans with Disabilities Act of 1990, As Amended." Accessed March 25, 2025. https://www.ada.gov/law-and-regs/ada/.

[8] U.S. National Park Service, "Disability History: Early and Shifting Attitudes of Treatment (U.S. National Park Service)." Accessed March 24, 2025. https://www.nps.gov/articles/disabilityhistoryearlytreatment.htm.

facilities were used to house individuals who required extra attention, including the poor, criminals, and those with disabilities.

Almshouses were used for centuries in the United States and across Europe, only being completely phased out around the 1960s in the U.S. Throughout the mid twentieth century they faced harsh criticism from the public due to ongoing reports of poor conditions and treatment which resulted in the closure of most of the remaining almshouses by the 1960s. These institutions—though known by different names—are often what people refer to when speaking about the historical institutionalization of individuals with disabilities. After the 1960s, there were strong pushes by the public for healthcare and disability policy reform. The monumental passing of The Individuals with Disabilities Education Act (IDEA) in 1975 represents a time period where disability protections would become far more prevalent than any other time in United States history. Following the passage of the IDEA, disability policy quickly gained traction, leading to a twenty-year stretch where the most influential disability policies were adopted, many of which those with disabilities still rely on today. As previously noted, Harris described the disability timeline as a pre-industrial period, followed by a strict institutional industrialization period, followed by a period of reform where institutions were slowly phased out.[9] Looking on to the late twentieth century, some of the most important legislation such as the Americans with Disabilities Act (1990) and multiple voting rights bills for those with disabilities were passed. Since the turn of the millennium, there have been no large disability bills passed; however, there have been expansions to existing policies.

V. VETERAN DISABILITIES

Although few major disability bills have been passed since the turn of the millennium, significant progress has continued—particularly in the area of veteran disability protections, which were implemented well before those for non-veterans. These protections were implemented as a result of the American Revolutionary War and provided pensions to disabled veterans who were no longer able to work due to disabilities, they had sustained due during their military service.[10] Pensions were widely expanded during the early nineteenth century. Following this time period, the most influential policies to be implemented came about in the early to mid 1900s. The events sparking these policies were World War I and World War II, with the focus of these bills being on aiding disabled veterans' families, rehabilitation, and establishing the United States Department of Veteran Affairs (VA). The establishment of this department is particularly important as this would go on to be the office that handles all things related to veteran benefits such as payment disbursements, medical treatments, and all other benefits that disabled veterans are entitled to. This department continues to prove its importance to this day, as will be covered later on when looking into disability trends over time in the United States. Unlike most non-veteran policies, there has been substantial veteran-based legislation passed after 2000; these bills were called the Veterans Claims Assistance Act of 2000 and the VA MISSION Act of 2018. The purpose of the Veterans Claims Assistance Act of 2000 was to push the Department of

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[9] Jennifer L. Harris, and Alan Roulstone, *Disability, Policy and Professional Practice,* 15.

[10] Becker, Ann. "The Revolutionary War Pension Act of 1818." Historical Journal of Massachusetts. Institute for Massachusetts Studies, Westfield State University, 2019. https://www.westfield.ma.edu/historical-journal/wp-content/uploads/2020/06/Pension-Act-of-1818-final.pdf.

Veteran Affairs to be more transparent with the process of obtaining and appealing benefit decisions, while the VA MISSION Act of 2018 was put in place to expand healthcare and community care programs for veterans and those veterans with disabilities.[11] When compared to non-veteran disability policy, the history of veteran disability protections is notably more extensive.

A. Current Disability Statistics

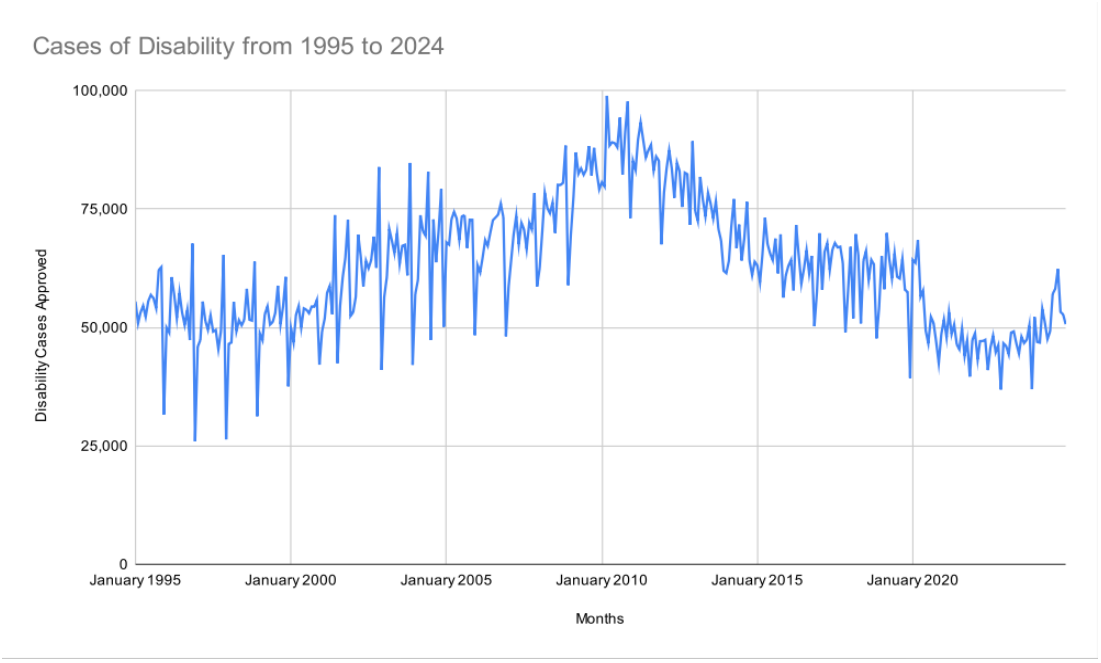
After the passing of the Americans with Disabilities Act (ADA) in 1990, the United States (U.S.) Social Security Administration (SSA) started collecting data on individuals who reported having a disability. This is because in the U.S., the SSA is the primary institution that handles the disbursement of benefits for those with disabilities outside of the Department Veterans Affairs (VA), both through Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI).

On the anniversary of the passing of the ADA, a press release by the U.S. Census Bureau in 2024 confirmed that roughly 44.1 million Americans who were not institutionalized had a disability.[12] The chart below consists of SSA data with a reference range of January 1995 to December 2024 and only takes into account those who were approved for disability. Therefore, it does not represent those who were denied or who were in the process of obtaining benefits. Notably, the chart reveals significant increases in disability approvals during November, followed by a sharp decline in December. Although the drastic increases appear to have stabilized by early 2005, the data does not show consistent patterns until around 2010, when sporadic spikes became less frequent. Even though the number of case approvals appears to have taken a significant decrease per month since mid 2010, this decrease can be explained by the extensive backlog of cases that remains an ongoing issue. However, it does appear that disability approvals are on the rise again as can be seen around 2022-2023; the number of approvals has begun to rise at a fairly steady rate. Clearly, data from the SSA indicate that disability cases continue to rise in the United States.

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[11] Department of Veterans Affairs (jdt). "VA Launches New Health Care Options under MISSION Act." *VA News*, June 6, 2019. https://news.va.gov/press-room/va-launches-new-health-care-options-under-mission-act/.

[12] United States Census Bureau. "Anniversary of Americans with Disabilities Act: July 26, 2024." Census.gov, August 14, 2024. https://www.census.gov/newsroom/facts-for-features/2024/disabilities-act.html.

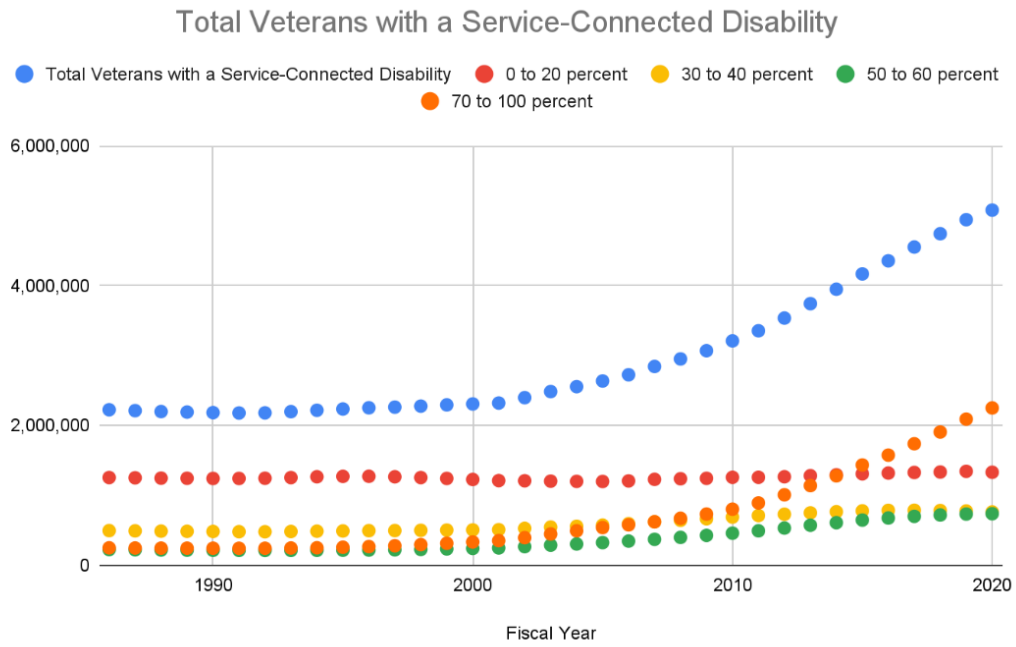


(United States Social Security Administration Data, Jan. 1995- Dec. 2024)[13]

B. Current Department of Veterans Affairs Statistics

A 2003 United States Census Bureau study found that there were an estimated 5,081,692 disabled veterans in the United States.[14] This number accounts for roughly a third of the veteran population in the United States and continues to increase. There were just over two million service-related disabilities reported in 1990, and 5,081,692 in 2023.[15]

[13] United States Social Security Administration, "Disabled-Worker Statistics." Accessed March 25, 2025. https://www.ssa.gov/OACT/STATS/dib-g1.html.
[14] United States Census Bureau. "S2102: Veteran Status." United States Census Bureau, 2023. https://data.census.gov/table/ACSST1Y2023.S2101?q=disabled+veterans.
[15] Department of Veterans Affairs Open Data Portal. "Service Connected Disability (SCD) Veterans by Disability Rating Group: FY1986 to FY2020," November 3, 2020. https://www.data.va.gov/dataset/Service-Connected-Disability-SCD-Veterans-by-Disab/vne6-2zez/about_data.



(U.S. Department of Veterans Affairs Statistics 1986-2020)[16]

The Department of Veterans Affairs (VA) reported that almost 46% of the outstanding claims as of 22 March, 2025 were individuals who took part in conflicts following the September 11 terrorist attacks in the United States.[17] The conflicts classified in this statistic were the U.S. invasion of Iraq in 2003 and the U.S. invasion of Afghanistan in 2001, while the Gulf War of 1991 and the Vietnam War of 1954 made up another ~41% of the outstanding claims.[18] These statistics suggest that despite these conflicts having come to an end, the veterans who served in these wars continue to feel the effects to this day, and many share a need for disability protections. Drawing upon the fact that almost 40% of claims are as a result of service prior to 2000, it is reasonable to infer that disabilities and disability claims are likely to continue to increase as a result of post 2000 conflicts and this inference is supported by the significant increase after 2010.

VI. DISPROPORTIONATELY AFFECTED GROUPS

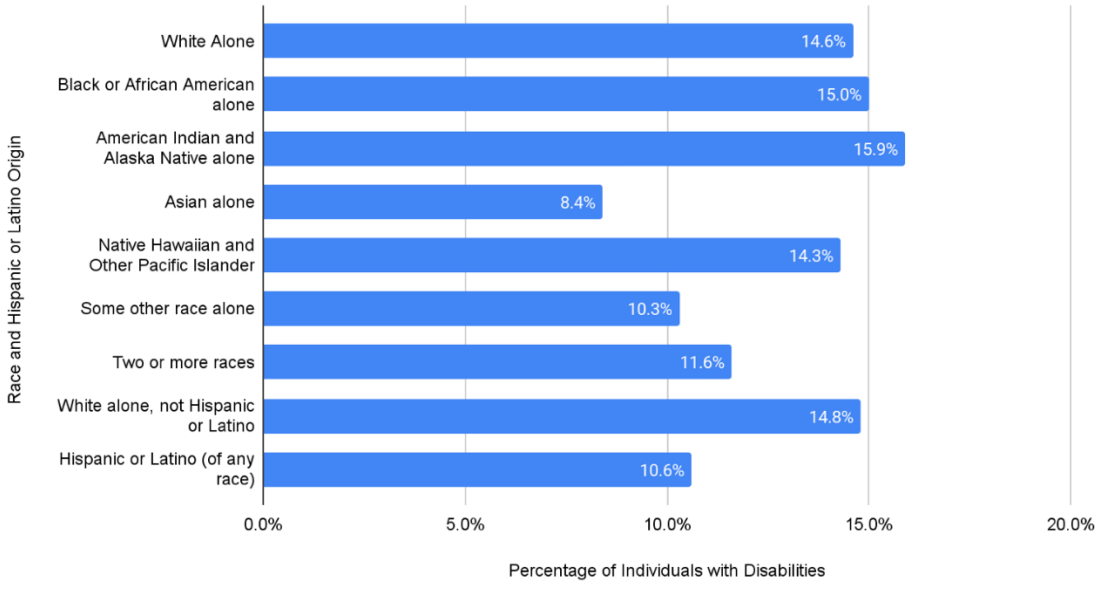
Building on the analysis of veteran and civilian disability cases, it is important to examine which demographic groups are disproportionately affected. Looking at United States Census data, individuals between the ages of eighteen and sixty-four were found to have the most disabilities in comparison to those under eighteen years of age

[16] Department of Veterans Affairs Open Data Portal. "Service Connected Disability (SCD) Veterans by Disability Rating Group: FY1986 to FY2020," November 3, 2020. https://www.data.va.gov/dataset/Service-Connected-Disability-SCD-Veterans-by-Disab/vne6-2zez/about

[17] Veterans Benefits Administration Reports. "VA.Gov," March 22, 2025. https://www.va.gov/vetdata/docs/QuickFacts/SCD_trends_FINAL_2018.PDF.

[18] Veterans Benefits Administration Reports, VA.Gov.https://www.benefits.va.gov/REPORTS/characteristics_of_claims.asp.

and those over the age of sixty-four.[19] It's worth noting that although only one-sixth of census respondents were over the age of sixty-four, this age group accounted for nearly half of all reported disability cases. The leading question with respect to disability statistics is "What group of people are disproportionately affected by disabilities?" As is evident from an analysis of the chart below, American Indians and Alaskan Natives have higher levels of disabilities than any other group with 15.9%, and Black or African Americans with the second most reported cases of disabilities relative to its population size at 15.0%.[20] In contrast, the Asian population in the United States reported that only 8.4% had a disability making it the lowest disability affected population, and "some other race" being second lowest at 10.3%.[21] While not directly tied to disability protections, these statistics will help determine whether a lack of protections disproportionately affects certain groups.



(United States Census Bureau Data Set S1810)[22]

VII. DEFINITION OF MORALITY

As previously stated, many of the constitutions that this study will seek to draw upon do not explicitly outline or mention any sort of disability protections; however, by applying a certain level of morality, these protections can start to be observed and applied. This research will utilize he philosophical teachings of John Rawls to define morality that can be followed throughout the different levels of constitutional analysis. Rawls outlines, in *Justice as Fairness,* a principle that will be used to define morality throughout the rest of this paper. This principle states, "Each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible

[19] United States Census Bureau. "DP02." Census Bureau Tables. Accessed April 12, 2025.https://data.census.gov/table?q=DP02.
[20] United States Census Bureau. "S1810: Disability Characteristics." Census Bureau Table. Accessed April 14, 2025. https://data.census.gov/table/ACSST1Y2023.S1810?q=disability.
[21] United States Census Bureau, S1810: Disability Characteristics.
[22] United States Census Bureau, S1810: Disability Characteristics.

with a liberty for all."[23] Given the context of this principle that Rawls establishes, this paper will further seek to acknowledge constitutional protections that refer to equal rights or equal protections as can be implied by this way of thinking.

VIII. FEDERAL CONSTITUTION

The United States (U.S.) Constitution, written in 1787, was intended to be the building block for which the entire U.S. society would be built upon. In addition to establishing the Executive, Legislative, and Judicial branches, the Constitution outlines a basic set of rights guaranteed to individuals in the United States. Of the most notable protections that are commonly referred to, there are freedom of speech, freedom of religion, the right to a speedy and fair trial, and the right to bear arms. Nevertheless, there are still protections that are not explicitly defined, and instead have to be inferred. Specifically, this paper seeks to draw upon the Fourteenth Amendment, and in particular, Article One, the Equal Protections Clause of the Fourteenth Amendment. This Clause states:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.[24]

In order to superlatively outline the disability protections implied by the Equal Protections Clause, this research will dissect and emphasize the different parts. The initial part that is notable is, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."[25] By applying John Rawls's principle to this segment of the Equal Protections Clause, it can be deduced that individuals with disabilities are entitled to the same "privileges or immunities" as all United States citizens. The subsequent section reads, "Nor shall any State deprive any person of life, liberty, or property, without due process of law."[26] Considering the wording in this section, emphasis should be placed on the words "any person," and through the proper moral interpretation, it should be understood that this also implies the same protections for individuals with disabilities. Observing the Clause as a whole there are numerous ways that people with disabilities could observe protections and rights. By implying that states are barred from infringing on individuals' rights for all, and applying the sense of morality that Rawls outlines in his first principle; it should be understood that when the word *all* appears, those with disabilities are also included in that definition. This principle includes constitutions as well.

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[23] Rawls, John. "Justice as Fairness." *The Philosophical Review* 67, no. 2 (April 1958): 164.https://doi.org/10.2307/2182612.
[24] National Archives. "14th Amendment to the U.S. Constitution: Civil Rights (1868)," September 7, 2021. https://www.archives.gov/milestone-documents/14th-amendment.
[25] National Archives, *14th Amendment to the U.S. Constitution: Civil Rights (1868)*.
[26] National Archives, *14th Amendment to the U.S. Constitution: Civil Rights (1868)*.

IX. PROCESSES OF PASSING AN AMENDMENT

Acknowledging that the most relevant constitutional disability protections can be inferred through the Equal Protections Clause of the Fourteenth Amendment, it poses the question, "Could the United States Constitution be amended to explicitly add disability protections?". Fundamentally, the first thing that needs to be in place when exploring a U.S. Constitutional Amendment is public support. In order for a constitutional amendment to have a chance of passing, it must garner widespread public support. The legislative process for passing a constitutional amendment is relatively straightforward: it can be introduced in either the U.S. Senate or the House of Representatives. Once introduced, the proposed amendment would require a two-thirds majority to pass before proceeding to the next chamber, where it would also require a two-thirds majority.[27] If passed in both chambers, the amendment would then go to the states where a three-fourths majority, or thirty eight states, would be required for the amendment to officially be ratified.[28] It is important to note that the President of the United States does not participate in any part of the amendment process as compared to the implementation of standard legislation.

X. RELEVANT SUPREME COURT CASES

Exploring relevant United States (U.S.) Supreme Court cases, this research seeks to recognize four of the most influential disability-related cases. In the instance of O'Connor v. Donaldson (1975), the petitioner, Donaldson, argued that the respondent, O'Connor, had violated his constitutional rights under the Fourteenth Amendment by forcing Donaldson to remain institutionalized even though he was deemed not to be a threat to himself or others. Donaldson "alleg[ed] that they had intentionally and maliciously deprived him of his constitutional right to liberty."[29] Decided by a unanimous decision, the U.S. Supreme Court found that individuals with mental illnesses who are not a threat to themselves or others cannot be institutionalized involuntary.[30] The following case this research looks to pursue is Ford v. Wainwright (1986). Ford (the petitioner) was convicted of a murder and ultimately sentenced to death. At the time the murder occurred, there was no evidence that Ford was mentally hindered; however, over time Ford's mental condition continued to decline to the point where Ford was considered mentally impaired.[31] Following a mental evaluation, Ford was found to not be in a lawful state to be executed.[32] With this information, the case was appealed to the U.S. Supreme Court where it was decided in a five to four decision that the execution of an individual with a mental disability was cruel and unusual punishment as outlined under the Eighth Amendment and labeled in the dissent as "savage and inhuman."[33]

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[27] Harry S. Truman. "The Amendment Process." Accessed March 30, 2025. https://www.trumanlibrary.gov/education/three-branches/amendment-process.
[28] Harry S. Truman, The Amendment Process.
[29] Justia Law. "O'Connor v. Donaldson, 422 U.S. 563 (1975)." Accessed March 30, 2025. https://supreme.justia.com/cases/federal/us/422/563/#annotation.
[30] Wold, Shawn M. "O'Connor v. Donaldson: Due Process and the Involuntarily Civilly Committed Mental Patient." *Tulsa Law Review* 11, no. 4 (1976).
[31] Justia Law."Ford v. Wainwright, 477 U.S. 399 (1986)." Accessed March 30, 2025.
[32] Justia Law, Ford v. Wainwright, 477 U.S. 399 (1986).
[33] Justia Law, Ford v. Wainwright, 477 U.S. 399 (1986).

Looking to one of the more current disability United States (U.S.) Supreme Court cases, PGA Tour, Inc. v. Martin (2001) was a key case in recent history shedding light on protections of the Americans with Disabilities Act (ADA). Martin, who has a degenerative circulatory disease, inquired with PGA Tour, Inc. to determine if he could obtain a golf cart which could take him from hole to hole due to his condition.[34] PGA Tour, Inc. declined Martin's query stating that all other players have to walk. "The court found that the purpose of the PGA's walking rule was to insert fatigue into the skill of shot-making, and that Martin suffered significant fatigue due to his disability, even with the use of a cart."[35] Following its seven to two decision for Martin, the U.S. Supreme Court concluded in its dissent that, "Despite petitioner's walking requirement, it is not a modification that would "fundamentally alter the nature" of petitioner's tours or the third stage of the Q-School."[36]

XI. STATE CONSTITUTIONAL ANALYSIS

While the U.S. Constitution does not explicitly outline protections for individuals with disabilities; several Supreme Court cases have interpreted its provisions in ways that support disability rights. However, a number of state constitutions do explicitly provide disability protections, though their scope and language vary. This section examines how selected state constitutions address disability rights, highlighting opportunities for expansion and offering models for other states to follow. Recognizing the states whose constitutions do outline disability protections, this study sets to start by analyzing the Florida State Constitution. Florida's State Constitution declares:

> **SECTION 2. Basic rights. —** All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property. No person shall be deprived of any right because of race, religion, national origin, or physical disability. (1998)[37]

In the conclusion of this section, it is evident that individuals with "physical disabilities" are protected in Florida's Constitution; however, even though physical disabilities are stated, the constitution lacks reciprocal mental disabilities protections. Despite the fact that the Florida Constitution lacks a clause related to mental disabilities, such a fix could unambiguously be removing the word "physical" altogether as so the remaining segment would be perceived as an all-encompassing statement for all individuals with disabilities.

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[34] Justia Law. "PGA Tour, Inc. v. Martin, 532 U.S. 661 (2001)." Accessed March 30, 2025. https://supreme.justia.com/cases/federal/us/532/661/#tab-opinion-1960917.

[35] "PGA TOUR, Inc. v. Martin." Oyez. Accessed March 30, 2025. https://www.oyez.org/cases/2000/00-24.

[36] Justia Law, PGA Tour, Inc. v. Martin, 532 U.S. 661 (2001).

[37] The Florida Senate. "The Florida Constitution." Accessed April 8, 2025.https://www.flsenate.gov/laws/constitution#A1S02.

In contrast to Florida's more limited language, Connecticut's Constitution offers more comprehensive protections by explicitly safeguarding individuals with both physical and mental disabilities in its Equal Protection Clause. This Amendment states:

> ARTICLE XXI.
>
> Article fifth of the amendments to the constitution is amended to read as follows: No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin, sex or physical or mental disability. Adopted November 28, 1984.[38]

Interpreting Article Twenty One of the Connecticut Constitution above, it is important torecognize that individuals with both physical and/or mental disabilities are protected. As Connecticut's version of an Equal Protection Clause, this is one of the most comprehensive disability rights provisions in any state or territorial constitution.

Unlike Florida and Connecticut, Hawaii's constitution emphasizes public health and rehabilitation but falls short of clearly defining civil rights protections for individuals with disabilities. Hawaii's Constitution mentions in multiple places helping those with disabilities as well as the promotion of public healthcare. Looking at Article Nine, Sections One and TwoHawaii's Constitution says:

> PUBLIC HEALTH
>
> **Section 1.** The State shall provide for the protection and promotion of public health. [Ren Const Con 1978 and election Nov 7, 1978]
>
> CARE OF HANDICAPPED PERSONS
>
> **Section 2.** The State shall have the power to provide for the treatment and rehabilitation of handicapped persons. [Ren and am Const Con 1978 and election Nov 7, 1978][39]

Observing the sections above, it should be highlighted that Hawaii's Constitution does look to better the lives and help rehabilitate those with disabilities. However, the constitution should also be criticized for not recognizing specific protections for individuals with disabilities, such as the right to protections from discrimination, as seen in other state constitutions. Comparing Hawaii's constitutional wording with others such as Florida's Constitution, Hawaii's does not mention anything about equal protections, rights, or discrimination, whereas Florida's states that people with physical disabilities are granted equal protections.

Illinois's Constitution provides stronger civil protections, explicitly prohibiting discrimination in housing and employment on the basis of physical or mental handicap. The most significant section to draw upon for anti-discrimination articles is Article One,

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[38] CT.gov - Connecticut's Official State Website. "Constitution of the State of Connecticut." Accessed April 8, 2025. https://portal.ct.gov/sots/register-manual/section-i/constitution-of-the-state-of-connecticut.

[39] LRB- Legislative Reference Bureau. "State Constitution." Accessed April 8, 2025.https://lrb.hawaii.gov/constitution/#articleix.

Section Nineteen of the Illinois State Constitution which states, "SECTION 19. NO DISCRIMINATION AGAINST THE HANDICAPPED All persons with a physical or mental handicap shall be free from discrimination in the sale or rental of property and shall be free from discrimination unrelated to ability in the hiring and promotion practices of any employer."[40] Such a section seeks to protect individuals with disabilities from being discriminated against while in the process of finding employment and searching for housing. This section, unfortunately, is the extent of the of explicitly listed disability protections; anything further would only be inferred protections. This provision offers more protection than many other state constitutions, though it could still be amended to further broaden its scope and include additional disability categories.

Louisiana's Constitution contains multiple disability-related provisions within its Bill of Rights, offering protections in both general equal protection language and in access to public accommodations. These sections say:

> §3. Right to Individual Dignity
>
> Section 3. No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for crime.
>
> §12. Freedom from Discrimination
>
> Section 12. In access to public areas, accommodations, and facilities, every person shall be free from discrimination based on race, religion, or national ancestry and from arbitrary, capricious, or unreasonable discrimination based on age, sex, or physical condition.[41]

The protections seen in the Louisiana State Constitution sections above are extensive, with Section Three being regarded as the Equal Protections Clause of their constitution and highlighting that no person shall be discriminated against due to physical condition. Along with Section Twelve, which addresses public accommodations and denounces discrimination against those with disabilities, a comprehensive set of disability protections are observed. Although the protections outlined above are extensive, the treatment of mental disabilities remains vague and would benefit from clearer, more explicit inclusion.

The Massachusetts Constitution, which notably served as a model for the United States Constitution, includes a non-discrimination clause for individuals with disabilities; however, its reliance on ambiguous qualifiers like "otherwise qualified" limits the provision's effectiveness.[42] The most notable segment of the Massachusetts

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[40] Article I. "Illinois Constitution." Accessed April 8, 2025. https://www.ilga.gov/commission/lrb/con1.htm.

[41] Louisiana State Senate. "Louisiana Constitution of 1974," January 8, 2024.https://senate.la.gov/Documents/LAConstitution.pdf.

[42] Commonwealth of Massachusetts. "John Adams & the Massachusetts Constitution." Accessed April 10, 2025. https://www.mass.gov/guides/john-adams-the-massachusetts-constitution.

Constitution is, "ART. CXIV. No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from the participation in, denied the benefits of, or be subject to discrimination under any program or activity within the commonwealth."[43] Structurally acceptable, this clause should be amended for clarity as it seeks to call upon "qualified handicapped individuals."[44] Without properly defining who meets the qualifications mentioned, this section could be seen as somewhat fragmentary, especially in the eyes of those the section intends to protect.

In contrast to Massachusetts's limited clause, the Michigan Constitution offers broad and inclusive language that affirms the state's commitment to the care, education, and rehabilitation of individuals with all types of disabilities. Through observations made of this constitution it is of utmost importance to note how unequivocally displayed disability protections are in the Michigan Constitution. Article VIII, Section 8 of the Michigan Constitution states: "Institutions, programs, and services for the care, treatment, education, or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously disabled shall always be fostered and supported."[45] Though not explicitly granting equal protections or encouraging anti-discrimination practices across the board, the constitution does address all with disabilities and encourages education as well as healthcare and rehabilitation. These protections are important and lacking in other state constitutions that do have equal protections; however, in addition there are ways that could make these protections more inclusive and impactful for those with disabilities.

In contrast to Massachusetts's limited clause, the Michigan Constitution offers broad and inclusive language that affirms the state's commitment to the care, education, and rehabilitation of individuals with all types of disabilities. Taking note of Article Two, Section Four of the Montana Constitution, it says: "Individual dignity. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas."[46] The terminology referred to in this section of the Montana Constitution does not explicitly state individuals with disabilities; however, it does refer to those with conditions, which can be implied as disabilities. The use of the word conditions does fit the adequacy and all encompassing feeling that the word disability does on its own; however, to individuals whose focal point is on disabilities explicitly laid out, this could be overlooked as an inferred protection.

In contrast to Montana's implied protections, the Nevada Constitution explicitly affirms equality under the law for individuals with disabilities through clear and inclusive language in its Equal Protections Clause. The most noteworthy component of the Nevada Constitution can be found in Article One, Section Twenty Four when it

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[43] FindLaw. "Massachusetts Constitution Amendments Art. CXIV." Accessed April 10, 2025. https://codes.findlaw.com/ma/massachusetts-constitution/ma-const-amend-art-cxiv.html.
[44] FindLaw, Massachusetts Constitution Amendments Art. CXIV.
[45] Michigan Legislature. "MCL - Article VIII § 8." Accessed April 10, 2025. https://legislature.mi.gov/Laws/MCL?objectName=MCL-ARTICLE-VIII-8&highlight=disabled.
[46] Montana Code Annotated 2023. "Section 4. Individual Dignity, MCA." Accessed April 10, 2025. https://archive.legmt.gov/bills/mca/title_0000/article_0020/part_0010/section_0040/0000-0020-0010-0040.html.

states, "**Equality of rights**. Equality of rights under the law shall not be denied or abridged by this State or any of its political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin."[47] Reflected above, the Nevada State Constitution makes use of its Equal Protections Clause to draw upon disability protections, stating that people with disabilities are afforded the same rights as all other individuals in Nevada. Notably, the statute does not specify types of disabilities, which suggests that its language is intentionally inclusive of all individuals with disabilities—not just those with physical or mental conditions.

An analysis of all nine state constitutions reveals the need for consistent, inclusive language across all state constitutions regarding disability protections. Clauses such as Equal Protection Clauses, anti-discrimination clauses, and others such as that of housing and healthcare should include the word disabilities or disabled as a single word in an attempt to be as inclusive as possible without noting physical or mental disabilities. The notion of physical or mental disabilities, or the word disabled, could be seen as exclusionary of other disabilities, as noted in the Florida and Louisiana Constitutions.

Recognizing that only nine of fifty state constitutions were drawn upon for their implementation of explicit disability protections, the other forty one states either have no explicit disability protections and require some degree of moral analysis, have nothing that could be looked upon in an attempt to identify disability protections, or have offensive wording aimed at individuals with disabilities. Among the states whose constitutions contain outdated or offensive language, the Ohio Constitution serves as a notable example. Article Seven, Section One of the Ohio Constitution states, "Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the state; and be subject to such regulations as may be prescribed by the General Assembly."[48] Given this Amendment was not implemented until 1851, improper wording of note in this section being "dumb" and "insane" could be chalked up to simply being conventional for its time; however, it should be argued that such wording is far outdated and offensive in contemporary terms. Therefore, beyond constitutions being amended to include disability protections, constitutions with such offensive and outdated wording should be updated and amended for accuracy and the inclusion of modern and less offensive terminology.

Considering that many states lack modern disability protections in a world of declining institutionalizations and what Oakes considers "a lowering of industrialization ideas and more social and cultural integration," this research must also examine the process at which states amend their own constitutions.[49] The process of amending state constitutions is slightly different across the United States; however, the main premises remain the same. The most common process is called a Legislative Referred Constitutional Amendment, where members of the state legislature propose amendments which will be voted on by both chambers of the state legislature. This is where things can differ as some states require a different number of sessions and/or votes to pass through the different chambers. Past this, once an amendment has passed

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[47] "The Constitution of the State of Nevada." Accessed April 10, 2025. https://www.leg.state.nv.us/Const/NVConst.html#Art1.

[48] States, Ohio, United. "The Second Constitution of the State of Ohio, " March 10, 1851.

[49] Wayne Thomas Oakes, *Perspectives on Disability, Discrimination, Accommodations, and Law,* 48.

the state legislature, it would be placed on a ballot for citizens of the state to vote on before it could be enshrined in the state constitution. Other processes of amendment implementation include constitutional conventions, constitutional commission, and citizen-initiated constitutional amendments, though not as widespread.

XII. TERRITORY CONSTITUTIONS

Though United States Territories are oftentimes not referenced with respect to their constitutions or US policy in the first place, it is of utmost importance to address all U.S. Constitutions in order to draw upon their protections or lack thereof. The only Territory to address disability protections would be that of Puerto Rico which states in PR Const art II § 1, "Section 1. The dignity of the human being is inviolable. All men are equal before the law. No discrimination shall be made on account of race, color, sex, birth, social origin or condition, or political or religious ideas. Both the laws and the system of public education shall embody these principles of essential human equality."[50] This portion of the Puerto Rico Constitution is both an Equal Protections and Anti-Discrimination Clause for those with conditions. This section also uses more encompassing terminology noting all with conditions opposed to listing only individuals with a mental and/or physical disability. Apart from Puerto Rico, both the Northern Mariana Islands and American Samoa do not have constitutional disability protections, while both Guam and the United States Virgin Islands do not have written constitutions.

XIII. LEGISLATION ADDRESSING VETERANS DISABILITY

While probing through the various constitutions outlined earlier in this research, the gaps that were noted were undeniable; however, the United States Congress has passed an abundance of legislation in an effort to address the gaps. In an effort to adequately draw upon the legislation that seeks to fill these spaces, this research will take a chronological approach to this legislative analysis. Beginning with the Pension Act of 1818, this Act was put into effect just after the start of the American Revolutionary War which took place between the Kingdom of Great Britain and the thirteen British Colonies which is now known as the United States of America. The Pension Act of 1818 was established to aid veterans who served in the Continental Army for at least nine months and for widows of veterans who had died during the Revolutionary War.[51] Benefits of this act were to ensure that veterans and widows receive a fixed pension that would last for the rest of their lives.[52] The significance of the Pension Act of 1818 is that it would unknowingly end up being the origination of veteran disability legislation in the United States.

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[50] Justia Law. "Puerto Rico Constitution :: Article II - Bill of Rights :: Section 1." Accessed April 11, 2025

[51] Becker, Ann. "The Revolutionary War Pension Act of 1818." Historical Journal of Massachusetts, 2019. https://www.westfield.ma.edu/historical-journal/wp-content/uploads/2020/06/Pension-Act-of-1818-final.pdf.

[52] National Parks Service. "Revolutionary War Veteran and Widow Pensions (U.S. National Park Service)." Accessed April 12, 2025. https://www.nps.gov/articles/000/revolutionary-war-veteran-and-widow-pensions.htm.

Although not a piece of legislation, Executive Order 5398, signed by then President Herbert Hoover in 1930, completely transformed the way veterans received benefits in the United States. By consolidating hospitals, administrative bureaus, and offices, Executive Order 5398 marked the establishment for what is today known as the United States Department of Veterans Affairs.[53] The significance of this Executive Order not only established the Department of Veterans Affairs, but is also the enforcement agency for veteran legislation and protections in addition to the dispersion of monetary benefits.

Following Executive Order 5398, another significant measure impacting disabled veterans is the Veterans Claims Assistance Act of 2000. Recognizing the treacherous process of applying for and proving one's disabilities, this act was implemented to assist disabled veterans, one way of doing this is by aiding veterans in obtaining relevant documentation that is required as part of the application process.[54] Though this bill was not intended to walk all claimants through the entire process, it is still important to note as many veterans are prevented by their disability from being able to obtain the relevant documentation on their own.

The final piece of veteran disability-related legislation examined in this study is the Promise to Address Comprehensive Toxics (PACT) Act of 2022. Being one of the newest pieces of legislation to address veteran disabilities, this act pursues the issue of veterans who were exposed to toxins while in service. With this in mind the PACT Act expanded healthcare access to all veterans, and with a focus on veterans with disabilities related to toxin exposure, it:

Expands and extends eligibility for VA health care for Veterans with toxic exposures and Veterans of the Vietnam, Gulf War, and post-9/11 eras, Adds 20+ more presumptive conditions for burn pits, Agent Orange, and other toxic exposures, adds more presumptive-exposure locations for Agent Orange and radiation, Requires VA to provide a toxic exposure screening to every Veteran enrolled in VA health care, [and] Helps us improve research, staff education, and treatment related to toxic exposures.[55]

Not only did this improve and expand access to healthcare for millions of veterans, but it also made the goal for many to obtain their benefits more accessible and more possible as it expanded previously existing statutes to encompass more individuals who received toxin exposure and suffered injuries.

XIV. CIVILIAN DISABILITY LEGISLATION

Although disability legislation that applies to disabled veterans does not apply to civilians, civilian disability legislation does also apply to disabled veterans. As seen in a multitude of veteran disability legislation, the topics are often concentrated on the expansion of veteran specific healthcare, veteran monetary benefits, and veteran jobs;

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[53] The American Presidency Project. "Executive Order 5398—Consolidation and Coordination of Governmental Activities Affecting Veterans." Accessed April 12, 2025.https://www.presidency.ucsb.edu/documents/executive-order-5398-consolidation-and-coordination-governmental-activities-affecting.

[54] "Veterans Claims Assistance Act of 2000." U.S. Government. Accessed April 12, 2025. https://www.congress.gov/106/plaws/publ475/PLAW-106publ475.pdf.

[55] Veterans Affairs. "The PACT Act and Your V A Benefits," March 5, 2024.https://www.va.gov/resources/the-pact-act-and-your-va-benefits/.

however, there is legislation that has to fill in the gaps that veteran legislation does not cover, and to protect individuals who are not veterans. Through a chronological analysis of legislation, this study will inspect the legislation that protects all disabled veterans and civilians. Analyzing The Individuals with Disabilities Education Act (IDEA) passed in 1975, this act aimed to ensure that individuals with disabilities had a fair chance to succeed in school. Though far more extensive, this act further pushed to give parents more of a voice in their child's education, and began the implementation of reasonable accommodations that could be used to aid students who needed extra support such as, braille, sign language interpreters, and speech therapy. This was one of the first major acts that sought to support individuals with disabilities, and the first piece of legislation that was passed in a twenty-five year stretch that witnessed the most disability legislation passed from 1975 to 2000.

When examining voting rights for individuals with disabilities, two key pieces of legislation frequently cited are the Voting Accessibility for the Elderly and Handicapped Act of 1984 and the Help America Vote Act of 2002 (HAVA). The two of these acts together both establish the need for increased accessibility in polling places and initiate basic requirements for polling places such as ramps in locations with stairs, the use of alternative voting methods, and provide funding so that states can acquire more accessible voting methods. Through a combination of these pieces of legislation voting accessibility has been greatly improved, though individuals with mental disabilities are still a largely disproportionately affected group.

The next piece of legislation is also likely the most known and widely regarded, the Americans with Disabilities Act of 1990 (ADA). The ADA should be regarded as an anti-discrimination act that seeks to protect individuals with disabilities from discrimination while also expanding rights they are entitled to. Since the ADA is such a wide-reaching piece of legislation, this research will touch upon the most influential parts in an attempt to best summarize how extensive the protections included are. The most common practice that was formally organized as a result of the ADA would be handicapped parking, although a common practice prior to the passing of the ADA there were no provisions for how handicapped parking was required to work. The ADA established business and federal building requirements for handicapped parking, spot size requirements, and requirements for the number of spots for a specific location. In addition to handicapped parking provisions, the ADA heavily addressed workplace discrimination, stating: "The American with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA also outlaws discrimination against individuals with disabilities in State and local government services, public accommodations, transportation and telecommunications."[56] Furthermore, the ADA aids in communication (e.g. text to speech), accessibility in public schools for children, voting accessibility, reasonable work, living, and school accommodations, and insurance discrimination. Recognizing the substantial protections provided by the ADA, it is often regarded as a comprehensive and far-reaching piece of legislation; however, the heavy reliance on the Americans with Disabilities Act (1990) raises concerns about the vulnerability of those protections to legislative change.

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[56] US EEOC. "The ADA: Your Employment Rights as an Individual With a Disability." Accessed April 12, 2025. https://www.eeoc.gov/publications/ada-your-employment-rights-individual-disability.

Turning to more recent legislation, one final measure worth highlighting is the Affordable Care Act of 2010 (ACA). The ACA, more commonly known as Obamacare, was passed in 2010 following a time period where many lacked health insurance. The continuous objective for the ACA is to expand healthcare to those who would otherwise not be able to afford it. In a study published in 2016, it was found that, "When the law was enacted in 2010, almost 50 million Americans were uninsured—about 19% of the nonelderly population—and among the uninsured, an estimated 91% had incomes below 400% FPL and thus were potentially eligible for benefits under the ACA (52% for expanded Medicaid and 39% for exchange subsidies)."[57] Following the passing of the ACA the number of uninsured has dropped by almost half to around twenty six million individuals in the United States as of 2023; this is an extraordinary statistic as many of the individuals who take advantage of the ACA are economically disadvantaged, elderly, or are individuals with disabilities.[58]

Though with all of the good that does come with this degree of sprawling legislation, there is an unfortunate truth that must always be considered as well, and that is that such legislation can be repealed, especially if one party holds both houses of congress and the presidency. The process of repealing legislation is a relatively simple process that includes the ratification of another bill that would overrule the previous one. For this to happen, the bill would have to be introduced in either chamber of the U.S. Congress before a vote is called. Once passed through one chamber, the bill would pass to the next. If the bill passes in both chambers of congress, then it would go to the president's desk for a final signature. Once this has happened and the bill has been signed into law, the bill would then become law and the preceding bill would be nullified.

XV. INTERPRETATION OF FINDINGS

Individuals with disabilities are by far one of the most discriminated against groups in the United States. From the pre-institutionalization period, through the institutionalization period, to present day, people with disabilities find themselves looking back on an appalling history of human rights violations, starvation, and abuse. Though with a lowering of social stigma and increase in legislation, a greater number of individuals are becoming more open to discussing their disability. This increase can be noted as disability cases have risen exponentially following the passing of the Americans with Disabilities Act (1990) among civilians, as well as by millions of veterans following the Vietnam War and wars that occurred as a result of the September 11 attacks. While the upward trends in disability data are important to acknowledge, progress in expanding disability protections has remained slow. Constitutional protections are relatively few at the federal level, and only the constitutional protections that can truly be distinguished are on a state and territory constitution level, and even then, those protections can only be seen in 10 of those constitutions. Apart from the few constitutional protections that do exist, there are different pieces of legislation that seek to make up this gap. While veteran-focused legislation has remained relatively

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[57] Kominski, Gerald F., Narissa J. Nonzee, and Andrea Sorensen. "The Affordable Care Act's Impacts on Access to Insurance and Health Care for Low-Income Populations." *Annual Review of Public Health* 38, no. 1 (March 20, 2017): 489–505. https://doi.org/10.1146/annurev-publhealth-031816-044555.

[58] CDC. "U.S. Uninsured Rate Hits Record Low in First Quarter of 2023." Accessed April 12, 2025.https://blogs.cdc.gov/nchs/2023/08/03/7434/.

consistent since the Pension Act of 1818, the same cannot be said for legislation aimed at civilians with disabilities. Legislation for civilians was relatively non-existent prior to the mid twentieth century; prior to this time, institutionalizations were at the highest point in history. Only after the mid twentieth century did legislation start to transform the way that individuals with disabilities were protected and addressed the mistreatment that had taken place. This sequence of legislation lasted from the mid twentieth century till around 2010, with the most recent piece being the Affordable Care Act which, although beneficial to those with disabilities, was not the intended target of the legislation.

CONCLUSION

Restating that constitutional disability protections are relatively few, the United States seeks to fill these constitutional gaps through the use of legislation. However, it is deeply worrying how many individuals rely on this legislation and how simple the process of repeal is under the right circumstances. In the event that a piece of legislation such as the Americans with Disabilities Act got repealed, the tens of millions that heavily rely on it for its workplace anti-discrimination and parking protections would instantly lack those protections. Another instance that would arguably be worse would be the abrogation of the Affordable Care Act of 2010, which would strip tens of millions of individuals from their affordable health insurance that they are heavily reliant on, requiring those individuals to seek out far more costly private insurance or run the risk with no insurance at all. Noting that either of these situations would be utterly devastating for the disabled community, the need for enshrined constitutional protections should only be seen as necessary. Acknowledging that some states do already have protections for those with disabilities, it portrays that other states could follow suit and implement their own protections. Though only nine states and one territory have already implemented some level of protections for individuals with disabilities, wording should be altered to be more specific than to state “qualified” individuals, and include wording to specify which types of disabilities that are protected should be removed altogether. Constitutions that include exclusionary phrases such as physical disabilities, mental disabilities, or qualified disabilities risk undermining the intent of the Equal Protection and Anti-Discrimination Clauses in which they appear. An appropriate way to address this is by adopting consistent, inclusive language—using terms like individuals with disabilities rather than limiting or specific descriptors. By leaving out physical, mental, and qualified, it makes for a far simpler inference to include all individuals with disabilities. For entire amendments there is an extensive list of language that can be done, such as that of an Equal Protections Clause, anti-discrimination language, promotion of healthcare and rehabilitation, and the abolition of previous offensive language. The implementation of such language in state constitutions would not only lessen dependency on various pieces of legislation, but enhance the lives of individuals it would seek to protect. For the foreseeable future, the United States Constitution is likely to remain unchanged; however, additions and changes can be made to improve state constitutions, though this is only possible with the help of those who have a larger voice than that of the oppressed.