

fore, I ask my colleagues to join me in supporting the passage of H.R. 1158.

Ms. PELOSI. I rise in support of H.R. 1158, the Fair Housing Amendments Act of 1988.

This act represents a particularly important step forward because it extends the protection of the Fair Housing Act to people with disabilities. All people with disabilities, including people with epilepsy, people with AIDS or people infected with the human immunodeficiency virus-HIV, the AIDS virus—would be covered under the three-part definition of handicap adopted in this bill. This three-part definition of handicap is under section 504 of the Rehabilitation Act of 1973, as the committee report accompanying this bill notes and has been evident in recent cases, such as local 1812 versus Department of State and Ray versus DeSoto County. Such coverage has been essential in section 504 and it is critical that the bill before us extends that same protection in private housing to individuals with AIDS and with HIV infection.

I specifically want to mention one amendment adopted by the Judiciary Committee concerning the coverage of handicapped persons, including those with contagious diseases and infections. The amendment provides that individuals with such handicaps are protected under the statute unless their tenancy would pose a direct threat to the health or safety of others. This amendment is consistent with current standards under section 504 of the Rehabilitation Act of 1973, as we recently reaffirmed in the Civil Rights restoration Act of 1988. These acts require that handicapped individuals must be "otherwise qualified" for the jobs they seek in order to be protected from employment discrimination. As the Supreme Court made clear in the recent case of School Board of Nassau County versus Arline, a person with a contagious disease is not otherwise qualified for employment purposes if that person poses a significant risk of communicating an infectious disease to others in the workplace and the risk cannot be eliminated by reasonable accommodation. The committee amendment to the Fair Housing Amendments Act now applies the basic standard and approach articulated in Arline to housing discrimination as well.

Some people today are unnecessarily concerned that they could be required to rent or sell housing to individuals with handicaps who pose a direct threat to the health or safety of their neighbors. The law imposes no such requirement. A person whose tenancy would directly threaten the health or safety of others, by reason of any handicap, is not "otherwise qualified" for housing and is not protected by this act from denial of housing on those grounds. Of course, I should note that it is extremely unlikely that such a risk would ever exist. Certainly, with regard to AIDS and HIV infection, the current medical evidence is clear that no significant risk of transmission exists in the housing context.

People with contagious diseases and infections, such as people with AIDS or people infected with HIV are subject to intense and irrational discrimination. I am pleased that this legislation makes clear that such individuals are protected from unjustified discrimination in housing. By codifying the "otherwise qualified" requirement of section 504 in this respect, we

are simply extending the law that now applies to employment, housing, and services by the Government and its contractors to the private sector. I urge my colleagues to support this bill and to oppose all weakening amendments.

Mr. MFUME. Mr. Chairman, I join my colleagues in strong support of H.R. 1158, the Fair Housing Act Amendments of 1987. I commend my colleagues—Mr. EDWARDS of California and Mr. FISH of New York, for their hard work and leadership on this important legislation.

Since the enactment of the Federal Fair Housing Act 20 years ago, small gains have been made in the area of equal housing for all. Today, many Americans are faced with the disheartening fact that discriminatory housing practices still exist in our Nation.

According to a Department of Housing and Urban Development [HUD] survey, minorities seeking to purchase a house in a metropolitan area stands a 48-percent chance of encouraging discrimination and a 72-percent chance when seeking rental housing. Further, 25 percent of rental housing was unavailable to families with children.

Although title VIII of the Civil Rights Act of 1968 prohibits discrimination in the sale, rental, or financing of housing based upon race, color, religious, national origin, or sex. Our goal of providing equal opportunity and fair housing to everyone has not been fully realized.

The most serious obstacle to reaching this goal is the lack of adequate enforcement provisions in the law. Today, we have the opportunity through H.R. 1158 to strengthen the law by extending administrative and judicial remedies. In addition, H.R. 1158 will expand the scope of protection against discrimination in housing—a long overdue affirmative of the rights of over 36 million disabled citizens and families with children, particularly those families with single parents.

Mr. Chairman, let us act accordingly today and ensure that those rights provided by the Federal Fair Housing Act are afforded to all Americans and properly administered. Today's hopes for fair housing must become tomorrow's reality.

Mr. MICA. Mr. Chairman, I am pleased to have the opportunity to speak before you in support of the Fair Housing Amendments Act of 1988. This is an historic opportunity, and I want to praise all of the parties involved in the compromise agreement. Prior to today, Congress has not been able to amend the Fair Housing Act since it was first enacted in 1968.

The Committee on the Judiciary, and its Subcommittee on Civil and Constitutional Rights, have worked long and hard to fashion this bill. They deserve credit for their perseverance, despite the intense public debate that occurred on various controversial provisions within the bill.

I particularly hail an agreement reached early this week between the National Association of Realtors and the Leadership Conference on Civil Rights. These organizations have seen a way to rise above their differences in the interests of fair housing, and have worked together representing wider business and civil rights interests.

I am in strong support of the Fish amendment, which is deserving of our support. This

amendment has come into existence as the result of this great compromise.

Despite provisions within the original legislation of 1968 preventing discrimination, housing discrimination is wide spread within our country. The Fair Housing Amendments Act will provide the Federal Government with enforcement powers to respond to housing discrimination complaints filed with the Department of Housing and Urban Development. This enforcement mechanism must be instituted in order to strengthen the original intention of this act.

Central to this agreement is a provision allowing those people who have been the victims of discrimination and those who are being accused of wrongful action, to choose between pursuing the action in front of an administrative law judge or in Federal district court. Parties can have the matter reviewed in front of an administrative law judge who will operate within the Department of Housing and Urban Development or in Federal district court, where cases will be reviewed in front of a jury. This provision will protect the rights of our citizens as guaranteed under the seventh amendment. The legislation authorizes HUD to sue violators of the bill on behalf of the discrimination victims.

The Fair Housing Amendments Act is supported by a wide coalition of organizations, both business groups and civil rights groups. I am proud to add my name to those supporting this historic legislation. It is necessary that we work together to improve the housing situation for all of our citizens, and the Fair Housing Amendments Act is a means to achieving this goal.

Mr. JEFFORDS. Mr. Chairman, I rise in strong support of H.R. 1158, the Fair Housing Amendments Act of 1988. The development of this legislation offers an example of our system of government at its best. I would like to commend the members of the Judiciary Committee for their hard work on this legislation.

The committee heard testimony from many different points of view and struggled mightily to craft a compromise that would be acceptable to all. H.R. 1158 meets this challenge. It is to the bill's credit that it has been endorsed by the national organizations representing the homebuilders, the realtors, civil rights activists, and advocates for handicapped, and elderly Americans.

This consensus-building approach was particularly evident in the development of the provisions governing enforcement procedures and requirements for accessibility of new multifamily housing units. These provisions have been agreed upon after months of deliberation and deserve our strong support.

Perhaps I am most familiar with the aspects of H.R. 1158 regarding discrimination against handicapped individuals and I would like to take a few moments to discuss these provisions. The bill adds a prohibition of discrimination prohibited under the Fair Housing Act. This is a critical addition, since discrimination against people with disabilities is a serious problem in our country.

Ignorance, prejudice, and unfounded fears cause some providers of housing to be reluctant to rent or sell their housing units to

people with disabilities. In other instances, physical barriers such as steps, narrow doorways, and inaccessible bathrooms deny people with disabilities access to housing that would otherwise be appropriate and available. Because of such discrimination, people with disabilities are often unable to obtain suitable housing or have extremely limited options on where they will live.

In addressing discrimination on the basis of handicap, H.R. 1158 establishes some reasonable and straightforward requirements. In general, it prohibits discrimination against people because of their handicaps, the handicaps of their tenants or residents, or the handicaps of their friends, relatives, or other associates. It applies to the refusal or denial to rent or sell a dwelling because of an individual's handicap, as well as discrimination in the terms, conditions, or privileges associated with the sale or rental of a dwelling.

I am pleased that the bill preserves the three-part definition of handicap that has been used for over 15 years under the Rehabilitation Act of 1973. Under this definition a broad range of people with disabilities, such as individuals who use wheelchairs, who have epilepsy or cancer, who are suffering from AIDS, or who have any other disabling condition, would be covered under the protections offered by the act.

Because there has been some concern expressed about the coverage of people with AIDS, I would like to use some of my time to explain why people with AIDS are covered. People infected with the AIDS virus (HIV) could be covered if it is determined that they have a physical impairment which substantially limits a major life activity, or they are regarded as having such an impairment. Coverage of HIV-infected persons was recently reaffirmed by Congress in an amendment to the Civil Rights Restoration Act where Congress included people with "contagious diseases or infections" under coverage of section 504 of the Rehabilitation Act of 1973. Protection against discrimination based on HIV-infection have also been recommended by Surgeon General C. Everett Koop and the Presidential Commission on the Human Immunodeficiency Virus Epidemic.

I would point out that the Judiciary Committee added a provision to H.R. 1158 stating that nothing in the act requires a dwelling be made available to an individual whose tenancy constitutes a direct threat to the health or safety of others. As the ranking minority member of the committee with jurisdiction over section 504, I can say that this concept has been a longstanding part of that law's requirement that individuals with handicaps must be "otherwise qualified" under the statute.

The report accompanying this bill notes that the Judiciary Committee drew on established case law under section 504 in developing this amendment, including the Supreme Court's recent decision in *School Board of Nassau County versus Arline*. Thus, for example, a person with a contagious disease or infection would be covered unless that individual's tenancy posed a significant risk of transmission of the infection. While it is doubtful that such significant risks will ever be present in the case of people with handicaps, I believe that

this amendment is useful in alleviating any concerns that individuals may have.

Again, I rise in support of this legislation and urge its immediate passage.

Mr. GARCIA. Mr. Chairman, I rise in strong support of H.R. 1158, the Fair Housing Amendments to the Civil Rights Act of 1968. I want to commend Chairman EDWARDS, the Subcommittee on Civil and Constitutional Rights and the Judiciary Committee for their hard work and dedication that allowed this measure to come to the floor. Those of us with a large home constituency of blacks and Hispanics have followed this legislation carefully and urge all Members to vote in favor of this landmark revision of the law prohibiting discrimination in the housing market.

This bill makes three important changes in the current law. First, it extends the protection of the fair housing laws to families with children under the age of 18 and to handicapped individuals. Today, a significant number of low- and moderate-income families face barriers in the housing market. This is particularly troublesome during the current shortage of affordable housing. Because of the shortage and the high cost of housing relative to income, many families live on the edge of homelessness. Handicapped individuals have experienced a similar housing crisis. The additional burden of discrimination is outrageous and should not be tolerated.

The second important change made by this bill is the enforcement provisions. Under current law, HUD is limited to investigating complaints and engaging in conciliation efforts on behalf of aggrieved renters and home buyers. Enforcement is often left to the individual's initiative, many of whom are unable to afford the high cost of private lawyers. H.R. 1158 would authorize HUD to enforce the law before an administrative law judge or at the request of either party before a jury in Federal district court. This represents the result of a true bipartisan effort and a significant step forward toward eliminating unlawful discrimination in the housing market.

The third change in the law allows the administrative law judge to levy fines of \$10,000 for the first violation, \$25,000 for a second violation within a 5-year period, and \$50,000 for a third violation within a 7-year period. Federal district court judges will be able to award compensatory damages, injunctive relief, and punitive damages as provided under current law. The measure removes the ceiling on punitive damages, extends the statute of limitations, and removes the financial need requirement for the award of attorney's fees. In cases of pattern or practice for housing discrimination, the bill allows the Justice Department to seek substantial civil penalties against violators. Orders of administrative law judges to be appealed to Federal court of appeals just as orders of Federal district courts may be appealed.

I take a particular interest in this legislation because minority groups, including blacks, Hispanics, and Asian Americans continue to live in substandard and overcrowded housing concentrated in inner city communities and segregated neighborhoods. Certainly the inadequate supply of affordable housing partly explains this fact. But the inadequate housing stock or the prevalence of low income levels

among these minority groups is not the sole factor. The unacceptable patterns of residential segregation that exist all across this country are in large part a result of an underlying discrimination against racial and ethnic minorities.

I would like to digress one moment to emphasize the housing crisis faced by families with children. There is an amendment to delete this protective provision from the bill. I feel very strongly that these families need this special protection and therefore urge my colleagues to preserve the original language of the bill. Single family households constitute a significant part of the low-income households today. Most of these are female headed households. The circumstances that these families find themselves in is tragic enough. Many mothers, particularly the increasing number of young mothers, take low paying jobs and leave their children at day care centers or at home with friends, or leave their school age children unattended at home after school. The additional burden of discrimination forces the single parents to seek less desirable locations and accommodations and significantly interferes with the task of supporting a family and raising growing children.

It is also important to recognize the hurdles faced by handicapped individuals in the housing market. This measure addresses these special problems by requiring all new construction of multifamily housing of more than four units to meet minimal standards for accessibility. The new standards include making hallways and doorways wide enough and making kitchens and bathrooms large enough for wheelchairs, and providing for the installation of appropriate facilities. The bill also requires reasonable modification of existing premises if necessary for handicapped occupancy. The bill does not extend these protections to drug abusers and addicts or to any person whose tenancy would constitute a threat to the health and safety of other residents.

Let me conclude by saying that discrimination of any kind is unacceptable, and within the context of housing, it is shameful. People must have the full opportunity to choose where and under what circumstances they will live. The home and neighborhood is of significant importance to the development of families and the growth of children. The location of housing determines the quality and level of services and more than any other single factor allows families to make the gains over time that is such a large part of the American dream of success and mobility. Neither the color of one's skin, nor the size of one's family, nor the condition of one's body should determine the choice in quality and location of one's home. Strong, enforceable fair housing laws are a necessary part of our national housing policy. It is most appropriate that we take up this measure during a time of heightened awareness of the Nation's housing needs. The goal of providing a decent home and suitable living environment for every American family can be fulfilled only with a full commitment to both fair and affordable housing for all. For these reasons, I support passage of H.R. 1158 and urge my colleagues to do the same.

Mr. RANGEL. Mr. Chairman, the perpetuation of large-scale housing discrimination that continues to exist in our country is a national disgrace, and an evil that should be erased from the American way of life.

The main reason for this tragedy is the fact that the Fair Housing Act of 1968 did not provide any effective enforcement mechanism. Today, however, the House has a chance to correct this injustice by voting for H.R. 1158, as amended by Representative FISH.

This amendment provides HUD with the authority, for the first time, to enforce the Fair Housing Act. Under the current law, HUD can only attempt to reconcile discrimination through conciliation. H.R. 1158 would authorize HUD to either prosecute cases before the administrative law judges or in Federal district court if either party so requests.

Mr. Chairman, it is abundantly clear that the Fair Housing Act of 1968 is simply not working, and is in need of enforcement mechanisms. Unlawful housing discrimination is still widespread. In fact, the most recent study HUD estimates that 2 million cases of housing discrimination occur each year. Furthermore, one HUD-commissioned study, covering 3,000 brokers and rental agents in 40 metropolitan areas, found that black families looking for a home to buy stand a 48-percent chance of encountering discrimination. Blacks looking for a place to rent have a 72-percent chance of encountering discrimination. Clearly, something needs to be done.

H.R. 1158 would also add two new classes to those already protected from the discriminatory practices under the present Fair Housing Act—persons with handicaps and families with children. I believe these provisions are essential to any meaningful fair housing legislation.

Disabled in America, of whom there are 36 million, continue to be excluded from large segments of the housing market. This bill would ensure that these individuals will no longer be subject to discrimination because of fears and prejudices. H.R. 1158 rejects the approach of excluding any category of individuals with disabilities from the act, with the exception of current illegal users or addicts of controlled substances. Instead the bill includes a specific provision, paralleling that added to the Civil Rights Restoration Act, that individuals who pose a great threat to the health of others are not protected.

The familial status provisions of H.R. 1158 are desperately needed. In the most recent national survey, HUD found that 75 percent of the rental units either exclude or restrict families with children. The result is that children are often living in substandard or overcrowded housing. In addition, housing discrimination contributes to the growing crisis of homelessness among families.

Mr. Chairman, it is time we correct this longstanding injustice, and give our support to this crucial piece of civil rights legislation.

Mr. GONZALEZ. Mr. Chairman, I am pleased to rise in support of H.R. 1158, the Fair Housing Amendments Act of 1988. In the many years that I have spent in this distinguished body, I have sponsored and supported legislation to enable minority Americans to enjoy the opportunities that are the promise of our society. Today we are finally extending the

protections of the Fair Housing Act of 1968 to others in our Nation who are just as deserving of the promise of decent housing—people with disabilities and families with children.

Many of the problems experienced by Americans with disabilities today in obtaining housing are not the result of their inability to live in the community or their physical or mental disabilities, but rather result from the false perceptions and prejudices others hold about these disabilities. As the authors of "Disabled People as Second Class Citizens"—Eisenberg, Griggins and Duval—have told us:

Being disabled means being treated by the world as someone different, abnormal, inferior. It means people shying away from you, pitying you or rejecting you completely. It means trouble finding a job or a decent place to live. It often means living at the poverty level or going on welfare. It means discrimination.

Housing discrimination against families with children and people with disabilities is a pervasive problem today. Many disabled Americans are barred from living where they choose because of old-fashioned prejudice. Others are excluded because of physical barriers. Whatever the reason, American society has effectively told disabled Americans that they are not welcome in our communities. Families with children face similar discrimination. The fastest growing segment of our homeless population are families with children. In many communities, adult-only apartments predominate. Even with the assistance of Federal rental certificates, many families are denied accommodation by private building owners.

Simply, what this means is, for the Americans who already have the most to deal with, housing is the hardest to find. Some social service agencies report that, for every wheelchair-accessible apartment available, there are 50 clients in need. In some places, a wait of 2 to 4 years for usable housing is commonplace. Many families with children are desperate to find decent housing they can afford.

Another dimension of this problem comes at the other end of the cycle, not in finding the housing, but in being forced to leave. This problem especially plagues our disabled elderly when their disability worsens, and they can no longer negotiate steps, or fit the new wheelchair into the bathroom.

There is an enormous human cost, an emotional cost, when elderly persons are uprooted from their home communities and placed in other, often more institutionalized settings. Gone is the relationship with the corner grocer, the local church, neighbors and friends. This is unnecessary isolation.

The provisions of this bill are very fair—they are fair to the housing industry, they are fair to the disability community, they are fair to families with children. America was built on the premise that anyone could participate fully in society. This bill ensures that in the future we will have communities where all Americans can live without fear of discrimination.

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent to return to section 6 for the purpose of offering an amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 7, strike out line 3 and all that follows through line 3 on page 8 and insert in lieu thereof the following:

"(C) a failure to design and construct multi-family dwellings, constructed for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act, in such a manner that—

"(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons; and

"(ii) at least 10 percent of such dwellings (but not less than one unit) are, or can be adapted to be, accessible to and usable by handicapped persons, as required by the Uniform Federal Accessibility Standards adopted pursuant to the Architectural Barriers Act of 1968.

Page 8, line 8, strike out "(3)(C)(iii)" and insert in lieu thereof "(3)(C)(ii)".

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, we have no objection to the amendment on this side.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman.

Mr. EDWARDS of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. PARNETT] having assumed the chair, Mr. OLIN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1158) to amend title VIII of the act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes, had come to no resolution thereon.

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#### LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I asked for this 1 minute for the purpose of inquiring of the majority whip the program for next week.