

September 13, 2021

**ATTORNEY GENERAL RAOUL FILES BRIEF DEFENDING PROTECTIONS AGAINST DISABILITY
DISCRIMINATION**

***Raoul, 17 AGs Urge Supreme Court to Preserve Legal Standard Enabling Challenges to Policies
that Have Discriminatory Effects on Individuals with Disabilities***

Chicago — Attorney General Kwame Raoul, as part of a coalition of 18 attorneys general, filed an amicus brief urging the Supreme Court to preserve critical legal tools to fight discrimination against Americans with disabilities.

Raoul and the coalition filed a friend-of-the-court brief in *CVS Pharmacy v. Doe*, a case concerning whether a health plan discriminates against HIV-positive individuals by limiting where they can obtain medication for in-network prices. Instead of supporting one of the parties, the brief urges the Supreme Court to uphold the existing legal standard. The current standard enables challenges to public programs that, through thoughtless design or implementation, have the effect of discriminating against people with disabilities, even if there was no intent to disadvantage those individuals.

“People with disabilities are entitled to equal access to all aspects of American society,” Raoul said. “I urge the Supreme Court to uphold the existing standard that allows challenges to public programs that discriminate against people with disabilities, even if that was not the intention.”

The Rehabilitation Act was passed in 1973 to fully include and integrate individuals with disabilities into American life. A key part of the law, Section 504, prohibits discrimination based on disability in programs or activities receiving federal funds and authorizes legal challenges to discriminatory policies. In a 1985 decision, *Alexander v. Choate*, the Supreme Court explained that under Section 504, individuals with disabilities must have “meaningful access” to a particular government benefit or program. Over the past 35 years, this standard has become a key part of American law and has enabled challenges to policies that have the effect of discriminating against individuals with disabilities, even when the programs are not intentionally discriminatory.

In their amicus brief, Raoul and the attorneys general urge the Supreme Court to preserve the existing standard for challenging disability discrimination because:

- **Barriers to full participation by individuals with disabilities are often unintentional:** Discrimination against individuals with disabilities often stems from indifference and thoughtlessness rather than intentional actions. Historically, individuals with disabilities faced exclusion from core aspects of American society – from health care to education to transportation – as a result of unintentional barriers and a failure to consider how they could gain access. To ensure inclusion of individuals with disabilities, it is necessary to break down barriers to their participation, including those that were created unintentionally.
- **Congress intended the Rehabilitation Act to ensure meaningful inclusion of individuals with disabilities:** The Rehabilitation Act was intended to end the exclusion of individuals with disabilities, and the architects of Section 504 explained that the primary engines of disability-based exclusion were often “oversight[s],” or instances of “societal neglect.” Congress also reinforced Section 504 by building on it and incorporating it into subsequent legislation.

- **States rely on this standard:** States have relied on this legal standard to combat disability discrimination for decades and have used it to guide their actions and craft their own laws and regulations.

Joining Raoul in filing this brief are the attorneys general of California, Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont and Virginia.

For more information about disability rights laws or to file a complaint, Raoul encourages people to visit the [Attorney General's website](#) or call his Disability Rights Bureau in Chicago at 312-814-5684 (TTY: 1-800-964-3013) or Springfield at 217-524-2660 (TTY: 1-877-844-5461).