

## **CIVIL RIGHTS ACT OF 1991**

[Public Law 102-166]

[As Amended Through P.L. 104-1, Enacted January 23, 1995]

【Currency: This publication is a compilation of the text of Public Law 102-166. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Civil Rights Act of 1991”.

### **SEC. 2. FINDINGS.**

The Congress finds that—

(1) additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace;

(2) the decision of the Supreme Court in *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989) has weakened the scope and effectiveness of Federal civil rights protections; and

(3) legislation is necessary to provide additional protections against unlawful discrimination in employment.

### **SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace;

(2) to codify the concepts of “business necessity” and “job related” enunciated by the Supreme Court in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and in the other Supreme Court decisions prior to *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989);

(3) to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); and

(4) to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.

## **TITLE I—FEDERAL CIVIL RIGHTS REMEDIES**

### **SEC. 101. PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.**

【Amends § 1977 of the Revised Statutes (42 U.S.C. 1981).】

### **SEC. 102. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.**

【Adds a § 1977A of the Revised Statutes (42 U.S.C. 1981a).】

### **SEC. 103. ATTORNEY'S FEES.**

【Amends § 722 of the Revised Statutes (42 U.S.C. 1988).】

### **SEC. 104. DEFINITIONS.**

【Amends § 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).】

### **SEC. 105. BURDEN OF PROOF IN DISPARATE IMPACT CASES.**

【Amends § 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2).】

### **SEC. 106. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST SCORES.**

【Amends § 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2).】

### **SEC. 107. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CON- SIDERATION OF RACE, COLOR, RELIGION, SEX, OR NA- TIONAL ORIGIN IN EMPLOYMENT PRACTICES.**

(a) 【Amends § 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2).】

(b) 【Amends § 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)).】

### **SEC. 108. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPE- LEMENTING LITIGATED OR CONSENT JUDGMENTS OR OR- DERS.**

【Amends § 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2).】

### **SEC. 109. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT.**

(a) 【Amends § 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)).】

(b) EXEMPTION.—

(1) 【Amends § 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)).】

(2) 【Amends § 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112).】

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to conduct occurring before the date of the enactment of this Act.

### **SEC. 110. TECHNICAL ASSISTANCE TRAINING INSTITUTE.**

(a) 【Amends § 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).】

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 111. EDUCATION AND OUTREACH.**

【Amends § 705(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(h)).】

**SEC. 112. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.**

【Amends § 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(e)).】

**SEC. 113. AUTHORIZING AWARD OF EXPERT FEES.**

(a) 【Amends § 722 of the Revised Statutes (42 U.S.C. 1988).】

(b) 【Amends § 706(k) of the Revised Statutes (42 U.S.C. 2000e–5(k)).】

**SEC. 114. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.**

【Amends § 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16).】

**SEC. 115. NOTICE OF LIMITATIONS PERIOD UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.**

【Amends § 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)).】

**SEC. 116. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION, AND CONCILIATION AGREEMENTS NOT AFFECTED.**

Nothing in the amendments made by this title shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements, that are in accordance with the law.

**SEC. 117. [2 U.S.C. 1311 note] COVERAGE OF HOUSE OF REPRESENTATIVES AND THE AGENCIES OF THE LEGISLATIVE BRANCH.**

(a) **COVERAGE OF THE HOUSE OF REPRESENTATIVES.**—

(1) **IN GENERAL.**—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

(2) **EMPLOYMENT IN THE HOUSE.**—

(A) **APPLICATION.**—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) **ADMINISTRATION.**—

(i) **IN GENERAL.**—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) **RESOLUTION.**—The resolution referred to in clause (i) is the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988), as incorporated

into the Rules of the House of Representatives of the One Hundred Second Congress as Rule LI, or any other provision that continues in effect the provisions of such resolution.

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(b) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this title and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively, except for the employees who are defined as Senate employees, in section 301(c)(1).

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII for the Civil Rights Act of 1964 (42 U.S.C. 2000e–16).

#### **SEC. 118. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.**

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts or provisions of Federal law amended by this title.

## **TITLE II—GLASS CEILING**

#### **SEC. 201. SHORT TITLE.**

This title may be cited as the “Glass Ceiling Act of 1991”.

#### **SEC. 202. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) despite a dramatically growing presence in the workplace, women and minorities remain underrepresented in management and decisionmaking positions in business;

(2) artificial barriers exist to the advancement of women and minorities in the workplace;

(3) United States corporations are increasingly relying on women and minorities to meet employment requirements and are increasingly aware of the advantages derived from a diverse work force;

(4) the “Glass Ceiling Initiative” undertaken by the Department of Labor, including the release of the report entitled “Report on the Glass Ceiling Initiative”, has been instrumental in raising public awareness of—

(A) the underrepresentation of women and minorities at the management and decisionmaking levels in the United States work force;

(B) the underrepresentation of women and minorities in line functions in the United States work force;

(C) the lack of access for qualified women and minorities to credential-building developmental opportunities; and

(D) the desirability of eliminating artificial barriers to the advancement of women and minorities to such levels;

(5) the establishment of a commission to examine issues raised by the Glass Ceiling Initiative would help—

(A) focus greater attention on the importance of eliminating artificial barriers to the advancement of women and minorities to management and decisionmaking positions in business; and

(B) promote work force diversity;

(6) a comprehensive study that includes analysis of the manner in which management and decisionmaking positions are filled, the developmental and skill-enhancing practices used to foster the necessary qualifications for advancement, and the compensation programs and reward structures utilized in the corporate sector would assist in the establishment of practices and policies promoting opportunities for, and eliminating artificial barriers to, the advancement of women and minorities to management and decisionmaking positions; and

(7) a national award recognizing employers whose practices and policies promote opportunities for, and eliminate artificial barriers to, the advancement of women and minorities will foster the advancement of women and minorities into higher level positions by—

(A) helping to encourage United States companies to modify practices and policies to promote opportunities for, and eliminate artificial barriers to, the upward mobility of women and minorities; and

(B) providing specific guidance for other United States employers that wish to learn how to revise practices and policies to improve the access and employment opportunities of women and minorities.

(b) PURPOSE.—The purpose of this title is to establish—

(1) a Glass Ceiling Commission to study—

- (A) the manner in which business fills management and decisionmaking positions;
- (B) the developmental and skill-enhancing practices used to foster the necessary qualifications for advancement into such positions; and
- (C) the compensation programs and reward structures currently utilized in the workplace; and
- (2) an annual award for excellence in promoting a more diverse skilled work force at the management and decision-making levels in business.

**SEC. 203. ESTABLISHMENT OF GLASS CEILING COMMISSION.**

(a) **IN GENERAL.**—There is established a Glass Ceiling Commission (referred to in this title as the “Commission”), to conduct a study and prepare recommendations concerning—

- (1) eliminating artificial barriers to the advancement of women and minorities; and
- (2) increasing the opportunities and developmental experiences of women and minorities to foster advancement of women and minorities to management and decisionmaking positions in business.

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Commission shall be composed of 21 members, including—

- (A) six individuals appointed by the President;
- (B) six individuals appointed jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate;
- (C) one individual appointed by the Majority Leader of the House of Representatives;
- (D) one individual appointed by the Minority Leader of the House of Representatives;
- (E) one individual appointed by the Majority Leader of the Senate;
- (F) one individual appointed by the Minority Leader of the Senate;
- (G) two Members of the House of Representatives appointed jointly by the Majority Leader and the Minority Leader of the House of Representatives;
- (H) two Members of the Senate appointed jointly by the Majority Leader and the Minority Leader of the Senate; and
- (I) the Secretary of Labor.

(2) **CONSIDERATIONS.**—In making appointments under subparagraphs (A) and (B) of paragraph (1), the appointing authority shall consider the background of the individuals, including whether the individuals—

- (A) are members of organizations representing women and minorities, and other related interest groups;
- (B) hold management or decisionmaking positions in corporations or other business entities recognized as leaders on issues relating to equal employment opportunity; and

(C) possess academic expertise or other recognized ability regarding employment issues.

(3) BALANCE.—In making the appointments under subparagraphs (A) and (B) of paragraph (1), each appointing authority shall seek to include an appropriate balance of appointees from among the groups of appointees described in subparagraphs (A), (B), and (C) of paragraph (2).

(c) CHAIRPERSON.—The Secretary of Labor shall serve as the Chairperson of the Commission.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) MEETINGS.—

(1) MEETINGS PRIOR TO COMPLETION OF REPORT.—The Commission shall meet not fewer than five times in connection with and pending the completion of the report described in section 204(b). The Commission shall hold additional meetings if the Chairperson or a majority of the members of the Commission request the additional meetings in writing.

(2) MEETINGS AFTER COMPLETION OF REPORT.—The Commission shall meet once each year after the completion of the report described in section 204(b). The Commission shall hold additional meetings if the Chairperson or a majority of the members of the Commission request the additional meetings in writing.

(g) QUORUM.—A majority of the Commission shall constitute a quorum for the transaction of business.

(h) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(3) EMPLOYMENT STATUS.—A member of the Commission, who is not otherwise an employee of the Federal Government, shall not be deemed to be an employee of the Federal Government except for the purposes of—

(A) the tort claims provisions of chapter 171 of title 28, United States Code; and

(B) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

**SEC. 204. RESEARCH ON ADVANCEMENT OF WOMEN AND MINORITIES TO MANAGEMENT AND DECISIONMAKING POSITIONS IN BUSINESS.**

(a) **ADVANCEMENT STUDY.**—The Commission shall conduct a study of opportunities for, and artificial barriers to, the advancement of women and minorities to management and decisionmaking positions in business. In conducting the study, the Commission shall—

(1) examine the preparedness of women and minorities to advance to management and decisionmaking positions in business;

(2) examine the opportunities for women and minorities to advance to management and decisionmaking positions in business;

(3) conduct basic research into the practices, policies, and manner in which management and decisionmaking positions in business are filled;

(4) conduct comparative research of businesses and industries in which women and minorities are promoted to management and decisionmaking positions, and businesses and industries in which women and minorities are not promoted to management and decisionmaking positions;

(5) compile a synthesis of available research on programs and practices that have successfully led to the advancement of women and minorities to management and decisionmaking positions in business, including training programs, rotational assignments, developmental programs, reward programs, employee benefit structures, and family leave policies; and

(6) examine any other issues and information relating to the advancement of women and minorities to management and decisionmaking positions in business.

(b) **REPORT.**—Not later than 15 months after the date of the enactment of this Act, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

(1) the findings and conclusions of the Commission resulting from the study conducted under subsection (a); and

(2) recommendations based on the findings and conclusions described in paragraph (1) relating to the promotion of opportunities for, and elimination of artificial barriers to, the advancement of women and minorities to management and decisionmaking positions in business, including recommendations for—

(A) policies and practices to fill vacancies at the management and decisionmaking levels;

(B) developmental practices and procedures to ensure that women and minorities have access to opportunities to gain the exposure, skills, and expertise necessary to assume management and decisionmaking positions;

(C) compensation programs and reward structures utilized to reward and retain key employees; and



(D) the use of enforcement (including such enforcement techniques as litigation, complaint investigations, compliance reviews, conciliation, administrative regulations, policy guidance, technical assistance, training, and public education) of Federal equal employment opportunity laws by Federal agencies as a means of eliminating artificial barriers to the advancement of women and minorities in employment.

(c) **ADDITIONAL STUDY.**—The Commission may conduct such additional study of the advancement of women and minorities to management and decisionmaking positions in business as a majority of the members of the Commission determines to be necessary.

**SEC. 205. ESTABLISHMENT OF THE NATIONAL AWARD FOR DIVERSITY AND EXCELLENCE IN AMERICAN EXECUTIVE MANAGEMENT.**

(a) **IN GENERAL.**—There is established the National Award for Diversity and Excellence in American Executive Management, which shall be evidenced by a medal bearing the inscription “Frances Perkins-Elizabeth Hanford Dole National Award for Diversity and Excellence in American Executive Management”. The medal shall be of such design and materials, and bear such additional inscriptions, as the Commission may prescribe.

(b) **CRITERIA FOR QUALIFICATION.**—To qualify to receive an award under this section a business shall—

(1) submit a written application to the Commission, at such time, in such manner, and containing such information as the Commission may require, including at a minimum information that demonstrates that the business has made substantial effort to promote the opportunities and developmental experiences of women and minorities to foster advancement to management and decisionmaking positions within the business, including the elimination of artificial barriers to the advancement of women and minorities, and deserves special recognition as a consequence; and

(2) meet such additional requirements and specifications as the Commission determines to be appropriate.

(c) **MAKING AND PRESENTATION OF AWARD.**—

(1) **AWARD.**—After receiving recommendations from the Commission, the President or the designated representative of the President shall annually present the award described in subsection (a) to businesses that meet the qualifications described in subsection (b).

(2) **PRESENTATION.**—The President or the designated representative of the President shall present the award with such ceremonies as the President or the designated representative of the President may determine to be appropriate.

(3) **PUBLICITY.**—A business that receives an award under this section may publicize the receipt of the award and use the award in its advertising, if the business agrees to help other United States businesses improve with respect to the promotion of opportunities and developmental experiences of women and minorities to foster the advancement of women and minorities to management and decisionmaking positions.

(d) BUSINESS.—For the purposes of this section, the term “business” includes—

- (1)(A) a corporation including nonprofit corporations;
- (B) a partnership;
- (C) a professional association;
- (D) a labor organization; and
- (E) a business entity similar to an entity described in subparagraphs (A) through (D);
- (2) an education referral program, a training program, such as an apprenticeship or management training program or a similar program; and
- (3) a joint program formed by a combination of any entities described in paragraph 1 or 2.

**SEC. 206. POWERS OF THE COMMISSION.**

- (a) IN GENERAL.—The Commission is authorized to—
- (1) hold such hearings and sit and act at such times;
  - (2) take such testimony;
  - (3) have such printing and binding done;
  - (4) enter into such contracts and other arrangements;
  - (5) make such expenditures; and
  - (6) take such other actions;

as the Commission may determine to be necessary to carry out the duties of the Commission.

(b) OATHS.—Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(c) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission may require to carry out its duties.

(d) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

(e) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of property in order to carry out the duties of the Commission.

(f) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

**SEC. 207. CONFIDENTIALITY OF INFORMATION.**

(a) INDIVIDUAL BUSINESS INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding section 552 of title 5, United States Code, in carrying out the duties of the Commission, including the duties described in sections 204 and 205, the Commission shall maintain the confidentiality of all information that concerns—

- (A) the employment practices and procedures of individual businesses; or
- (B) individual employees of the businesses.

(2) CONSENT.—The content of any information described in paragraph (1) may be disclosed with the prior written consent of the business or employee, as the case may be, with respect to which the information is maintained.

(b) **AGGREGATE INFORMATION.**—In carrying out the duties of the Commission, the Commission may disclose—

(1) information about the aggregate employment practices or procedures of a class or group of businesses; and

(2) information about the aggregate characteristics of employees of the businesses, and related aggregate information about the employees.

**SEC. 208. STAFF AND CONSULTANTS.**

(a) **STAFF.**—

(1) **APPOINTMENT AND COMPENSATION.**—The Commission may appoint and determine the compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(2) **LIMITATIONS.**—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) **EXPERTS AND CONSULTANTS.**—The Chairperson of the Commission may obtain such temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(c) **DETAIL OF FEDERAL EMPLOYEES.**—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(d) **TECHNICAL ASSISTANCE.**—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

**SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this title. The sums shall remain available until expended, without fiscal year limitation.

**SEC. 210. TERMINATION.**

(a) **COMMISSION.**—Notwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall terminate 4 years after the date of the enactment of this Act.

(b) **AWARD.**—The authority to make awards under section 205 shall terminate 4 years after the date of the enactment of this Act.

## TITLE III—GOVERNMENT EMPLOYEE RIGHTS

### SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

(a) **SHORT TITLE.**—This title may be cited as the “Government Employee Rights Act of 1991”.

(b) **PURPOSE.**—The purpose of this title is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

(c) **DEFINITION.**—For purposes of this title, the term “violation” means a practice that violates section 302(a) of this title.

【42 U.S.C. 2000e–16a】

### SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.

(a) **PRACTICES.**—All personnel actions affecting the Presidential appointees described in section 303 or the State employees described in section 304 shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

(b) **REMEDIES.**—The remedies referred to in sections 303(a)(1) and 304(a)—

(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) has occurred, such remedies as would be appropriate if awarded under sections 706(g), 706(k), and 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g), 2000e–5(k), 2000e–16(d)), and such compensatory damages as would be appropriate if awarded under section 1977 or sections 1977A(a) and 1977A(b)(2) of the Revised Statutes (42 U.S.C. 1981 and 1981a (a) and (b)(2));

(2) may include, in the case of a determination that a violation of subsection (a)(2) has occurred, such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

(3) may not include punitive damages.

【42 U.S.C. 2000e–16b】

【Sections 303–319, 322, 324, and 325 were repealed by Public Law 104–1, except as provided in section 506<sup>1</sup> of that Act.】

<sup>1</sup>Section 506 of Public Law 104–1 reads as follows:

#### “SEC. 506. SAVINGS PROVISIONS.

“(a) **TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE.**—

【Section 303 was repealed by section 5 of Public Law 104-331.】

**SEC. 304. COVERAGE OF PREVIOUSLY EXEMPT STATE EMPLOYEES.**

(a) APPLICATION.—The rights, protections, and remedies provided pursuant to section 302 shall apply with respect to employment of any individual chosen or appointed, by a person elected to public office in any State or political subdivision of any State by the qualified voters thereof—

- (1) to be a member of the elected official's personal staff;
- (2) to serve the elected official on the policymaking level;

or

- (3) to serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

“(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305 of the Government Employees Rights Act of 1991 (2 U.S.C. 1205) or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under title V of the Family and Medical Leave Act of 1993, the employee may complete, or initiate and complete, all procedures under the Government Employees Rights Act of 1991 and Rule LI, and the provisions of that Act and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

“(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Senate or House of Representatives arises under section 201 or 202 after the effective date of such sections, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the provisions of the Government Employees Rights Act of 1991 (2 U.S.C. 1201 et seq.) and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 402 and 403. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

“(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991 (2 U.S.C. 1207) or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

“(B) to commence a civil action under section 408.

“(3) SECTION 1205 OF THE SUPPLEMENTAL APPROPRIATIONS ACT OF 1993.—With respect to payments of awards and settlements relating to Senate employees under paragraph (1) of this subsection, section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) remains in effect.

“(b) TRANSITION PROVISIONS FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—

“(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 312(e)(2) of the Architect of the Capitol Human Resources Act (Public Law 103-283), the employee may complete, or initiate and complete, all procedures under section 312(e) of that Act, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

“(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Architect of the Capitol arises under section 201 or 202 after the effective date of those provisions, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103-283). If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

“(A) to file a charge with the General Accounting Office Personnel Appeals Board pursuant to section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103-283), and thereafter proceed exclusively under section 312(e) of that Act, the provisions of which shall remain in effect until the completion of all proceedings in relation to the charge, or

“(B) to commence a civil action under section 408.

“(c) TRANSITION PROVISION RELATING TO MATTERS OTHER THAN EMPLOYMENT UNDER SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—With respect to matters other than employment under section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209), the rights, protections, remedies, and procedures of section 509 of such Act shall remain in effect until section 210 of this Act takes effect with respect to each of the entities covered by section 509 of such Act.”

## (b) ENFORCEMENT BY ADMINISTRATIVE ACTION.—

(1) IN GENERAL.—Any individual referred to in subsection (a) may file a complaint alleging a violation, not later than 180 days after the occurrence of the alleged violation, with the Equal Employment Opportunity Commission, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission determines that a violation has occurred, the final order shall also provide for appropriate relief.

## (2) REFERRAL TO STATE AND LOCAL AUTHORITIES.—

(A) APPLICATION.—Section 706(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(d)) shall apply with respect to any proceeding under this section.

(B) DEFINITION.—For purposes of the application described in subparagraph (A), the term “any charge filed by a member of the Commission alleging an unlawful employment practice” means a complaint filed under this section.

(c) JUDICIAL REVIEW.—Any party aggrieved by a final order under subsection (b) may obtain a review of such order under chapter 158 of title 28, United States Code. For the purpose of this review, the Equal Employment Opportunity Commission shall be an “agency” as that term is used in chapter 158 of title 28, United States Code.

(d) STANDARD OF REVIEW.—To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final order under subsection (b) if it is determined that the order was—

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;
- (2) not made consistent with required procedures; or
- (3) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) ATTORNEY’S FEES.—If the individual referred to in subsection (a) is the prevailing party in a proceeding under this subsection, attorney’s fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

【42 U.S.C. 2000e-16c】

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**SEC. 323. PAYMENTS BY THE PRESIDENT OR A MEMBER OF THE SENATE.**

【Section 323 was repealed by Public Law 102-392.】

## TITLE IV—GENERAL PROVISIONS

### SEC. 401. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

【42 U.S.C. 1981 nt】

### SEC. 402. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided, this Act and the amendments made by this Act shall take effect upon enactment.

(b) CERTAIN DISPARATE IMPACT CASES.—Notwithstanding any other provision of this Act, nothing in this Act shall apply to any disparate impact case for which a complaint was filed before March 1, 1975, and for which an initial decision was rendered after October 30, 1983.

【42 U.S.C. 1981 nt】

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