

Public Law 98-183
98th Congress

An Act

To amend the Civil Rights Act of 1957 to extend the life of the Civil Rights Commission, and for other purposes.

Nov. 30, 1983
[H.R. 2230]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Commission on Civil Rights Act of 1983".

United States
Commission on
Civil Rights Act
of 1983.
42 USC 1975
note.

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established a Commission on Civil Rights (hereafter in this Act referred to as the "Commission").

42 USC 1975.

(b)(1) The Commission shall be composed of eight members. Not more than four of the members shall at any one time be of the same political party. Members of the Commission shall be appointed as follows:

Membership.

(A) four members of the Commission shall be appointed by the President;

(B) two members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party; and

(C) two members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party.

(2) The term of office of each member of the Commission shall be six years; except that (A) members first taking office shall serve as designated by the President, subject to the provisions of paragraph (3), for terms of three years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

Term of office.

(3) The President shall designate terms of members first appointed under paragraph (2) so that two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of three years and two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of six years. No more than two persons of the same political party shall be designated for three year terms.

(c) The President shall designate a Chairman and a Vice Chairman from among the Commission's members with the concurrence of a majority of the Commission's members. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman.

(d) The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

Removal of
member.

(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliation as the original appointment was made.

Quorum.

(f) Five members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

Publication in
Federal
Register.
42 USC 1975a.

SEC. 3. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpoena.

Legal counsel.

(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

Evidence or
testimony.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpoena additional witnesses. If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply

Commission
report.

Filing of answer.

or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudicially or unnecessarily.

(f) Except as provided in this section and section 6(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses.

(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organizations including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined; and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(m) The provisions of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.

Evidence or testimony, release. Fine or imprisonment.

Transcripts.

Fees and mileage payments.

Subpena.

Publication in Federal Register.

5 USC 551.

COMPENSATION OF MEMBERS OF THE COMMISSION

42 USC 1975b.

SEC. 4. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of title 5 of the United States Code.

5 USC 5701.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subchapter I of chapter 57 of title 5 of the United States Code.

DUTIES OF THE COMMISSION

42 USC 1975c.

SEC. 5. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or the administration of justice;

(4) serve as national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

Prohibited
investigations.

(b) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(c) The Commission shall submit reports to the Congress and the President at such times as the Commission, the Congress or the President shall deem desirable.

Reports to Congress and the President.

(d) As used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

"Handicap."

(e) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.

Abortion.

(f) The Commission shall appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such reports shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.

Reports to Congress.

POWERS OF THE COMMISSION

SEC. 6. (a)(1) There shall be a full-time staff director for the Commission who shall be appointed by the President with the concurrence of a majority of the Commission.

42 USC 1975d.

(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the staff director and the members of the Commission) of the Commission on Civil Rights are transferred to the Commission established by section 2(a) of this Act.

Effective date.
Transfer of Commission on Civil Rights employees.

(B) Upon application of any individual (other than the staff director or a member of the Commission) who was an employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are the same as the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

42 USC 1975 note.

(C)(i) Notwithstanding any other provision of law, employees transferred to the Commission under subparagraph (A) shall retain all rights and benefits to which they were entitled or for which they were eligible immediately prior to their transfer to the Commission.

(ii) Notwithstanding any other provision of law, the Commission shall be bound by those provisions of title 5, United States Code, to which the Commission on Civil Rights, established by the Civil Rights Act of 1957, was bound.

(3) Within the limitation of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

"Whoever."

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in subsection (g) of section 3 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such advisory committees within States as it deems advisable, but the Commission shall constitute at least one advisory committee within each State composed of citizens of that State. The Commission may consult with governors, attorneys general, and other representatives of State and local governments and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

Hearings.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this resolution, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 3 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of five members is present.

Subpenas.

(g) In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Without limiting the application of any other provision of this Act, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

Rules and regulations.

(i)(1) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act.

(2) To the extent not inconsistent with the provisions of this Act, the Commission established by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the

Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law. 42 USC 1975 note.

(3) The Commission shall make arrangements for the transfer of all files, records, and balances of appropriations of the Commission on Civil Rights as established by the Civil Rights Act of 1957 to the Commission established by this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated \$12,180,000 for the fiscal year 1984, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989. 42 USC 1975e.

TERMINATION

SEC. 8. The provisions of this Act shall terminate six years after its date of enactment. 42 USC 1975f.

Approved November 30, 1983.

LEGISLATIVE HISTORY—H.R. 2230:

HOUSE REPORT No. 98-197 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 129 (1983):

Aug. 3, 4, considered and passed House.

Nov. 9, 10, 14, considered and passed Senate, amended.

Nov. 16, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 48 (1983): Nov. 30, Presidential statement.