

the Fair Chance to Compete for Jobs Act of 2019¹ to implement the statutory provisions referred to in subsections (a) through (c) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) Effective date

Section 1302(a)(12) of this title and subsections (a) through (c) shall take effect on the date on which section 9202 of title 5 applies with respect to agencies.

(Pub. L. 104-1, title II, §207, as added Pub. L. 116-92, div. A, title XI, §1122(d)(1)(C), Dec. 20, 2019, 133 Stat. 1608.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(2), was in the original “this title”, meaning title II of Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 7, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

Section 2(b)(1) of the Fair Chance to Compete for Jobs Act of 2019, referred to in subsec. (d)(2), probably means section 1122(b)(1) of Pub. L. 116-92, which relates to regulations and is set out as a note under section 9201 of Title 5, Government Organization and Employees. Section 1122 of Pub. L. 116-92 is the second section of the Fair Chance to Compete for Jobs Act of 2019, which was enacted as subtitle B of title XI of Pub. L. 116-92.

PRIOR PROVISIONS

A prior section 207 of Pub. L. 104-1 was renumbered section 208 and is classified to section 1317 of this title.

§ 1317. Prohibition of intimidation or reprisal

(a) In general

It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

(b) Remedy

The remedy available for a violation of subsection (a) shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a).

(Pub. L. 104-1, title II, §208, formerly §207, Jan. 23, 1995, 109 Stat. 13; renumbered §208, Pub. L. 116-92, div. A, title XI, §1122(d)(1)(B), Dec. 20, 2019, 133 Stat. 1608.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to this chapter. For complete classification of this Act to the

Code, see Short Title note set out under section 1301 of this title and Tables.

PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER AMERICANS WITH DISABILITIES ACT OF 1990

§ 1331. Rights and protections under Americans with Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations

(a) Entities subject to this section

The requirements of this section shall apply to—

- (1) each office of the Senate, including each office of a Senator and each committee;
- (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;
- (3) each joint committee of the Congress;
- (4) the Office of Congressional Accessibility Services;
- (5) the Capitol Police;
- (6) the Congressional Budget Office;
- (7) the Office of the Architect of the Capitol (including the Botanic Garden);
- (8) the Office of the Attending Physician;
- (9) the Office of Congressional Workplace Rights;
- (10) the Office of Technology Assessment; and
- (11) the Library of Congress.

(b) Discrimination in public services and accommodations

(1) Rights and protections

The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a).

(2) Definitions

For purposes of the application of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term “public entity” means any entity listed in subsection (a) that provides public services, programs, or activities.

(c) Remedy

The remedy for a violation of subsection (b) shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 1311 of this title.

(d) Available procedures

(1) Charge filed with General Counsel

A qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) by an entity listed in subsection (a), may file a charge against any entity responsible for correcting the violation with the General Counsel within

¹ See References in Text note below.

180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) Mediation

If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 1403 of this title between the charging individual and any entity responsible for correcting the alleged violation.

(3) Complaint, hearing, Board review

If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 1406 of this title.

(4) Judicial review

A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 1407 of this title.

(5) Compliance date

If new appropriated funds are necessary to comply with an order requiring correction of a violation of subsection (b), compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

(e) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Entity responsible for correction

The regulations issued under paragraph (1) shall include a method of identifying, for pur-

poses of this section and for categories of violations of subsection (b), the entity responsible for correction of a particular violation.

(f) Periodic inspections; report to Congress; initial study

(1) Periodic inspections

On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) to ensure compliance with subsection (b).

(2) Report

On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible,¹ for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) Initial period for study and corrective action

The period from January 23, 1995, until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any violations of subsection (b), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the One Hundred Fourth Congress.

(4) Detailed personnel

The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) Omitted

(h) Election of remedies relating to rights to public services and accommodations for Library visitors

(1) Definition of Library visitor

In this subsection, the term “Library visitor” means an individual who is eligible to bring a claim for a violation under title II or III of the Americans with Disabilities Act of 1990 [42 U.S.C. 12131 et seq., 12181 et seq.] (other

¹ So in original. The comma probably should not appear.

than a violation for which the exclusive remedy is under section 1311 of this title) against the Library of Congress.

(2) Election of remedies

(A) In general

A Library visitor who alleges a violation of subsection (b) by the Library of Congress may, subject to subparagraph (B)—

- (i) file a charge against the Library of Congress under subsection (d); or
- (ii) use the remedies and procedures set forth in section 2000e-16 of title 42, as provided under section 510 (other than paragraph (5)) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209).

(B) Timing

A Library visitor that has initiated proceedings under clause (i) or (ii) of subparagraph (A) may elect to change and initiate a proceeding under the other clause—

- (i) in the case of a Library visitor who first filed a charge pursuant to subparagraph (A)(i), before the General Counsel files a complaint under subsection (d)(3); or
- (ii) in the case of a Library visitor who first initiated a proceeding under subparagraph (A)(ii), before the Library visitor requests a hearing under the procedures of the Library of Congress described in such subparagraph.

(i) Effective date

(1) In general

Subsections (b), (c), and (d) shall be effective on January 1, 1997.

(2) Government Accountability Office, Government Publishing Office, and Library of Congress

Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 1371 of this title.

(Pub. L. 104-1, title II, §210, Jan. 23, 1995, 109 Stat. 13; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-279, §1(g)(2), July 17, 2008, 122 Stat. 2609; Pub. L. 110-437, title IV, §422(b)(3), Oct. 20, 2008, 122 Stat. 4996; Pub. L. 113-235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537; Pub. L. 115-141, div. I, title I, §153(a)(1)(B), Mar. 23, 2018, 132 Stat. 785; Pub. L. 115-397, title III, §§303(a), (b), 308(b)(8), Dec. 21, 2018, 132 Stat. 5321, 5322, 5326.)

Editorial Notes

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsecs. (b)(2) and (h)(1), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327. Titles II and III of the Act are classified generally to subchapters II (§12131 et seq.) and III (§12181 et seq.), respectively, of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Subsection (g), referred to in subsec. (i)(2), amended section 12209 of Title 42.

CODIFICATION

Section is comprised of section 210 of Pub. L. 104-1. Subsec. (g) of section 210 of Pub. L. 104-1 amended section 12209 of Title 42, The Public Health and Welfare.

AMENDMENTS

2018—Subsec. (a)(9). Pub. L. 115-397, §308(b)(8), substituted “Office of Congressional Workplace Rights” for “Office of Compliance”.

Subsec. (a)(11). Pub. L. 115-141 added par. (11).

Subsec. (d)(2). Pub. L. 115-397, §303(b), made technical amendment to reference in original act which appears in text as reference to section 1403 of this title.

Subsecs. (h), (i). Pub. L. 115-397, §303(a), added subsec. (h) and redesignated former subsec. (h) as (i).

2008—Subsec. (a)(4). Pub. L. 110-437 substituted “the Office of Congressional Accessibility Services;” for “the Capitol Guide Service;”.

Subsec. (a)(7). Pub. L. 110-279 substituted “the Botanic Garden” for “the Senate Restaurants and the Botanic Garden”.

2004—Subsec. (h)(2). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in heading.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“Government Publishing Office” substituted for “Government Printing Office” in heading of subsec. (h)(2) on authority of section 1301(b) of Pub. L. 113-235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-397, title III, §303(c), Dec. 21, 2018, 132 Stat. 5322, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if such amendments were included in the enactment of section 153 of the Legislative Branch Appropriations Act, 2018 (Public Law 115-141), and shall apply as specified in section 153(c) of such Act [set out as a note under section 1301 of this title].”

Amendment by section 308(b)(8) of Pub. L. 115-397 effective Dec. 21, 2018, and any reference to the Office of Compliance in any law, rule, regulation, or other official paper in effect as of such date to be considered to refer and apply to the Office of Congressional Workplace Rights, see section 308(d) of Pub. L. 115-397, set out as a note under section 1381 of this title.

Except as otherwise provided, amendment by Pub. L. 115-397 effective upon expiration of the 180-day period beginning on Dec. 21, 2018, with provisions for effect on pending proceedings, see section 401 of Pub. L. 115-397, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-437 effective first day of first pay period (applicable to employees transferred under section 2241 of this title) on or after 30 days after Oct. 20, 2008, see section 422(d) of Pub. L. 110-437, set out as a note under section 1301 of this title.

Amendment by Pub. L. 110-279 effective July 17, 2008, and applicable to remainder of fiscal year in which enacted and each fiscal year thereafter, see section 2051(i) of this title.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

§ 1341. Rights and protections under Occupational Safety and Health Act of 1970; procedures for remedy of violations

(a) Occupational safety and health protections

(1) In general

Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) Definitions

For purposes of the application under this section of the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.]—