

Editorial Notes

REFERENCES IN TEXT

Such Act, referred to in par. (7), means the Americans with Disabilities Act of 1990, Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117-328, div. II, §109, Dec. 29, 2022, 136 Stat. 6089, provided that: “This division [enacting this chapter and provisions set out as a note under this section] shall take effect on the date that is 180 days after the date of enactment of this Act [Dec. 29, 2022].”

SHORT TITLE

Pub. L. 117-328, div. II, §101, Dec. 29, 2022, 136 Stat. 6084, provided that: “This division [enacting this chapter and provisions set out as a note under this section] may be cited as the ‘Pregnant Workers Fairness Act.’”

§ 2000gg-1. Nondiscrimination with regard to reasonable accommodations related to pregnancy

It shall be an unlawful employment practice for a covered entity to—

(1) not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;

(2) require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process referred to in section 2000gg(7) of this title;

(3) deny employment opportunities to a qualified employee if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee;

(4) require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or

(5) take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

(Pub. L. 117-328, div. II, §103, Dec. 29, 2022, 136 Stat. 6085.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117-328, set out as a note under section 2000gg of this title.

§ 2000gg-2. Remedies and enforcement**(a) Employees covered by title VII of the Civil Rights Act of 1964****(1) In general**

The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4 et seq.) [42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, 2000e-9, and 2000e-10] to the Commission, the Attorney General, or any person alleging a violation of title VII of such Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(A) of this title except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(b) Employees covered by Congressional Accountability Act of 1995**(1) In general**

The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) for the purposes of addressing allegations of violations of section 201(a)(1) of such Act (2 U.S.C. 1311(a)(1)) shall be the powers, remedies, and procedures this chapter provides to address an allegation of an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(B) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title for the purposes of addressing allegations of such a violation shall be the powers, remedies, and procedures this chapter provides to address allegations of such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, for purposes of addressing allegations of such a violation, shall be the powers, remedies, and procedures this chapter

provides to address any allegation of such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(c) Employees covered by chapter 5 of title 3

(1) In general

The powers, remedies, and procedures provided in chapter 5 of title 3 to the President, the Commission, the Merit Systems Protection Board, or any person alleging a violation of section 411(a)(1) of such title shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(C) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the President, the Commission, the Board, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(d) Employees covered by Government Employee Rights Act of 1991

(1) In general

The powers, remedies, and procedures provided in sections 302 and 304 of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e-16b; 2000e-16c) to the Commission or any person alleging a violation of section 302(a)(1) of such Act (42 U.S.C. 2000e-16b(a)(1)) shall be the powers, remedies, and procedures this chapter provides to the Commission or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(D) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the Commission or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the Commission or any person alleging such

practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(e) Employees covered by section 717 of the Civil Rights Act of 1964

(1) In general

The powers, remedies, and procedures provided in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) to the Commission, the Attorney General, the Librarian of Congress, or any person alleging a violation of that section shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person, respectively, alleging an unlawful employment practice in violation of this chapter against an employee described in section 2000gg(3)(E) of this title, except as provided in paragraphs (2) and (3) of this subsection.

(2) Costs and fees

The powers, remedies, and procedures provided in subsections (b) and (c) of section 1988 of this title shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice.

(3) Damages

The powers, remedies, and procedures provided in section 1981a of this title, including the limitations contained in subsection (b)(3) of such section 1981a, shall be the powers, remedies, and procedures this chapter provides to the Commission, the Attorney General, the Librarian of Congress, or any person alleging such practice (not an employment practice specifically excluded from coverage under section 1981a(a)(1) of this title).

(f) Prohibition against retaliation

(1) In general

No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this chapter or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(2) Prohibition against coercion

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(3) Remedy

The remedies and procedures otherwise provided for under this section shall be available to aggrieved individuals with respect to violations of this subsection.

(g) Limitation

Notwithstanding subsections (a)(3), (b)(3), (c)(3), (d)(3), and (e)(3), if an unlawful employment practice involves the provision of a reason-

able accommodation pursuant to this chapter or regulations implementing this chapter, damages may not be awarded under section 1981a of this title if the covered entity demonstrates good faith efforts, in consultation with the employee with known limitations related to pregnancy, childbirth, or related medical conditions who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such employee with an equally effective opportunity and would not cause an undue hardship on the operation of the covered entity.

(Pub. L. 117-328, div. II, §104, Dec. 29, 2022, 136 Stat. 6085.)

Editorial Notes

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Congressional Accountability Act of 1995, referred to in subsec. (b), is Pub. L. 104-1, Jan. 23, 1995, 109 Stat. 3, which is classified principally to chapter 24 (§1301 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note under section 1301 of Title 2 and Tables.

The Government Employee Rights Act of 1991, referred to in subsec. (d), is title III of Pub. L. 102-166, Nov. 21, 1991, 105 Stat. 1088, which is classified generally to sections 2000e-16a to 2000e-16c of this title. For complete classification of this Act to the Code, see section 2000e-16a(a) of this title and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117-328, set out as a note under section 2000gg of this title.

§ 2000gg-3. Rulemaking

(a) EEOC rulemaking

Not later than 1 year after December 29, 2022, the Commission shall issue regulations in an accessible format in accordance with subchapter II of chapter 5 of title 5 to carry out this chapter. Such regulations shall provide examples of reasonable accommodations addressing known limitations related to pregnancy, childbirth, or related medical conditions.

(b) OCWR rulemaking

(1) In general

Not later than 6 months after the Commission issues regulations under subsection (a), the Board (as defined in section 1301 of title 2) shall (in accordance with section 1384 of title 2), issue regulations to implement the provisions of this chapter made applicable to employees described in section 2000gg(3)(B) of this title, under section 2000gg-2(b) of this title.

(2) Parallel with agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations issued by the Commission under subsection (a) except to the extent that the Board may determine, for good cause shown and stated to-

gether with the regulations issued under paragraph (1) that a modification of such substantive regulations would be more effective for the implementation of the rights and protection under this chapter.

(Pub. L. 117-328, div. II, §105, Dec. 29, 2022, 136 Stat. 6088.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117-328, set out as a note under section 2000gg of this title.

§ 2000gg-4. Waiver of State immunity

A State shall not be immune under the 11th Amendment to the Constitution from an action in a Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

(Pub. L. 117-328, div. II, §106, Dec. 29, 2022, 136 Stat. 6089.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117-328, set out as a note under section 2000gg of this title.

§ 2000gg-5. Relationship to other laws

(a) In general

Nothing in this chapter shall be construed—

(1) to invalidate or limit the powers, remedies, and procedures under any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for individuals affected by pregnancy, childbirth, or related medical conditions; or

(2) by regulation or otherwise, to require an employer-sponsored health plan to pay for or cover any particular item, procedure, or treatment or to affect any right or remedy available under any other Federal, State, or local law with respect to any such payment or coverage requirement.

(b) Rule of construction

This chapter is subject to the applicability to religious employment set forth in section 2000e-1(a) of this title.

(Pub. L. 117-328, div. II, §107, Dec. 29, 2022, 136 Stat. 6089.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Dec. 29, 2022, see section 109 of div. II of Pub. L. 117-328, set out as a note under section 2000gg of this title.

§ 2000gg-6. Severability

If any provision of this chapter or the application of that provision to particular persons or