

(Pub. L. 101-336, title V, § 508, formerly § 507, July 26, 1990, 104 Stat. 372; renumbered § 508, Pub. L. 110-325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

## REFERENCES IN TEXT

The Wilderness Act, referred to in subsecs. (a) and (c)(1), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

## PRIOR PROVISIONS

A prior section 508 of Pub. L. 101-336 was renumbered section 509 and is classified to section 12208 of this title.

**§ 12208. Transvestites**

For the purposes of this chapter, the term “disabled” or “disability” shall not apply to an individual solely because that individual is a transvestite.

(Pub. L. 101-336, title V, § 509, formerly § 508, July 26, 1990, 104 Stat. 373; renumbered § 509, Pub. L. 110-325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

## PRIOR PROVISIONS

A prior section 509 of Pub. L. 101-336 was renumbered section 510 and is classified to section 12209 of this title.

**§ 12209. Instrumentalities of Congress**

The Government Accountability Office, the Government Publishing Office, and the Library of Congress shall be covered as follows:

**(1) In general**

The rights and protections under this chapter 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).

**(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, the term “instrumentality of the Congress” means the following:<sup>1</sup> the Government Accountability Office, the Government Publishing Office, and the Library of Congress.<sup>1</sup>

**(5) Enforcement of employment rights**

The remedies and procedures set forth in section 2000e-16 of this title shall be available

to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 12112 through 12114 of this title that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

**(6) Enforcement of rights to public services and accommodations**

The remedies and procedures set forth in section 2000e-16 of this title shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 12131 through 12150 of this title or section 12182 or 12183 of this title that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

**(7) Construction**

Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

(Pub. L. 101-336, title V, § 510, formerly § 509, July 26, 1990, 104 Stat. 373; Pub. L. 102-166, title III, § 315, Nov. 21, 1991, 105 Stat. 1095; Pub. L. 104-1, title II, §§ 201(c)(3), 210(g), Jan. 23, 1995, 109 Stat. 8, 16; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; renumbered § 510, Pub. L. 110-325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558; Pub. L. 113-235, div. H, title I, § 1301(b), Dec. 16, 2014, 128 Stat. 2537.)

## REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original “this Act”, meaning Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The General Accounting Office Personnel Act of 1980, referred to in par. (7), is Pub. L. 96-191, Feb. 15, 1980, 94 Stat. 27, which was classified principally to section 52-1 et seq. of former Title 31, and which was substantially repealed by Pub. L. 97-258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof principally in subchapters III (§ 731 et seq.) and IV (§ 751 et seq.) of chapter 7 of Title 31, Money and Finance.

## PRIOR PROVISIONS

A prior section 510 of Pub. L. 101-336 was renumbered section 511 and is classified to section 12210 of this title.

## AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in introductory provisions and in par. (4).

1995—Pub. L. 104-1, § 201(c)(3)(F), amended section catchline generally.

Pub. L. 104-1, § 201(c)(3)(A), struck out subsecs. (a) and (b) which related to coverage of Senate and House of Representatives with respect to bans on employment discrimination and other discriminatory practices against individuals with disabilities.

Pub. L. 104-1, § 201(c)(3)(B), substituted “The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:” for subsec. (c) heading and designated subsec. (c) as entire section.

<sup>1</sup> So in original. The comma probably should not appear.

Par. (2). Pub. L. 104-1, §201(c)(3)(C), struck out at end “Such remedies and procedures shall apply exclusively, except for the employees who are defined as Senate employees, in section 1201(c)(1) of title 2.”

Par. (4). Pub. L. 104-1, §201(c)(3)(D), struck out “the Architect of the Capitol, the Congressional Budget Office” after “the following:”, inserted “and” before “the Library of Congress”, and struck out “the Office of Technology Assessment, and the United States Botanic Garden” before period at end.

Pub. L. 104-1, §201(c)(3)(D), which in part directed the substitution of “the term ‘instrumentality of the Congress’ means” for “the instrumentalities of the Congress include”, was executed by making the substitution for “instrumentalities of the Congress include” to reflect the probable intent of Congress.

Par. (5). Pub. L. 104-1, §201(c)(3)(E), added par. (5). Former par. (5) redesignated (7).

Par. (6). Pub. L. 104-1, §210(g), which directed amendment of this section by adding par. (6), was executed by adding par. (6) after par. (5) to reflect the probable intent of Congress.

Par. (7). Pub. L. 104-1, §201(c)(3)(E), redesignated par. (5) as (7).

1991—Subsec. (a)(2). Pub. L. 102-166, §315(1), redesignated par. (6) as (2) and struck out former par. (2) which read as follows: “APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this chapter, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.], the Age Discrimination in Employment Act of 1967 [29 U.S.C. 621 et seq.], and the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] shall apply with respect to employment by the United States Senate.”

Subsec. (a)(3). Pub. L. 102-166, §315(1), redesignated par. (7) as (3), substituted “(2)(A)” for “(2) and (6)(A)” and “(2)” for “(3), (4), (5), (6)(B), and (6)(C)”, and struck out former par. (3) which read as follows: “INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.”

Subsec. (a)(4), (5). Pub. L. 102-166, §315(1), struck out pars. (4) and (5) which read as follows:

“(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

“(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.”

Subsec. (a)(6), (7). Pub. L. 102-166, §315(1), redesignated pars. (6) and (7) as (2) and (3), respectively.

Subsec. (c)(2). Pub. L. 102-166, §315(2), inserted “, except for the employees who are defined as Senate employees, in section 1201(c)(1) of title 2” after “shall apply exclusively”.

#### CHANGE OF NAME

“Government Publishing Office” substituted for “Government Printing Office” in introductory provisions and par. (4) 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 1995 AMENDMENT

Amendment by section 201(c)(3) of Pub. L. 104-1 effective 1 year after Jan. 23, 1995, see section 1311(d) of Title 2, The Congress.

Amendment by section 210(g) of Pub. L. 104-1 effective 1 year after transmission to Congress of study

under section 1371 of Title 2, see section 1331(h)(2) of Title 2.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102-166, set out as a note under section 1981 of this title.

### § 12210. Illegal use of drugs

#### (a) In general

For purposes of this chapter, the term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

#### (b) Rules of construction

Nothing in subsection (a) of this section shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

#### (c) Health and other services

Notwithstanding subsection (a) of this section and section 12211(b)(3) of this title, an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

#### (d) “Illegal use of drugs” defined

##### (1) In general

The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

##### (2) Drugs

The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act [21 U.S.C. 812].

(Pub. L. 101-336, title V, §511, formerly §510, July 26, 1990, 104 Stat. 375; renumbered §511 and amended Pub. L. 110-325, §6(a)(2), (3), Sept. 25, 2008, 122 Stat. 3558.)