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Subtitle I—Voting Rights

CHAPTER 101—GENERALLY

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§ 10101. Voting rights

(a) Race, color, or previous condition not to affect right to vote; uniform standards for voting qualifications; errors or omissions from papers; literacy tests; agreements between Attorney General and State or local authorities; definitions

(1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

(2) No person acting under color of law shall—

(A) in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

(B) deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

(C) employ any literacy test as a qualification for voting in any election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 [52 U.S.C. 20701 et seq.]: *Provided, however*, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

(3) For purposes of this subsection—

(A) the term “vote” shall have the same meaning as in subsection (e) of this section;

(B) the phrase “literacy test” includes any test of the ability to read, write, understand, or interpret any matter.

(b) Intimidation, threats, or coercion

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce

any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(c) Preventive relief; injunction; rebuttable literacy presumption; liability of United States for costs; State as party defendant

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any election. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a), the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

(d) Jurisdiction; exhaustion of other remedies

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

(e) Order qualifying person to vote; application; hearing; voting referees; transmittal of report and order; certificate of qualification; definitions

In any proceeding instituted pursuant to subsection (c) in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a), the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or

is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by section 3331 of title 5, to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not at any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an

order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in the subsection, the word "vote" includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivi-

sion of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a); and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

(f) Contempt; assignment of counsel; witnesses

Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

(g) Three-judge district court: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action

In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding au-

thorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or, in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(R.S. § 2004; Pub. L. 85-315, pt. IV, § 131, Sept. 9, 1957, 71 Stat. 637; Pub. L. 86-449, title VI, § 601, May 6, 1960, 74 Stat. 90; Pub. L. 88-352, title I, § 101, July 2, 1964, 78 Stat. 241; Pub. L. 89-110, § 15, Aug. 6, 1965, 79 Stat. 445.)

REFERENCES IN TEXT

The Civil Rights Act of 1960, referred to in subsec. (a)(2)(C), is Pub. L. 86-449, May 6, 1960, 74 Stat. 86. Title III of the Civil Rights Act of 1960 is classified generally to chapter 207 (§ 20701 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Rule 53(c) of the Federal Rules of Civil Procedure, referred to in subsec. (e), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

This Act, referred to in subsec. (f), is Pub. L. 85-315, Sept. 9, 1957, 71 Stat. 634, which enacted sections 1975 to 1975e and 1995 of Title 42, The Public Health and Welfare, and section 295-1 of former Title 5, Executive Departments and Government Officers and Employees, amended this section and sections 1343 and 1861 of Title 28, repealed section 1993 of Title 42, and enacted provisions set out as a note under section 1975 of Title 42.

CODIFICATION

Section was formerly classified to section 1971 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section, and to section 31 of Title 8, Aliens and Nationality.

R.S. § 2004 derived from act May 31, 1870, ch. 114, § 1, 16 Stat. 140.

In subsec. (e), “section 3331 of title 5” was substituted for “Revised Statutes, section 1757 (5 U.S.C. 16)” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1965—Subsecs. (a), (c). Pub. L. 89-110, § 15(a), struck out “Federal” before “election” wherever appearing.

Subsecs. (f) to (h). Pub. L. 89-110, § 15(b), redesignated subsec. (g) and (h) as (f) and (g), respectively, and repealed former subsec. (f) which defined “Federal elections”.

1964—Subsec. (a). Pub. L. 88-352, § 101(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 88-352, § 101(b), provided for a rebuttable literacy presumption when a person has not been adjudged an incompetent and has completed the sixth grade of his schooling.

Subsecs. (f), (g). Pub. L. 88-352, § 101(c), added subsec. (f) and redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 88-352, § 101(d), added subsec. (h).

1960—Subsec. (c). Pub. L. 86-449, § 601(b), permitted the State to be joined as a party defendant in cases where officials of a State or subdivision thereof are alleged to have committed acts or practices constituting a deprivation of any rights or privileges secured by sub-

section (a) of this section, and authorized commencement of the proceeding against the State where an official has resigned or has been relieved of his office and no successor has assumed such office.

Subsecs. (e), (f). Pub. L. 86-449, § 601(a), added subsec. (e) and redesignated former subsec. (e) as (f).

1957—Pub. L. 85-315, § 131, substituted “Voting rights” for “Race, color, or previous condition not to affect right to vote” in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) to (e).

SHORT TITLE OF 2009 ACT

Pub. L. 111-84, div. A, title V, § 575, Oct. 28, 2009, 123 Stat. 2318, provided that: “This subtitle [subtitle H (§§ 575-589) of title V of div. A of Pub. L. 111-84, see Tables for classification] may be cited as the ‘Military and Overseas Voter Empowerment Act.’”

SHORT TITLE OF 2006 ACT

Pub. L. 109-246, § 1, July 27, 2006, 120 Stat. 577, as amended by Pub. L. 110-258, § 1, July 1, 2008, 122 Stat. 2428, provided that: “This Act [see Tables for classification] may be cited as the ‘Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. García Voting Rights Act Reauthorization and Amendments Act of 2006.’”

SHORT TITLE OF 2002 ACT

Pub. L. 107-252, § 1(a), Oct. 29, 2002, 116 Stat. 1666, provided that: “This Act [see Tables for classification] may be cited as the ‘Help America Vote Act of 2002.’”

Pub. L. 107-155, § 1(a), Mar. 27, 2002, 116 Stat. 81, provided that: “This Act [see Tables for classification] may be cited as the ‘Bipartisan Campaign Reform Act of 2002.’”

SHORT TITLE OF 1993 ACT

Pub. L. 103-31, § 1, May 20, 1993, 107 Stat. 77, provided that: “This Act [see Tables for classification] may be cited as the ‘National Voter Registration Act of 1993.’”

SHORT TITLE OF 1992 ACT

Pub. L. 102-344, § 1, Aug. 26, 1992, 106 Stat. 921, provided that: “This Act [see Tables for classification] may be cited as the ‘Voting Rights Language Assistance Act of 1992.’”

SHORT TITLE OF 1986 ACT

Pub. L. 99-410, § 1, Aug. 28, 1986, 100 Stat. 924, provided that: “This Act [see Tables for classification] may be cited as the ‘Uniformed and Overseas Citizens Absentee Voting Act.’”

SHORT TITLE OF 1984 ACT

Pub. L. 98-435, § 1, Sept. 28, 1984, 98 Stat. 1678, provided that: “This Act [see Tables for classification] may be cited as the ‘Voting Accessibility for the Elderly and Handicapped Act.’”

SHORT TITLE OF 1982 ACT

Pub. L. 97-205, § 1, June 29, 1982, 96 Stat. 131, provided: “That this Act [see Tables for classification] may be cited as the ‘Voting Rights Act Amendments of 1982.’”

SHORT TITLE OF 1980 ACT

Pub. L. 96-187, Jan. 8, 1980, 93 Stat. 1339, provided in part: “That this Act [see Tables for classification] may be cited as the ‘Federal Election Campaign Act Amendments of 1979.’”

SHORT TITLE OF 1976 ACT

Pub. L. 94-283, § 1, May 11, 1976, 90 Stat. 475, provided that: “This Act [see Tables for classification] may be cited as the ‘Federal Election Campaign Act Amendments of 1976.’”

SHORT TITLE OF 1975 ACT

Pub. L. 94-203, § 1, Jan. 2, 1976, 89 Stat. 1142, which provided that Pub. L. 94-203 (see Tables for classifica-

tion) was to be cited as “Overseas Citizens Voting Rights Act of 1975”, was repealed by Pub. L. 99-410, title II, §203, Aug. 28, 1986, 100 Stat. 930.

SHORT TITLE OF 1974 ACT

Pub. L. 93-443, Oct. 15, 1974, 88 Stat. 1263, provided in part: “That this Act [see Tables for classification] may be cited as the ‘Federal Election Campaign Act Amendments of 1974.’”

SHORT TITLE OF 1972 ACT

Pub. L. 92-225, Feb. 7, 1972, 86 Stat. 3, provided in part: “That this Act [see Tables for classification] may be cited as the ‘Federal Election Campaign Act of 1971.’”

SHORT TITLE OF 1970 ACT

Pub. L. 91-285, §1, June 22, 1970, 84 Stat. 314, provided: “That this Act [see Tables for classification] may be cited as the ‘Voting Rights Act Amendments of 1970.’”

SHORT TITLE OF 1965 ACT

Pub. L. 89-110, §1, Aug. 6, 1965, 79 Stat. 437, provided that: “This Act [see Tables for classification] shall be known as the ‘Voting Rights Act of 1965.’”

SHORT TITLE OF 1960 ACT

Pub. L. 86-449, §1, May 6, 1960, 74 Stat. 86, provided that: “This Act [see Tables for classification] may be cited as the ‘Civil Rights Act of 1960.’”

SHORT TITLE OF 1957 ACT

Pub. L. 85-315, pt. V, §161, Sept. 9, 1957, 71 Stat. 638, provided that: “This Act [see Tables for classification] may be cited as the ‘Civil Rights Act of 1957.’”

SHORT TITLE OF 1955 ACT

Act Aug. 9, 1955, ch. 656, §1, 69 Stat. 584, which provided that such Act (see Tables for classification) was to be cited as “The Federal Voting Assistance Act of 1955”, was repealed by Pub. L. 99-410, title II, §203, Aug. 28, 1986, 100 Stat. 930.

SEPARABILITY

Pub. L. 86-449, title VII, §701, May 6, 1960, 74 Stat. 92, provided that: “If any provisions of this Act [see Short Title of 1960 Act note above] is held invalid, the remainder of this Act shall not be affected thereby.”

VOTER REGISTRATION DRIVES

Pub. L. 98-473, title I, §101(j), Oct. 12, 1984, 98 Stat. 1963, provided that: “It is the sense of the Congress that—

“(1) voter registration drives should be encouraged by governmental entities at all levels; and

“(2) voter registration drives conducted by State governments on a nonpartisan basis do not violate the provisions of the Intergovernmental Personnel Act (42 U.S.C. 4728, 4763).”

§ 10102. Interference with freedom of elections

No officer of the Army, Navy, or Air Force of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

(R.S. §2003.)

CODIFICATION

Section was formerly classified to section 1972 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section, and to section 32 of Title 8, Aliens and Nationality.

R.S. §2003 derived from act Feb. 25, 1865, ch. 52, §1, 13 Stat. 437.

Air Force inserted to conform to act July 26, 1947, ch. 343, title II, §207(a), (f), 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A(10)], July 22, 1949, which transferred certain functions to the Air Force. Section 207(a), (f) of act July 26, 1947, was repealed by act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641. Act Aug. 10, 1956, ch. 1041, 70A Stat. 1, enacted “Title 10, Armed Forces”, which in sections 8010 to 8013 continued Department of the Air Force under administrative supervision of Secretary of the Air Force.

CHAPTER 103—ENFORCEMENT OF VOTING RIGHTS

Sec.	
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§ 10301. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites; establishment of violation

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title, as provided in subsection (b).

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

(Pub. L. 89-110, title I, §2, Aug. 6, 1965, 79 Stat. 437; renumbered title I, Pub. L. 91-285, §2, June 22, 1970, 84 Stat. 314; amended Pub. L. 94-73, title II, §206, Aug. 6, 1975, 89 Stat. 402; Pub. L. 97-205, §3, June 29, 1982, 96 Stat. 134.)