

SUBCHAPTER II—EXTENSION OF RIGHTS
AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY
AND MEDICAL LEAVE, FAIR LABOR STANDARDS,
EMPLOYEE POLYGRAPH PROTECTION, WORKER
ADJUSTMENT AND RETRAINING, EMPLOYMENT
AND REEMPLOYMENT OF VETERANS, AND IN-
TIMIDATION

§ 1311. Rights and protections under title VII of
Civil Rights Act of 1964, Age Discrimination
in Employment Act of 1967, Rehabilitation
Act of 1973, and title I of Americans with Dis-
abilities Act of 1990

(a) Discriminatory practices prohibited

All personnel actions affecting covered em-
ployees shall be made free from any discrimina-
tion based on—

- (1) race, color, religion, sex, or national ori-
gin, within the meaning of section 703 of the
Civil Rights Act of 1964 (42 U.S.C. 2000e-2);
- (2) age, within the meaning of section 15 of
the Age Discrimination in Employment Act of
1967 (29 U.S.C. 633a); or
- (3) disability, within the meaning of section
501 of the Rehabilitation Act of 1973 (29 U.S.C.
791) and sections 102 through 104 of the Ameri-
cans with Disabilities Act of 1990 (42 U.S.C.
12112-12114).

(b) Remedy

(1) Civil rights

The remedy for a violation of subsection
(a)(1) shall be—

- (A) such remedy as would be appropriate if
awarded under section 706(g) of the Civil
Rights Act of 1964 (42 U.S.C. 2000e-5(g)); and
- (B) such compensatory damages as would
be appropriate if awarded under section 1981
of title 42, or as would be appropriate if
awarded under sections 1981a(a)(1),
1981a(b)(2), and, irrespective of the size of
the employing office, 1981a(b)(3)(D) of title
42.

(2) Age discrimination

The remedy for a violation of subsection
(a)(2) shall be—

- (A) such remedy as would be appropriate if
awarded under section 15(c) of the Age Dis-
crimination in Employment Act of 1967 (29
U.S.C. 633a(c)); and
- (B) such liquidated damages as would be
appropriate if awarded under section 7(b) of
such Act (29 U.S.C. 626(b)).

In addition, the waiver provisions of section
7(f) of such Act (29 U.S.C. 626(f)) shall apply to
covered employees.

(3) Disabilities discrimination

The remedy for a violation of subsection
(a)(3) shall be—

- (A) such remedy as would be appropriate if
awarded under section 505(a)(1) of the Reha-
bilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or
section 107(a) of the Americans with Disabili-
ties Act of 1990 (42 U.S.C. 12117(a)); and
- (B) such compensatory damages as would
be appropriate if awarded under sections
1981a(a)(2), 1981a(a)(3), 1981a(b)(2), and, irre-

spective of the size of the employing office,
1981a(b)(3)(D) of title 42.

(c) Omitted

(d) Application to unpaid staff

(1) In general

Subsections (a) and (b) shall apply with re-
spect to—

(A) any staff member of an employing of-
fice who carries out official duties of the em-
ploying office but who is not paid by the em-
ploying office for carrying out such duties
(referred to in this subsection as an “unpaid
staff member”), including an intern, an indi-
vidual detailed to an employing office, and
an individual participating in a fellowship
program, in the same manner and to the
same extent as such subsections apply with
respect to a covered employee; and

(B) a former unpaid staff member, if the
act that may be a violation of subsection (a)
occurred during the service of the former un-
paid staffer for the employing office.

(2) Rule of construction

Nothing in paragraph (1) may be construed
to extend liability for a violation of subsection
(a) to an employing office on the basis of an
action taken by any person who is not under
the supervision or control of the employing of-
fice.

(3) Intern defined

For purposes of this subsection, the term
“intern” means an individual who performs
service for an employing office which is un-
compensated by the United States to earn
credit awarded by an educational institution
or to learn a trade or occupation, and includes
any individual participating in a page program
operated by any House of Congress.

(e) Effective date

This section shall take effect 1 year after Jan-
uary 23, 1995.

(Pub. L. 104-1, title II, §201, Jan. 23, 1995, 109
Stat. 7; Pub. L. 115-397, title III, §302(a), Dec. 21,
2018, 132 Stat. 5321.)

Editorial Notes

CODIFICATION

Section is comprised of section 201 of Pub. L. 104-1.
Subsec. (c) of section 201 of Pub. L. 104-1 amended sec-
tion 633a of Title 29, Labor, and sections 2000e-16 and
12209 of Title 42, The Public Health and Welfare.

AMENDMENTS

2018—Subsecs. (d), (e). Pub. L. 115-397 added subsec.
(d) and redesignated former subsec. (d) as (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-397 effective upon expira-
tion 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.

COVERAGE OF HOUSE OF REPRESENTATIVES AND THE
AGENCIES OF THE LEGISLATIVE BRANCH

Pub. L. 102-166, title I, §117, Nov. 21, 1991, 105 Stat.
1080, as amended by Pub. L. 108-271, §8(b), July 7, 2004,

118 Stat. 814; Pub. L. 113-235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537, provided that:

“(a) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

“(1) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

“(2) EMPLOYMENT IN THE HOUSE.—

“(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

“(B) ADMINISTRATION.—

“(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

“(ii) RESOLUTION.—The resolution referred to in clause (i) is the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredredth Congress, as agreed to October 4, 1988), as incorporated into the Rules of the House of Representatives of the One Hundred Second Congress as Rule LI, or any other provision that continues in effect the provisions of such resolution.

“(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

“(b) INSTRUMENTALITIES OF CONGRESS.—

“(1) IN GENERAL.—The rights and protections under this title [see Tables for classification] and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) 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). Such remedies and procedures shall apply exclusively, except for the employees who are defined as Senate employees, in [former] section 301(c)(1) [former 42 U.S.C. 2000e-16a(c)(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, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the Government Accountability Office, the Government Publishing Office, the Office of Technology Assessment, and the United States Botanic Garden.

“(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII for [of] the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).”

[Section effective Nov. 21, 1991, except as otherwise provided, see section 402(a) of Pub. L. 102-166, set out as an Effective Date of 1991 Amendment note under section 1981 of Title 42, The Public Health and Welfare.]

§ 1312. Rights and protections under Family and Medical Leave Act of 1993

(a) Family and medical leave rights and protections provided

(1) In general

The rights and protections established by sections 101 through 105 of the Family and

Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees. In applying section 102 of such Act [29 U.S.C. 2612] with respect to leave for an event described in subsection (a)(1)(A) or (B) of such section to covered employees, subsection (d) of this section shall apply. Paragraphs (1) and (4) of section 102(a) of such Act [29 U.S.C. 2612(a)(1), (4)] shall be subject to subsection (d) of this section.

(2) Definitions

For purposes of the application described in paragraph (1)—

(A) the term “employer” as used in the Family and Medical Leave Act of 1993 means any employing office, and

(B) the term “eligible employee” as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

The requirements of subparagraph (B) shall not apply with respect to leave under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)).

(b) Remedy

The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)(1)).

(c) Omitted

(d) Special rule for paid parental leave

(1) Substitution of paid leave

A covered employee may elect to substitute for any leave without pay under subparagraph (A) or (B) of section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) any paid leave which is available to such employee for that purpose.

(2) Amount of paid leave

The paid leave that is available to a covered employee for purposes of paragraph (1) is—

(A) the number of weeks of paid parental leave in connection with the birth or placement involved that corresponds to the number of administrative workweeks of paid parental leave available to employees under section 6382(d)(2)(B)(i) of title 5; and

(B) during the 12-month period referred to in section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) and in addition to the administrative workweeks described in subparagraph (A), any additional paid vacation, personal, family, medical, or accrued sick leave provided by the employing office to such employee.

(3) Limitation

Nothing in this section or section 102(d)(2)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(d)(2)(A)) shall be considered to require or permit an employing office to require that an employee first use all or any portion of the leave described in para-