

(Pub. L. 100-458, title I, §120, Oct. 1, 1988, 102 Stat. 2176.)

§ 1110. Appropriations

There is appropriated to the fund the sum of \$7,500,000 to carry out this chapter.

(Pub. L. 100-458, title I, §121, Oct. 1, 1988, 102 Stat. 2176.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1105 of this title.

CHAPTER 23—GOVERNMENT EMPLOYEE RIGHTS

Sec.

- 1201. Short title; purpose; definition.
 - (a) Short title.
 - (b) Purpose.
 - (c) “Violation” defined.
- 1202. Discriminatory practices prohibited.
 - (a) Practices.
 - (b) Remedies.
- 1203 to 1218. Repealed.
- 1219. Coverage of Presidential appointees.
 - (a) In general.
 - (b) Presidential appointee.
- 1220. Coverage of previously exempt State employees.
 - (a) Application.
 - (b) Enforcement by administrative action.
 - (c) Judicial review.
 - (d) Standard of review.
 - (e) Attorney’s fees.
- 1221 to 1224. Repealed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1435 of this title.

§ 1201. Short title; purpose; definition

(a) Short title

This chapter may be cited as the “Government Employee Rights Act of 1991”.

(b) Purpose

The purpose of this chapter is to provide procedures to protect the rights of certain government¹ employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

(c) “Violation” defined

For purposes of this chapter, the term “violation” means a practice that violates section 1202(a) of this title.

(Pub. L. 102-166, title III, §301, Nov. 21, 1991, 105 Stat. 1088; Pub. L. 103-283, title III, §312(f)(1), July 22, 1994, 108 Stat. 1446; Pub. L. 104-1, title V, §504(a)(1), Jan. 23, 1995, 109 Stat. 40.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title III of Pub. L. 102-166, Nov. 21, 1991, 105 Stat. 1088, which is classified generally to this chapter. For complete classification of title III to the Code, see Tables.

AMENDMENTS

1995—Pub. L. 104-1 amended section generally, substituting “rights of certain government employees” for

¹ So in original. Probably should be capitalized.

“right of Senate and other government employees” in subsec. (b) and striking out definitions of “Senate employee” and “head of employing office” in subsec. (c).

1994—Subsec. (c)(1)(B) to (D). Pub. L. 103-283, which directed the amendment of subsec. (c) by striking out subpar. (B), redesignating subpars. (C) and (D) as (B) and (C), respectively, and striking out “or (B)” after “described in subparagraph (A)” in subpars. (B) and (C), was executed by making the amendment to subsec. (c)(1) to reflect the probable intent of Congress. Prior to amendment, subpar. (B) read as follows: “any employee of the Architect of the Capitol who is assigned to the Senate Restaurants or to the Superintendent of the Senate Office Buildings;”.

EFFECTIVE DATE

Chapter effective Nov. 21, 1991, except as otherwise provided, see section 402 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 601 of this title.

§ 1202. Discriminatory practices prohibited

(a) Practices

All personnel actions affecting the Presidential appointees described in section 1219 of this title or the State employees described in section 1220 of this title shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 2000e-16 of title 42;

(2) age, within the meaning of section 633a of title 29; or

(3) disability, within the meaning of section 791 of title 29 and sections 12112 to 12114 of title 42.

(b) Remedies

The remedies referred to in sections 1219(a)(1) and 1220(a) of this title—

(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) of this section has occurred, such remedies as would be appropriate if awarded under sections 2000e-5(g), 2000e-5(k), and 2000e-16(d) of title 42, and such compensatory damages as would be appropriate if awarded under section 1981 or sections 1981a(a) and 1981a(b)(2) of title 42;

(2) may include, in the case of a determination that a violation of subsection (a)(2) of this section has occurred, such remedies as would be appropriate if awarded under section 633a(c) of title 29; and

(3) may not include punitive damages.

(Pub. L. 102-166, title III, §302, Nov. 21, 1991, 105 Stat. 1088; Pub. L. 104-1, title V, §504(a)(1), Jan. 23, 1995, 109 Stat. 40.)

AMENDMENTS

1994—Pub. L. 104-1 amended section generally. Prior to amendment, text read as follows: “All personnel actions affecting employees of the Senate shall be made free from any discrimination based on—

“(1) race, color, religion, sex, or national origin, within the meaning of section 2000e-16 of title 42;

“(2) age, within the meaning of section 633a of title 29; or

“(3) handicap or disability, within the meaning of section 791 of title 29 and sections 12112 to 12114 of title 42.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1201, 1219, 1220 of this title.

§§ 1203 to 1218. Repealed. Pub. L. 104-1, title V, § 504(a)(2), (5), Jan. 23, 1995, 109 Stat. 41

Section 1203, Pub. L. 102-166, title III, § 303, Nov. 21, 1991, 105 Stat. 1088, related to establishment of Office of Senate Fair Employment Practices.

Section 1204, Pub. L. 102-166, title III, § 304, Nov. 21, 1991, 105 Stat. 1090, related to Senate procedure for consideration of alleged violations of employee rights.

Section 1205, Pub. L. 102-166, title III, § 305, Nov. 21, 1991, 105 Stat. 1090; Pub. L. 103-283, title III, § 312(f)(2), July 22, 1994, 108 Stat. 1446, related to counseling of Senate employees alleging violations of rights.

Section 1206, Pub. L. 102-166, title III, § 306, Nov. 21, 1991, 105 Stat. 1091, related to mediation of disputes between Senate employees and employing offices.

Section 1207, Pub. L. 102-166, title III, § 307, Nov. 21, 1991, 105 Stat. 1091, related to formal complaints by Senate employees and hearings.

Section 1207a, Pub. L. 103-50, ch. XII, § 1205, July 2, 1993, 107 Stat. 269; Pub. L. 103-211, title II, § 2001(a)-(c), Feb. 12, 1994, 108 Stat. 22, related to Settlements and Awards Reserve appropriation account.

Section 1208, Pub. L. 102-166, title III, § 308, Nov. 21, 1991, 105 Stat. 1092, related to review by Select Committee on Ethics of decisions on violations of rights of Senate employees.

Section 1209, Pub. L. 102-166, title III, § 309, Nov. 21, 1991, 105 Stat. 1093; Pub. L. 102-392, title III, § 316(a), Oct. 6, 1992, 106 Stat. 1724; Pub. L. 103-50, ch. XII, § 1204(a), July 2, 1993, 107 Stat. 268, related to judicial review of decisions regarding violations of rights of Senate employees.

Section 1210, Pub. L. 102-166, title III, § 310, Nov. 21, 1991, 105 Stat. 1093; Pub. L. 102-392, title III, § 316(a), Oct. 6, 1992, 106 Stat. 1724; Pub. L. 103-50, ch. XII, § 1204(a), July 2, 1993, 107 Stat. 268, related to judicial review of decisions regarding violations of rights of Senate employees.

Section 1211, Pub. L. 102-166, title III, § 311, Nov. 21, 1991, 105 Stat. 1094, related to costs of attending hearings on violations of Senate employee rights.

Section 1212, Pub. L. 102-166, title III, § 312, Nov. 21, 1991, 105 Stat. 1094; Pub. L. 103-283, title III, § 312(f)(3), July 22, 1994, 108 Stat. 1446, prohibited intimidation or reprisal against Senate employees for exercising rights under this chapter.

Section 1213, Pub. L. 102-166, title III, § 313, Nov. 21, 1991, 105 Stat. 1095, related to confidentiality of proceedings under this chapter.

Section 1214, Pub. L. 102-166, title III, § 314, Nov. 21, 1991, 105 Stat. 1095, provided that this chapter was enacted as an exercise of rulemaking power of Senate.

Section 1215, Pub. L. 102-166, title III, § 316, Nov. 21, 1991, 105 Stat. 1095, related to consideration of political affiliation and place of residence in Senate employment decisions.

Section 1216, Pub. L. 102-166, title III, § 317, Nov. 21, 1991, 105 Stat. 1096, related to exclusiveness of this chapter as remedy for discriminatory practices relative to Senate employment.

Section 1217, Pub. L. 102-166, title III, § 318, Nov. 21, 1991, 105 Stat. 1096, expressed sense of Senate that legislation be enacted giving employees of other instrumentalities of Congress rights comparable to those granted in this chapter.

Section 1218, Pub. L. 102-166, title III, § 319, Nov. 21, 1991, 105 Stat. 1096, reaffirmed Senate's commitment to Rule XLII of Standing Rules of the Senate, relating to employment discrimination on basis of race, color, religion, sex, national origin, age, or state of physical handicap.

SAVINGS PROVISION

Section 504(a)(2), (5) of Pub. L. 104-1 provided in part that sections 1203 to 1218 of this title are repealed, except as provided in section 1435 of this title.

§ 1219. Coverage of Presidential appointees

(a) In general

(1) Application

The rights, protections, and remedies provided pursuant to section 1202 of this title shall apply with respect to employment of Presidential appointees.

(2) Enforcement by administrative action

Any Presidential appointee may file a complaint alleging a violation, not later than 180 days after the occurrence of the alleged violation, with the Equal Employment Opportunity Commission, or such other entity as is designated by the President by Executive Order, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission, or such other entity as is designated by the President pursuant to this section, determines that a violation has occurred, the final order shall also provide for appropriate relief.

(3) Judicial review

(A) In general

Any party aggrieved by a final order under paragraph (2) may petition for review by the United States Court of Appeals for the Federal Circuit.

(B) Law applicable

Chapter 158 of title 28 shall apply to a review under this section except that the Equal Employment Opportunity Commission or such other entity as the President may designate under paragraph (2) shall be an "agency" as that term is used in chapter 158 of title 28.

(C) Standard of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final order under paragraph (2) if it is determined that the order was—

(i) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(ii) not made consistent with required procedures; or

(iii) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(D) Attorney's fees

If the presidential appointee is the prevailing party in a proceeding under this section, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 2000e-5(k) of title 42.

(b) Presidential appointee

For purposes of this section, the term "Presidential appointee" means any officer or em-