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Federal Civil Rights Statutes: A Primer

Jody Feder, American Law Division

October 24, 2008

Abstract. Under federal law, an array of civil rights statutes are available to protect individuals from discrimination. This report provides a summary of selected federal civil rights statutes, including the Civil Rights Act, the Equal Pay Act, the Voting Rights Act, the Age Discrimination in Employment Act, the Fair Housing Act, Title IX of the Education Amendments of 1972, the Rehabilitation Act, the Equal Credit Opportunity Act, the Equal Educational Opportunities Act, the Age Discrimination Act, the Civil Service Reform Act, the Immigration and Nationality Act, the Americans with Disabilities Act, and the Congressional Accountability Act.

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CRS Report for Congress

Federal Civil Rights Statutes: A Primer

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Prepared for Members and
Committees of Congress

Federal Civil Rights Statutes: A Primer

Summary

Under federal law, an array of civil rights statutes are available to protect individuals from discrimination. This report provides a brief summary of selected federal civil rights statutes, including the Civil Rights Act, the Equal Pay Act, the Voting Rights Act, the Age Discrimination in Employment Act, the Fair Housing Act, Title IX of the Education Amendments of 1972, the Rehabilitation Act, the Equal Credit Opportunity Act, the Equal Educational Opportunities Act, the Age Discrimination Act, the Civil Service Reform Act, the Immigration and Nationality Act, the Americans with Disabilities Act, the Congressional Accountability Act, and the Reconstruction Statutes.

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Federal Civil Rights Statutes: A Primer

Introduction

Under federal law, an array of civil rights statutes are available to protect individuals from discrimination. Although these laws share similar features, the type of discrimination that they prohibit and the circumstances under which they operate vary from statute to statute. This report provides a brief overview of selected federal civil rights statutes,¹ as well as information about other CRS products that discuss these laws. This report, however, is intended to provide an introductory overview and comparison of the selected statutes and therefore does not address additional civil rights protections that may be available under state or local statutes or federal or state constitutional law.

Federal Statutes

Civil Rights Act of 1964. The Civil Rights Act (CRA) of 1964 is perhaps the most prominent civil rights legislation enacted in modern times. The statute, which served as a model for subsequent anti-discrimination laws, greatly expanded civil rights protections in a wide variety of settings. Among other provisions:

- Title VII of the CRA prohibits discrimination in employment on the basis of race, color, religion, national origin, or sex.² In addition, the Pregnancy Discrimination Act, which was enacted in 1978 as an amendment to the sex discrimination provisions of Title VII, made it unlawful to discriminate on the basis of pregnancy, childbirth, or related medical conditions. Title VII applies to employers with 15 or more employees, including the federal government and state and local governments. Individuals who believe they are the victims of employment discrimination must file a complaint with the Equal Employment Opportunity Commission (EEOC), which is responsible for enforcing individual Title VII claims against private employers. The Department of Justice (DOJ) enforces Title VII against state and local governments, but may do so only after the EEOC has conducted an initial investigation.³

¹ Other federal laws may offer limited protection of civil rights, but this report focuses on laws that protect broad categories of individuals from specific types of discrimination.

² 42 U.S.C. § 2000e.

³ For more information on Title VII, see the EEOC website, [<http://www.eeoc.gov/>], and the DOJ's Employment Litigation Section website, [<http://www.usdoj.gov/crt/emp/index.html>].

- Title VI of the CRA prohibits discrimination in federally funded programs or activities on the basis of race, color, or national origin.⁴ Individuals who believe they are victims of discrimination may file a complaint with the federal agency that provides funds to a recipient, or they may file a lawsuit in federal court. Each federal agency is responsible for enforcing Title VI compliance with respect to its funding recipients, but DOJ plays a role in coordinating federal Title VI activities.⁵
- Title II of the CRA prohibits discrimination on the basis of race, color, religion, or national origin in public accommodations.⁶ Public accommodations, which are defined as establishments that serve the public and that have a connection to interstate commerce, include hotels and motels, restaurants and bars, and entertainment venues such as movie theaters or sports arenas. DOJ enforces Title II.⁷

For additional information on the CRA, see CRS Report RS22256, *Federal Affirmative Action Law: A Brief History*, by Jody Feder; CRS Report RL30410, *Affirmative Action and Diversity in Public Education: Legal Developments*, by Jody Feder; CRS Report RL30470, *Affirmative Action in Employment: A Legal Overview*, by Jody Feder; CRS Report RS22686, *Pay Discrimination Claims Under Title VII of the Civil Rights Act: A Legal Analysis of the Supreme Court's Decision in Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, by Jody Feder; CRS Report RL30253, *Sex Discrimination and the United States Supreme Court: Developments in the Law*, by Jody Feder; CRS Report RL33736, *Sexual Harassment: Developments in Federal Law*, by Jody Feder; CRS Report RS22740, *Sexual Orientation Discrimination in Employment: Analysis of H.R. 3685, the Employment Non-Discrimination Act of 2007*, by Edward C. Liu; CRS Report RL34242, *Gender Identity Discrimination in Employment: Analysis of H.R. 3686 in the 110th Congress*, by Edward C. Liu; CRS Report 94-970, *Awards of Attorneys' Fees by Federal Courts and Federal Agencies*, by Henry Cohen; CRS Report RS22745, *Religion and the Workplace: Legal Analysis of Title VII of the Civil Rights Act of 1964 as It Applies to Religious Organizations*, by Cynthia Brougher; CRS Report RL33356, *English as the Official Language of the United States: Legal Background and Analysis of Legislation in the 110th Congress*, by Jody Feder; CRS Report RS22492, *Employment Discrimination and Retaliation Claims: A Legal Analysis of the Supreme Court Ruling in Burlington Northern and Santa Fe Railway Co. v. White*, by Jody Feder; and CRS Report RL31077, *Private Actions to Sue for Civil Rights Violations in Federally Assisted Programs After Alexander v. Sandoval*, by Charles V. Dale.

⁴ 42 U.S.C. § 2000d.

⁵ For more information on Title VI, see the DOJ's Coordination and Review Section website, [<http://www.usdoj.gov/crt/cor/coord/titlevi.htm>].

⁶ 42 U.S.C. § 2000a.

⁷ For more information on Title II, see the DOJ's Housing and Civil Enforcement Section website, [http://www.usdoj.gov/crt/housing/housing_main.htm].

Equal Pay Act of 1963. The Equal Pay Act prohibits discrimination on the basis of sex with regard to the compensation paid to men and women for substantially equal work performed in the same establishment.⁸ The act is enforced by the EEOC.⁹ Pay discrimination claims may also be brought under Title VII of the CRA.

For additional information on the Equal Pay Act, see CRS Report RL31867, *Pay Equity Legislation in the 110th Congress*, by Jody Feder and Linda Levine; and CRS Report 98-278, *The Gender Wage Gap and Pay Equity: Is Comparable Worth the Next Step?* by Linda Levine.

Voting Rights Act of 1965. The Voting Rights Act, which was enacted shortly after the CRA and which was designed to prevent the disenfranchisement of black voters in the South, prohibits voting practices that discriminate on the basis of race, color, or membership in a language minority group.¹⁰ Specifically, the act prohibits the use of discriminatory redistricting plans or voter registration procedures and authorizes the use of federal voting observers to monitor elections. DOJ enforces the statute, but individuals can also sue in federal court.¹¹

For additional information on the Voting Rights Act, see CRS Report 95-896, *The Voting Rights Act of 1965, As Amended: Its History and Current Issues*, by Garrine P. Laney; CRS Report RL33425, *The Voting Rights Act of 1965, As Amended: Reauthorization Issues*, by Garrine P. Laney and L. Paige Whitaker; CRS Report RS22479, *Congressional Redistricting: A Legal Analysis of the Supreme Court Ruling in League of United Latin American Citizens (LULAC) v. Perry*, by L. Paige Whitaker; and CRS Report RS21593, *Redistricting and the Voting Rights Act: A Legal Analysis of Georgia v. Ashcroft*, by L. Paige Whitaker.

Age Discrimination in Employment Act of 1967. Like Title VII of the CRA, the Age Discrimination in Employment Act (ADEA) prohibits discrimination in employment on the basis of age.¹² The ADEA, which protects individuals who are age 40 or older, applies to employers with 20 or more employees and is enforced by the EEOC.¹³

For additional information on the ADEA, see CRS Report RL34652, *The Age Discrimination in Employment Act (ADEA): A Legal Overview*, by Jody Feder; CRS Report RS22170, *The Age Discrimination in Employment Act and Disparate Impact Claims: An Analysis of the Supreme Court Ruling in Smith v. City of Jackson*, by Charles V. Dale and Jody Feder; CRS Report RS21845, *Final Equal Employment*

⁸ 29 U.S.C. § 206.

⁹ For more information on the Equal Pay Act, see the EEOC website, [<http://www.eeoc.gov>].

¹⁰ 42 U.S.C. §§ 1973 et seq.

¹¹ For more information on the Voting Rights Act, see the DOJ Voting Section website, [<http://www.usdoj.gov/crt/voting/index.htm>].

¹² 29 U.S.C. §§ 621 et seq.

¹³ For more information on ADEA, see the EEOC website, [<http://www.eeoc.gov/>].

Opportunity Commission Rules on Retiree Health Plans and the Age Discrimination in Employment Act, by Jody Feder; CRS Report RL33004, *Cash Balance Pension Plans and Claims of Age Discrimination*, by Erika Lunder and Jennifer Staman; and CRS Report RL30364, *Legal Issues Affecting the Right of State Employees to Bring Suit Under the Age Discrimination in Employment Act and Other Federal Labor Laws*, by Kimberly D. Jones.

Fair Housing Act. The Fair Housing Act (FHA), which was originally enacted in 1968, prohibits discrimination in the sale or rental of housing on the basis of race, color, religion, national origin, sex, disability, or familial status.¹⁴ The statute applies to both public and private housing and may be enforced by the Department of Housing and Urban Development (HUD), DOJ, and individuals who file suit in federal court.¹⁵

For additional information on the FHA, see CRS Report 95-710, *The Fair Housing Act: A Legal Overview*, by David H. Carpenter.

Title IX of the Education Amendments of 1972. Like Title VI of the CRA, Title IX's prohibition on discrimination is tied to federal funding. Specifically, Title IX prohibits discrimination on the basis of sex in federally funded education programs or activities.¹⁶ Although the Title IX regulations bar recipients of federal financial assistance from discriminating on the basis of sex in a wide range of educational programs or activities, such as student admissions, scholarships, and access to courses, the statute is perhaps best known for prohibiting sex discrimination in intercollegiate athletics. Individuals who believe they are victims of discrimination may file a complaint with the federal agency that provides education funds to a recipient, or they may file a lawsuit in federal court. As with Title VI, each federal agency is responsible for enforcing Title IX compliance with respect to its funding recipients, but DOJ plays a role in coordinating federal Title IX activities.¹⁷

For additional information on Title IX, see CRS Report RL31709, *Title IX, Sex Discrimination, and Intercollegiate Athletics: A Legal Overview*, by Jody Feder; CRS Report RS22544, *Title IX and Single Sex Education: A Legal Analysis*, by Jody Feder; CRS Report RL30253, *Sex Discrimination and the United States Supreme Court: Developments in the Law*, by Jody Feder; and CRS Report RL33736, *Sexual Harassment: Developments in Federal Law*, by Jody Feder.

Rehabilitation Act of 1973. The Rehabilitation Act prohibits discrimination on the basis of disability in federally conducted and federally funded programs or

¹⁴ 42 U.S.C. §§ 3601 et seq.

¹⁵ For more information on the FHA, see the HUD website, [<http://www.hud.gov/offices/fheo/index.cfm>], and DOJ's Housing and Civil Enforcement Section website, [<http://www.usdoj.gov/crt/housing/index.html>].

¹⁶ 20 U.S.C. §§ 1681 et seq.

¹⁷ For more information on Title IX, see DOJ's Coordination and Review Section website, [<http://www.usdoj.gov/crt/cor/coord/titleix.htm>], and the Department of Education website, [<http://www.ed.gov/about/offices/list/ocr/index.html>].

activities, as well as in employment by the federal government and by federal contractors.¹⁸ In addition, the act authorizes an array of grant programs that support vocational rehabilitation services to assist individuals with physical or mental disabilities in achieving employment and social integration. DOJ is responsible for administering the provisions regarding discrimination in federally conducted and federally funded programs or activities, while the provisions regarding nondiscrimination in federal employment and nondiscrimination by federal contractors are enforced by the EEOC and the Department of Labor (DOL), respectively.¹⁹

For more information on the Rehabilitation Act's anti-discrimination provisions, see CRS Report RL34041, *Section 504 of the Rehabilitation Act of 1973: Prohibiting Discrimination Against Individuals with Disabilities in Programs or Activities Receiving Federal Assistance*, by Nancy Lee Jones.

Equal Credit Opportunity Act. The Equal Credit Opportunity Act (ECOA), which was enacted in 1974, prohibits discrimination against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age, or source of income.²⁰ DOJ enforces the statute, but individuals may also file a complaint with the federal agency that oversees the creditor, or they may sue in federal court.²¹

For more information on the ECOA, see CRS Report RL30889, *The Consumer Credit Protection Act: An Overview of Its Major Components*, by Margaret Mikyung Lee.

Equal Educational Opportunities Act of 1974. The Equal Educational Opportunities Act (EEOA) prohibits discrimination in educational opportunities on the basis of race, color, sex, or national origin.²² Specifically, the statute prohibits school segregation, as well as the failure of a school to take appropriate action to overcome students' language barriers. The statute is enforced by DOJ.²³

For more information on the EEOA, see CRS Report RS22544, *Title IX and Single Sex Education: A Legal Analysis*, by Jody Feder.

¹⁸ 29 U.S.C. §§ 791, 793-94.

¹⁹ For more information on the Rehabilitation Act, see the DOJ Disability Rights Section website, [<http://www.usdoj.gov/crt/drs/drshome.htm>], the EEOC website, [<http://www.eeoc.gov>], and the Department of Labor's Office of Federal Contract Compliance Programs website, [http://www.dol.gov/esa/ofccp/regs/compliance/ca_503.htm].

²⁰ 15 U.S.C. §§ 1691 et seq.

²¹ For more information on ECOA, see DOJ's Housing and Civil Enforcement Section website, [<http://www.usdoj.gov/crt/housing/index.html>].

²² 20 U.S.C. §§ 1701 et seq.

²³ For more information on the EEOA, see the DOJ's Educational Opportunities Section website, [<http://www.usdoj.gov/crt/edo/index.html>].

Age Discrimination Act of 1975. The Age Discrimination Act prohibits discrimination on the basis of age in federally funded programs or activities.²⁴ Individuals who believe they are victims of discrimination may file a complaint with the federal agency that provides education funds to a recipient, or they may file a lawsuit in federal court. As with Title VI and Title IX, each federal agency is responsible for enforcing Age Discrimination Act compliance with respect to its funding recipients, but the Department of Health and Human Services (HHS) plays a role in coordinating federal activities.

Civil Service Reform Act of 1978. The Civil Service Reform Act (CSRA) prohibits discrimination in federal employment on the basis of race, color, national origin, religion, sex, age, disability, marital status, or political affiliation.²⁵ Specifically, the statute prohibits discrimination in certain personnel practices, including, but not limited to, hiring, promotion, transfers, and pay and benefits. In addition, the statute prohibits discrimination on the basis of conduct that does not adversely affect the performance of an employee or job applicant.²⁶ This provision has been interpreted to prohibit discrimination based on sexual orientation. The CSRA is enforced by both the Office of Special Counsel and the Merit Systems Protection Board.²⁷

For additional information on the CSRA, see CRS Report RL30795, *General Management Laws: A Compendium*, coordinated by Clinton T. Brass.

Immigration and Nationality Act. Under amendments adopted in 1986, the Immigration and Nationality Act (INA) prohibits discrimination in employment on the basis of national origin or citizenship status.²⁸ The act, which prohibits discrimination against U.S. citizens and legal immigrants but not unauthorized aliens, also protects individuals from unfair documentary practices relating to the employment eligibility verification process. The statute is enforced by DOJ.²⁹

There are several CRS products on the INA, although these reports do not focus on the act's anti-discrimination provisions. For more information, see the CRS website.

Americans with Disabilities Act of 1990. The Americans with Disabilities Act (ADA), which is the most recently enacted piece of major civil rights legislation in the nation, prohibits discrimination based on disability in employment, public

²⁴ 42 U.S.C. §§ 6101 et seq.

²⁵ 5 U.S.C. § 2302.

²⁶ *Id.*

²⁷ For more information on the CSRA, see the Office of Special Counsel website, [<http://www.osc.gov/>], and the Merit Systems Protection Board website, [<http://www.mspb.gov/sites/mspb/default.aspx/>].

²⁸ 8 U.S.C. § 1324b.

²⁹ For more information on the INA, see DOJ's Office of Special Counsel for Immigration-Related Unfair Employment Practices website, [<http://www.usdoj.gov/crt/osc/index.html>].

services, public accommodations, transportation, and telecommunications.³⁰ The ADA’s employment discrimination provisions, which apply to employers with 15 or more employees, are enforced by the EEOC, while the public services and public accommodations provisions are administered by DOJ.³¹ Individuals may also sue in federal court for violations of the ADA, although they must first file a complaint with the EEOC before filing an employment discrimination claim in federal court.

For more information on the ADA, see CRS Report 98-921, *The Americans with Disabilities Act (ADA): Statutory Language and Recent Issues*, by Nancy Lee Jones; and CRS Report RL31401, *The Americans with Disabilities Act: Supreme Court Decisions*, by Nancy Lee Jones. In addition, see the CRS website for multiple short reports on specific issues and cases that have arisen under the ADA.

Congressional Accountability Act of 1995. The Congressional Accountability Act (CAA) applies several existing civil rights, labor, and workplace laws to employees of the legislative branch of the federal government.³² Specifically, with regard to civil rights laws, the act applies Title VII of the CRA, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Rehabilitation Act to the legislative branch. The act is administered by the Office of Compliance.³³

For more information on the CAA, see CRS Report RL33668, *The Speech or Debate Clause: Recent Developments*, by Todd B. Tatelman.

Reconstruction Statutes. In the wake of the Civil War, Congress enacted a series of statutes — most notably the Civil Rights Act of 1866 and the Civil Rights Act of 1871 — that were intended to enforce the Thirteenth, Fourteenth, and Fifteenth Amendments, which prohibited slavery and enshrined equal protection and voting rights in the U.S. Constitution. Designed to provide private remedies to individuals deprived of their civil rights, these statutes were written in general terms that have been interpreted broadly to protect individuals from a wide range of discriminatory conduct. The relevant provisions, as codified, include 42 U.S.C. §§ 1981, 1982, 1983, and 1985.

- 42 U.S.C. § 1981 provides in part that all persons shall have the same right to “make and enforce contracts” as is enjoyed by white

³⁰ 42 U.S.C. §§ 12101 et seq.

³¹ For more information on the ADA, see the federal government’s general ADA website, [<http://www.ada.gov/>], the EEOC website, [<http://www.eeoc.gov/>], DOJ’s Disability Rights Section website, [<http://www.usdoj.gov/crt/drs/drshome.htm>], the Federal Communications Commission website, [<http://www.fcc.gov/cgb/dro/>], and the Federal Transit Administration’s ADA website, [http://www.fta.dot.gov/civilrights/civil_rights_2360.html].

³² 2 U.S.C. §§ 1301 et seq.

³³ For more information on the CAA, see the Office of Compliance website, [<http://www.compliance.gov/>].

citizens.³⁴ As a result, § 1981's coverage extends to prohibit discrimination in a wide range of public and private contractual relationships, including the provision of services and the sale of goods. Indeed, since employment relationships are based on contracts, § 1981 has been interpreted to prohibit intentional discrimination on the basis of race, color, or citizenship by private employers. Because § 1981 refers to "white citizens," however, the provision does not prohibit discrimination on the basis of sex, religion, or national origin, unless a claim based on national origin or religion has a racial component.

- Under 42 U.S.C. § 1982, "[a]ll citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property." Like § 1981, § 1982 prohibits intentional discrimination in both the public and private sectors, but unlike § 1981, the coverage of § 1982 is limited to discrimination on the basis of race and applies only to transactions involving real or personal property.
- 42 U.S.C. § 1983, which provides a remedy for deprivation of rights under color of state law, creates no new substantive rights but rather provides relief where state law is inadequate.³⁵ Thus, individuals who sue under § 1983 must find a source of rights elsewhere. As a result, § 1983 is most typically used to enforce constitutional rights, such as the right to equal protection. In general, § 1983 suits alleging unlawful discrimination are limited to intentional claims of discrimination involving public, not private, actors and may apply to a discrimination based on a wide variety of factors, such as race, sex, religion, or citizenship.

³⁴ § 1981 provides in pertinent part:

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishments, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

³⁵ § 1983 states in full:

Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

- Like § 1983, 42 U.S.C. § 1985, which provides a remedy in cases involving conspiracy to interfere with civil rights, creates no new independent rights.³⁶ Instead, § 1985 is designed to give the injured party an opportunity to recover damages against the conspirators. Although § 1985 may apply to private acts of discrimination, it is not clear whether it covers discrimination based on factors other than race.

³⁶ § 1985 provides in pertinent part:

If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.