

Provisions of Civil Rights Act of 1964 (HR 7152 -- PL 88-352)

TITLE I -- VOTING RIGHTS

In voting for federal elections, HR 7152 added to the Civil Rights Act of 1957's provisions against denial of voting rights the following:

- barred unequal application of voting registration requirements;
- prohibited denial of the right to vote because of immaterial errors or omissions by applicants on records of application;
- required that all literacy tests be administered in writing, and that for a period of 22 months the individual may, on request, receive a copy of the papers within 25 days; gave the Attorney General authority to enter into agreements with state or local authorities that their literacy tests are fairly administered and need not be given in writing;
- made a sixth-grade education (if in English) a rebuttable presumption of literacy.

When the Attorney General, under authority granted by the 1957 Civil Rights Act, files a voting rights suit and requests a finding of a pattern or practice of discrimination against voters, HR 7152 authorized him, at the time he filed the suit, to request that it be heard by a three-judge federal court (decisions of three-judge courts are immediately appealable to the Supreme Court). One of the judges must be a member of a federal circuit court and another a district judge in the district where the complaint is brought. A defendant also was authorized to request a three-judge court within 20 days after the suit was filed.

In pattern or practice suits -- whether a three-judge court is requested or not -- or in suits against intimidation of those attempting to register, required the courts to expedite the cases.

TITLE II -- PUBLIC ACCOMMODATIONS

Barred discrimination on grounds of race, color, religion or national origin in public accommodations enumerated below, if discrimination or segregation in such an accommodation is supported by state laws or official action, if lodgings are provided to transient guests or interstate travelers are served, or if a substantial portion of the goods sold or entertainment presented moves in interstate commerce.

Covered restaurants, cafeterias, lunch rooms, lunch counters, soda fountains, gasoline stations, motion picture houses, theaters, concert halls, sports arenas, stadiums, or any hotel, motel or lodging house except owner-occupied units with five or less rooms for rent (the "Mrs. Murphy" clause). Also covered any public establishment within or containing an accommodation otherwise covered (for example, a store containing a lunch counter, or a barber shop in a hotel). Not specifically covered: barber shops, retail stores, bars, small places of amusement such as bowling alleys. Specifically exempted were private clubs, except to the extent that they offer their facilities to patrons of covered establishments (such as hotels).

Made it unlawful to deny any person access to these facilities because of race, color, religion or national origin, to threaten or intimidate anyone seeking his rights

under this title, or to punish any person for exercising his rights under this title.

Permitted anyone denied his rights under this title to sue in court for preventive relief through a civil injunction, and authorized the courts, in their discretion, to permit the Attorney General to intervene in the private suit; also permitted the court to appoint an attorney for the complainant.

If the alleged discriminatory practice takes place in a state or local area which has a law prohibiting such acts and establishing methods of seeking relief, prohibited the suit from being brought until the state or local authority has had 30 days' notice. Allowed the court to stay proceedings further, pending termination of state or local enforcement proceedings.

If the alleged action takes place in a state which has no public accommodations law, permitted the courts to refer the matter to the Community Relations Service (established in Title X) for 60 to 120 days, if there was a reasonable chance of obtaining voluntary compliance.

Authorized the Attorney General to bring a civil action when he "has reasonable cause to believe" that a person or group of persons is engaged in a pattern or practice of resistance to granting the rights under this title. (No waiting period was required.)

Authorized the Attorney General to request a three-judge court to hear the case, the request to be accompanied by a certificate that the case is of "general public importance."

Directed the courts to expedite suits by the Attorney General.

Permitted the courts to order the payment of the attorney's fee of the winning party, unless it is the Government.

TITLE III -- DESEGREGATION OF PUBLIC FACILITIES

Upon written complaint of aggrieved individuals, permitted Justice Department suits to secure desegregation of state or locally owned, operated or managed public facilities, when the Attorney General believes that the complaint is "meritorious" and certifies that the aggrieved persons are unable to initiate and maintain legal proceedings because of financial limitations or potential economic or other injury to themselves or their families.

TITLE IV -- DESEGREGATION OF PUBLIC EDUCATION

Required the U.S. Office of Education to make a survey and report to Congress within two years on the progress of desegregation of public schools at all levels.

Authorized the Office to give technical and financial assistance, if requested, to local public school systems planning or going through the process of desegregation. The assistance could be:

- technical assistance in the form of information on effective methods of coping with special problems arising out of desegregation, or making available Office of Education or other personnel equipped to handle such problems;

- arrangements, through grants or contracts, with colleges and universities for special institutes to train school personnel to deal with desegregation prob-

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lems, and payment of stipends to those who attend the institutes on a full-time basis;
grants to a school board to pay for the cost of giving school personnel special training or employing specialists.

Authorized the Attorney General to file suit for the desegregation of public schools and colleges if he receives a signed complaint, believes that the complaint is meritorious, and certifies that the aggrieved individuals are unable to initiate and maintain legal proceedings, and that the action would "materially further" orderly school desegregation; provided that the suit may be filed only after he has notified the local school board or college authority of the complaint and given them a reasonable time to adjust the conditions.

Made clear that this law did not authorize any U.S. officials or courts to issue any order seeking to achieve racial balances in schools by transporting children from one school to another, nor did it enlarge the courts' existing powers to ensure compliance with constitutional standards.

Made clear that this title did not prohibit classification and assignment of students for reasons other than race, color, religion or national origin.

TITLE V -- CIVIL RIGHTS COMMISSION

Wrote into law a number of requirements for Commission procedures, covering the summoning and taking testimony from witnesses, giving notice of hearings, confidentiality of proceedings, and bipartisanship in its activities.

Broadened the duties of the Commission by authorizing it to serve as a national clearinghouse on civil rights information, and to investigate vote frauds as well as denials of the right to vote.

Barred the Commission from investigating the membership practices or internal practices of any fraternal organizations, college sororities and fraternities, private clubs or religious organizations.

Extended the life of the Commission for four years, through Jan. 31, 1968, and required it to file a final report at that time, with such interim reports as the Commission, Congress or the President deem desirable.

TITLE VI -- NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Barred discrimination under any program or activity receiving federal assistance against any person because of his race, color or national origin.

Directed each federal department or agency extending financial assistance to any program or activity through grants, loans or most kinds of contracts, except contracts of insurance or guaranty, to issue rules or regulations, to be approved by the President, to carry out the purposes of this title.

Required that to enforce the title, agencies must first seek voluntary compliance, but if it is not forthcoming, authorized the agencies, after making a finding on the record, and giving opportunity for hearing, and after giving the appropriate legislative committees 30 days' notice, to cut off the federal program involved from the particular recipient or political entity involved.

Made any action cutting off assistance subject to judicial review.

Made clear that this section was not to be used to enforce equal employment practices, except where a primary purpose of the federal program is to provide employment.

Stated that nothing in this title added to or subtracted from any existing federal authority.

TITLE VII -- EQUAL EMPLOYMENT OPPORTUNITY

Outlawed the following employment practices if based on grounds of race, color, religion, sex or national origin:

- failure or refusal to hire or fire any person, or discrimination against him with respect to pay or terms and conditions of employment; or, in the case of an employment agency or hiring hall, failure or refusal to refer a worker;
- segregation, classification or any limitation of an employee in a way that would deprive him of equal employment opportunities;
- exclusion or expulsion from union membership;
- segregation, classification or limitation in union membership, or failure or refusal to refer for employment;
- a union's causing or attempting to cause an employer to discriminate against a worker;
- discrimination in any apprenticeship or training programs;
- discrimination against employees or applicants for employment because they have challenged employment practices outlawed by this section;
- printing or publishing any job notices indicating preferences because of race, color, religion, sex or national origin, unless these are bona fide job qualifications.

Coverage: HR 7152 provided a one-year delay before any employees would be covered by this section and full coverage would not be in effect for five years. In the second year after enactment, employers in industries affecting commerce with 100 or more employees for 20 weeks in a year, unions in industries affecting commerce with 100 or more members, union hiring halls and employment agencies would be covered. In the third year, industries and unions with 75 workers would be covered; in the fourth year, those with 50; and in the fifth year and thereafter, those with 25 workers.

Exemptions: Made the following exemptions from coverage:

- employers' alien workers outside the U.S.;
- employment by religious groups of individuals to carry out their religious activities;
- hiring for educational activities by educational institutions;
- hiring or classification on the grounds of religion, sex, or national origin where these are bona fide occupational qualifications;
- hiring by schools supported, controlled, or managed by a particular religion or persons of that religion;
- discrimination against Communists or members of Communist-front organizations (as determined by the federal Subversive Activities Control Board);
- preferential treatment for Indians living on or near reservations in enterprises on or near reservations;
- refusing to hire, or firing those who do not meet Government security requirements;

the United States Government, and state and local governments, government-owned corporations, Indian tribes and non-profit private membership clubs (fraternal organizations, social clubs, country clubs, etc.); however, the section stated that it shall be the policy of the U.S. to insure equal employment opportunities in federal employment.

Made it clear that this section did not outlaw seniority or merit systems, or the setting of different standards of compensation or terms of employment, or the giving of professionally developed ability tests, as long as such actions were not with intent to discriminate because of race, color, religion, sex or national origin.

Stated that this section was not to be used to require quotas in employment, unions, or training programs on the grounds of race, color, religion, sex or national origin.

EEOC: Created a five-member Equal Employment Opportunity Commission, with no more than three members of the same political party, and all members to be appointed by the President and confirmed by the Senate.

Required the Commission to report to Congress and the President at the end of each fiscal year.

Authorized the Commission to: work with state and local agencies, public and private; furnish technical assistance to those covered under this section, on request, to help them with compliance; assist in conciliation, on request; make technical studies; refer matters to the Attorney General for legal action, and advise and assist the Attorney General.

Enforcement: Authorized the Commission to investigate written charges of unlawful employment practices filed by an aggrieved individual or a member of the Commission, and to attempt to settle the problem by informal methods of conference, conciliation and persuasion.

Required that such proceedings remain confidential, and stipulated that an officer or employee of the EEOC who revealed any information would be guilty of a misdemeanor.

If the alleged act of discrimination took place in a state or local area with an equal employment law, covering the alleged unlawful practice, barred the filing of a charge with the EEOC until 60 days after the complaint was presented to the local agency (120 days in the first year of a state or local law).

Required that the individual must file his complaint with the EEOC within 90 days after the alleged unlawful practice took place, unless state or local agencies were handling the matter. In this case, he was given 210 days to bring the complaint (90 days plus the 120 days for local proceedings), or up to 30 days after receiving notice that the local agency's proceedings had terminated, whichever was earlier.

Gave the EEOC up to 60 days to seek voluntary compliance, and, if that failed, authorized the aggrieved individual to bring a civil suit.

Authorized the courts, at their discretion, to appoint an attorney for the complainant, and permit the Attorney General to intervene.

Allowed the courts, on request, to stay the proceedings for another 60 days if state or local proceedings were continuing, or the EEOC was still seeking voluntary compliance.

Permitted the suits to be brought in the judicial district where the alleged practice was committed, where

the relevant employment records were kept, or where the plaintiff would have worked but for the alleged practice. If the respondent was not to be found in any of these districts, suit could be filed in the district where he had his main office.

If the court found that the respondent had "intentionally" engaged in the unlawful act, the court was authorized to order cessation of the unlawful practice and to order reinstatement or hiring of employees, with or without back pay (payable by the employer, union or employment agency responsible for the practice).

Permitted the EEOC to commence legal proceedings if a court order was flouted.

Made these proceedings subject to appeal.

Authorized the courts to pay the attorney's fees of the prevailing party, other than the Government or the EEOC.

Authorized the Attorney General to file a civil suit whenever he had reasonable cause to believe that a person or group of persons was engaged in a pattern or practice of resistance to this title, with intent to deny the rights it guaranteed. (The Attorney General was not required to submit to the waiting periods prescribed for private suits.)

Authorized the Attorney General to request a three-judge court to hear these suits, if he certifies that the case is of general public importance; and required the courts to expedite the suits, whether or not a three-judge court is requested.

Miscellaneous: Gave the EEOC access to the evidence of any person being investigated or proceeded against that is relevant to the charge under investigation.

Authorized the EEOC to utilize the services of state and local agencies carrying out local employment practices laws, with their consent; and to enter into agreements with these agencies specifying types of cases under their jurisdiction that will not be processed or prosecuted by the EEOC or taken to court by individuals.

Required those covered by the title to keep records as prescribed by regulations of the EEOC, to be drawn up after public hearing; if the requirements caused an undue hardship, anyone covered could seek an exemption from the EEOC or sue in court. Those in states with fair employment practices laws were exempted from keeping additional records, to the extent that the state or local requirements paralleled the federal regulations. Also exempted were Government contractors already required to keep similar records.

Required employers, employment agencies and unions to post notices prepared or approved by the EEOC setting forth the provisions of this title.

Directed the Secretary of Labor to study factors which result in discrimination in employment because of age and of the effects of such discrimination on the economy and the individuals involved, and to report to Congress with recommendations by June 30, 1965.

Directed the President, as soon as feasible, to convene one or more conferences of labor and business leaders and representatives of state and local and interested Government agencies to prepare for wide understanding and effective administration of this title.

TITLE VIII -- REGISTRATION AND VOTING STATISTICS

Directed the Census Bureau to gather registration and voting statistics based on race, color and national

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origin in such areas and to the extent recommended by the Civil Rights Commission, both on primary and general elections to the U.S. House since Jan. 1, 1960.

Required such information on a nationwide scale in connection with the 1970 Census.

Made clear that persons could not be compelled to disclose race, color and national origin, or questioned about party affiliation or how they voted.

TITLE IX -- INTERVENTION AND REMOVAL OF CASES

Made reviewable in higher federal courts the action of federal district courts in remanding a civil rights case to state courts.

Authorized the Attorney General to intervene in private suits where persons have alleged denial of equal protection of the laws under the 14th Amendment and where he certifies that the case is of "general public importance."

TITLE X -- COMMUNITY RELATIONS SERVICE

Created a Community Relations Service in the Department of Commerce to aid communities in resolving disputes relating to discriminatory practices based on race, color or national origin.

Authorized the Service to offer its services either on its own accord or in response to a request from a state or local official or other interested person; directed the Service to seek the cooperation of other agencies and to carry out its conciliation activities without publicity.

Stipulated that the Service be headed by a director, to be appointed by the President and confirmed by the Senate for a four-year term; and authorized the director to appoint whatever staff was necessary.

Required the director to file a report with Congress by Jan. 31 of each year.

TITLE XI -- MISCELLANEOUS

Provided that in any criminal contempt case arising under the Act, except voting rights cases, defendants are entitled to a jury trial upon demand, with a limit on the sentences of six months in prison and a \$1,000 fine. (Voting rights cases were still covered by the 1957 jury trial provision that a judge may try a case without a jury, but in that instance the sentences would be limited to \$300 and 45 days in prison, and in any case to six months and \$1,000.)

Prohibited any one person from being subjected to both criminal prosecution and criminal contempt proceedings in federal courts for the same act or omission under the Act.

Provided that no one could be convicted for criminal contempt under the Act unless it is proved that the act or omission was intentional.

Provided that nothing in the law was to restrict existing powers of the Attorney General or the Government or any of its agencies to institute or intervene in any action or proceeding.

Stated that it was not the intent of this law to preempt or invalidate state laws in the same field, unless they were inconsistent with any of the purposes of the Act.

Authorized appropriation of whatever sums necessary to carry out the Act.