The Family and Medical Leave Act of 1993, referred to in par. (5), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6, as amended, which enacted sections 60m and 60n of Title 2, The Congress, sections 6381 to 6387 of Title 5, Government Organization and Employees, and chapter 28 (§ 2601 et seq.) of Title 29, amended section 2105 of Title 5, and enacted provisions set out as notes under section 2601 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

The Occupational Safety and Health Act of 1970, referred to in par. (6), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, as amended, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Employee Polygraph Protection Act of 1988, referred to in par. (8), is Pub. L. 100–347, June 27, 1988, 102 Stat. 646, as amended, which is classified generally to chapter 22 (§ 2001 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 29 and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in par. (9), is Pub. L. 100–379, Aug. 4, 1988, 102 Stat. 890, which is classified generally to chapter 23 (§ 2101 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in par. (10), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

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 INTIMIDATION

§ 411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990

(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964;

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967; or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 and sections 102 through 104 of the Americans with Disabilities Act of 1990.

(b) REMEDY.—

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

(A) such damages as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964; and

(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes, or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

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

(A) such damages as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967; and

(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act.

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

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

(A) such damages as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 or section 107(a) of the Americans with Disabilities Act of 1990; and

(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

(c) DEFINITIONS.—Except as otherwise specifically provided in this section, as used in this section:

(1) COVERED EMPLOYEE.—The term ''covered employee'' means any employee of a unit of the executive branch, including the Executive Office of the President, whether appointed by the President or by any other appointing authority in the executive branch, who is not otherwise entitled to bring an action under any of the statutes referred to in subsection (a), but does not include any individual—

(A) whose appointment is made by and with the advice and consent of the Senate;

(B) who is appointed to an advisory committee, as defined in section 3(2) of the Federal Advisory Committee Act; or

(C) who is a member of the uniformed services.

(2) EMPLOYING OFFICE.—The term ''employing office'', with respect to a covered employee, means the office, agency, or other entity in which the covered employee is employed (or sought employment or was employed in the case of an applicant or former employee, respectively).

(d) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement paragraphs (1) and (3) of subsection (a) and paragraphs (1) and (3) of subsection (b).

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the appropriate officer of an executive agency to implement the statutory provisions referred to in paragraphs (1) and (3) of subsection (a) and paragraphs (1) and (3) of subsection (b)—

(A) except to the extent that the President or designee may determine, for good cause shown and stated together with the regula-

tion, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of section 717 of the Civil Rights Act of 1964 or section 501 of the Rehabilitation Act of 1973 that applies to employees in the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in paragraph (1) or (3) of subsection (a) or paragraph (1) or (3) of subsection (b), if the issuance of such regulations—

(i) would be equally effective for the implementation of the rights and protections under this section; and

(ii) would promote uniformity in the application of Federal law to employees in the executive branch of the Federal Government.

(e) APPLICABILITY.—Subsections (a) through (c), and section 417 (to the extent that it relates to any matter under this section), shall apply with respect to violations occurring on or after the effective date of this chapter.

(f) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

(Added Pub. L. 104–331, §2(a), Oct. 26, 1996, 110 Stat. 4055.)

REFERENCES IN TEXT

Sections 703, 706, and 717 of the Civil Rights Act of 1964, referred to in subsecs. (a)(1), (b)(1)(A), and (d)(2)(B), are classified to sections 2000e–2, 2000e–5, and 2000e–16, respectively, of Title 42, The Public Health and Welfare.

Sections 7 and 15 of the Age Discrimination in Employment Act of 1967, referred to in subsecs. (a)(1) and (b)(2), are classified to sections 626 and 633a, respectively, of Title 29, Labor.

Sections 501 and 505 of the Rehabilitation Act of 1973, referred to in subsecs. (a)(3), (b)(3)(A), and (d)(2)(B), are classified to sections 791 and 794a, respectively, of Title 29.

Sections 102 to 104 and 107 of the Americans with Disabilities Act of 1990, referred to in subsecs. (a)(3) and (b)(3)(A), are classified to sections 12112 to 12114 and 12117, respectively, of Title 42, The Public Health and Welfare.

Sections 1977 and 1977A of the Revised Statutes, referred to in subsec. (b)(1)(B), (3)(B), are classified to sections 1981 and 1981a, respectively, of Title 42.

Section 3(2) of the Federal Advisory Committee Act, referred to in subsec. (c)(1)(B), is section 3(2) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

The effective date of this chapter, referred to in subsec. (e), is Oct. 1, 1997, unless otherwise provided, see section 471 of this title.

EFFECTIVE DATE

Subsec. (d) of this section effective Oct. 26, 1996, see section 471(b) of this title.

REGULATIONS

For provisions requiring that appropriate measures be taken to ensure that any regulations required to implement this section be in effect by Oct. 1, 1997, see section 2(b)(1) of Pub. L. 104–331, set out as a note under section 401 of this title.

§412. Rights and protections under the 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 shall apply to covered employees.

(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.

(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.

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The President, or the designee of the President, shall issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b)—

(A) except to the extent that the President or designee may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) except that the President or designee may, at the discretion of the President or designee, issue regulations to implement a provision of subchapter V of chapter 63 of title 5, United States Code, that applies to employees in the executive branch of the Federal Government in lieu of an analogous statutory provision referred to in subsection (a) or (b), if the issuance of such regulations—

(i) would be equally effective for the implementation of the rights and protections under this section; and

(ii) would promote uniformity in the application of Federal law to employees in the executive branch of the Federal Government.

(d) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on the earlier of—

(1) the effective date of regulations issued under subsection (c); or

(2) October 1, 1998.

(Added Pub. L. 104–331, §2(a), Oct. 26, 1996, 110 Stat. 4057.)

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993, referred to in subsecs. (a) and (b), is Pub. L. 103–3, Feb. 5, 1993, 107