

103D CONGRESS
1ST SESSION

S. 29

To fully apply the rights and protections of Federal law to employment
by Congress.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. MCCAIN introduced the following bill; which was read twice and referred
to the Committee on Governmental Affairs

A BILL

To fully apply the rights and protections of Federal law
to employment by Congress.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Omnibus Congres-
5 sional Compliance Act of 1993”.

6 **SEC. 2. COVERAGE OF CONGRESS.**

7 (a) CONGRESSIONAL EMPLOYMENT.—

8 (1) APPLICATION.—

9 (A) IN GENERAL.—The rights and protec-
10 tions provided pursuant to the provisions speci-

1 fied in subparagraph (B) shall apply with re-
2 spect to employment by Congress.

3 (B) PROVISIONS.—The provisions that
4 shall apply with respect to employment by Con-
5 gress shall be—

6 (i) the Civil Rights Act of 1964 (42
7 U.S.C. 2000a et seq.);

8 (ii) the Americans with Disabilities
9 Act of 1990 (42 U.S.C. 12101 et seq.);

10 (iii) the Age Discrimination in Em-
11 ployment Act of 1967 (29 U.S.C. 621 et
12 seq.);

13 (iv) the Rehabilitation Act of 1973
14 (29 U.S.C. 701 et seq.);

15 (v) section 1977 of the Revised Stat-
16 utes (42 U.S.C. 1981);

17 (vi) section 1977A of the Revised
18 Statutes (42 U.S.C. 1981a);

19 (vii) the National Labor Relations Act
20 (29 U.S.C. 151 et seq.);

21 (viii) the Fair Labor Standards Act of
22 1938 (29 U.S.C. 201 et seq.);

23 (ix) the Equal Pay Act of 1963 (29
24 U.S.C. 206); and

1 (x) the Occupational Safety and
2 Health Act of 1970 (29 U.S.C. 651 et
3 seq.).

4 (2) ENFORCEMENT BY ADMINISTRATIVE AC-
5 TION.—

6 (A) IN GENERAL.—

7 (i) RIGHT TO BRING ACTION.—Not-
8 withstanding any other provision of law,
9 and subject to the limitations contained in
10 this paragraph, a congressional employee
11 or any person, including a class or organi-
12 zation on behalf of a congressional em-
13 ployee, may bring an administrative action
14 to enforce a provision of law referred to in
15 paragraph (1) against the House of Rep-
16 resentatives or the Senate, as appropriate,
17 or the congressional employer of the em-
18 ployee, if a similarly situated complaining
19 party may bring such an action before an
20 Executive agency, as defined in section 105
21 of title 5, United States Code.

22 (ii) ENTITY.—Such an action may be
23 brought, as appropriate—

24 (I) in the case of an employee of
25 the House of Representatives, before a

1 hearing panel of the Office of Fair
2 Employment Practices of the House
3 of Representatives, the Committee on
4 House Administration of the House of
5 Representatives, or such other entity
6 as the House of Representatives may
7 designate;

8 (II) in the case of an employee of
9 the Senate, before a hearing panel of
10 the Office of Senate Fair Employment
11 Practices, the Select Committee on
12 Ethics of the Senate, or such other
13 entity as the Senate may designate; or

14 (III) in the case of an employee
15 of an instrumentality of the Congress,
16 before such hearing panel or other en-
17 tity as the instrumentality may des-
18 ignate.

19 (B) LIMITATIONS ON COMMENCEMENT OF
20 ADMINISTRATIVE ACTION.—Except as provided
21 in subparagraphs (D) and (E), an administra-
22 tive action commenced under this paragraph to
23 enforce a provision of law referred to in para-
24 graph (1) shall be commenced in accordance
25 with the limitations, exhaustion, and other pro-

1 cedural requirements of the law otherwise appli-
2 cable to a similarly situated complaining party
3 seeking to enforce the provision.

4 (C) ACTION.—Except as provided in sub-
5 paragraphs (D) and (E), in any administrative
6 action brought before a panel, committee, or en-
7 tity designated in subparagraph (A) to enforce
8 a provision of law referred to in paragraph (1),
9 the panel, committee, or entity may take such
10 action against the House of Representatives or
11 the Senate, as appropriate, or the congressional
12 employer as the agency could take in an action
13 brought by a similarly situated complaining
14 party.

15 (D) CIVIL RIGHTS VIOLATIONS.—

16 (i) HOUSE OF REPRESENTATIVES.—

17 The provisions of clauses 3, 5 through 8,
18 10 through 12, 14, and 15, of Rule LI of
19 the Rules of the House of Representatives
20 of the One Hundred Third Congress,
21 shall—

22 (I) apply with respect to an alle-
23 gation of a violation of a provision of
24 Federal law specified in any of clauses
25 (i) through (vi), of section 2(a)(1)(B),

1 with respect to employment by the
2 House of Representative of an em-
3 ployee of the House of Representa-
4 tives; and

5 (II) apply to such an allegation
6 in the same manner and to the same
7 extent as such sections of such rule
8 apply with respect to an allegation of
9 a violation under such rule.

10 (ii) SENATE.—The provisions of sec-
11 tions 304 through 308, 310 through 313,
12 and 316, of the Government Employee
13 Rights Act of 1991 (2 U.S.C. 1204–1208,
14 1210–1213, and 1215) shall—

15 (I) apply with respect to an alle-
16 gation of a violation of a provision of
17 Federal law specified in any of clauses
18 (i) through (vi) of section 2(a)(1)(B),
19 with respect to Senate employment of
20 a Senate employee; and

21 (II) apply to such an allegation
22 in the same manner and to the same
23 extent as such sections of the Govern-
24 ment Employee Rights Act of 1991

1 apply with respect to an allegation of
2 a violation under such Act.

3 (E) LABOR VIOLATIONS.—The provisions
4 of clauses 1, 3, 5 through 8, 10 through 12, 14,
5 and 15, of Rule LI of the Rules of the House
6 of Representatives of the One Hundred Third
7 Congress, shall—

8 (i) apply with respect to an allegation
9 of a violation of a provision of Federal law
10 specified in section 2(a)(1)(B)(viii), with
11 respect to employment by the House of
12 Representative of an employee of the
13 House of Representatives; and

14 (ii) apply to such an allegation in the
15 same manner and to the same extent as
16 such clauses of such rule apply with re-
17 spect to an allegation of a violation under
18 such rule.

19 (3) ENFORCEMENT BY CIVIL ACTION.—

20 (A) CIVIL RIGHTS VIOLATIONS.—

21 (i) IN GENERAL.—Within 30 days of
22 receipt of the decision or order of a hear-
23 ing panel described in section
24 2(a)(2)(A)(ii), or of a committee, instru-
25 mentality, or entity described in such sec-

1 tion on an appeal from such a decision or
2 order, on a complaint of a violation of a
3 provision of Federal law specified in any of
4 clauses (i) through (vi) of section
5 2(a)(1)(B) brought pursuant to this Act,
6 or after 180 days from the filing of such
7 a complaint with an Office or instrumen-
8 tality described in section 2(a)(2)(A)(ii) or
9 the notice of appeal with a committee, in-
10 strumentality, or entity described in such
11 section on an appeal from a decision or
12 order of such hearing panel until such time
13 as final action may be taken by the hear-
14 ing panel, instrumentality, committee, or
15 entity, a congressional employee, if ag-
16 grieved by the final disposition of the com-
17 plaint of the employee, or by the failure to
18 take final action on the complaint, may file
19 a civil action as provided in section 706 of
20 the Civil Rights Act of 1964 (42 U.S.C.
21 2000e-5), in which civil action the Senate,
22 the House of Representatives, or the con-
23 gressional employer of the employee shall
24 be the defendant.

1 (ii) PROCEDURES.—The provisions of
2 paragraphs (3) through (5) of subsection
3 (f), and subsections (g) through (k), of sec-
4 tion 706 of the Civil Rights Act of 1964
5 (42 U.S.C. 2000e–5 (f) (3)–(5), and (g)–
6 (k)), as applicable, shall govern civil ac-
7 tions brought to enforce a provision of
8 Federal law specified in any of clauses (i)
9 through (vi) of section 2(a)(1)(B). The
10 remedies and right to a jury trial made
11 available to complaining parties under sec-
12 tion 1977 of the Revised Statutes (42
13 U.S.C. 1981a) shall be equally available to
14 any congressional employee bringing such
15 a civil action.

16 (iii) PUNITIVE DAMAGES.—Notwith-
17 standing any other provision of Federal
18 law, in such a civil action a congressional
19 employee may be awarded punitive dam-
20 ages on the same terms and conditions as
21 such damages may be awarded to an ag-
22 grieved individual who is a nongovern-
23 mental complaining party.

24 (B) OTHER VIOLATIONS.—

1 (i) IN GENERAL.—Notwithstanding
2 any other provision of law, and subject to
3 the limitations contained in this subpara-
4 graph, a congressional employee or any
5 person, including a class or organization
6 on behalf of a congressional employee, may
7 bring a civil action to enforce a provision
8 of Federal law specified in any of clauses
9 (vii) through (x) of section 2(a)(1)(B) in a
10 court specified in clause (iii) against the
11 House of Representatives or Senate, as ap-
12 propriate, or the congressional employer of
13 the employee, if a similarly situated com-
14 plaining party may bring such an action.

15 (ii) LIMITATIONS ON COMMENCEMENT
16 OF CIVIL ACTION.—A civil action com-
17 menced under this subparagraph to enforce
18 such a provision of Federal law shall be
19 commenced in accordance with the limita-
20 tions, exhaustion, and other procedural re-
21 quirements of the law otherwise applicable
22 to a similarly situated complaining party
23 seeking to enforce the provision.

24 (iii) VENUE.—An action may be
25 brought under this subparagraph to en-

1 force such a provision of Federal law in
2 any court of competent jurisdiction in
3 which a similarly situated complaining
4 party may otherwise bring an action to en-
5 force the provision.

6 (iv) RELIEF.—In any civil action
7 brought under this subparagraph to en-
8 force such a provision of Federal law, the
9 court—

10 (I) may grant as relief against
11 the House of Representatives or the
12 Senate, as appropriate, or the con-
13 gressional employer any equitable re-
14 lief otherwise available to a similarly
15 situated complaining party bringing
16 an action to enforce the provision;

17 (II) may grant as relief against
18 the House of Representatives or the
19 Senate, as appropriate, or the con-
20 gressional employer any damages that
21 would otherwise be available to such a
22 complaining party; and

23 (III) shall allow such fees and
24 costs as would be allowed in such an
25 action.

1 (4) PAYMENTS BY THE PRESIDENT OR A MEM-
2 BER.—The President, a Member of the House of
3 Representatives, or a Member of the Senate shall re-
4 imburse the appropriate Federal account for any
5 payment made on the behalf of the President or
6 Member out of such account for a violation of a pro-
7 vision of Federal law specified in section 2(a)(1)(B)
8 by the President or Member, not later than 60 days
9 after the payment is made.

10 (b) CONDUCT REGARDING MATTERS OTHER THAN
11 EMPLOYMENT.—

12 (1) APPLICATION.—In accordance with section
13 509(a)(2) of the Americans with Disabilities Act of
14 1990 (42 U.S.C. 12209(a)(2)) the rights and protec-
15 tions provided pursuant to such Act shall apply with
16 respect to the conduct of Congress regarding mat-
17 ters other than employment.

18 (2) ENFORCEMENT.—Notwithstanding any
19 other provision of law, any person may bring an ad-
20 ministrative action described in subsection (a)(2) in
21 accordance with subparagraphs (A), (B), and (C) of
22 such subsection, or a civil action described in sub-
23 section (a)(3)(B) in accordance with such sub-
24 section, against the House of Representatives or the

1 Senate, as appropriate, or a congressional employer,
2 to enforce paragraph (1).

3 (c) INFORMATION.—

4 (1) APPLICATION.—The rights and protections
5 provided pursuant to section 552 of title 5, United
6 States Code (commonly known as the “Freedom of
7 Information Act”) and section 552a of title 5, Unit-
8 ed States Code (commonly known as the “Privacy
9 Act of 1974”) shall apply with respect to informa-
10 tion in the possession of the Congress.

11 (2) ENFORCEMENT.—Notwithstanding any
12 other provision of law, any person may bring an ad-
13 ministrative action described in subsection (a)(2) in
14 accordance with subparagraphs (A), (B), and (C) of
15 such subsection, or a civil action described in sub-
16 section (a)(3)(B) in accordance with such sub-
17 section, against the House of Representatives or the
18 Senate, as appropriate, or the congressional em-
19 ployer in possession of the information, to enforce
20 paragraph (1).

21 (d) ETHICS IN GOVERNMENT.—

22 (1) APPLICATION.—The rights and protections
23 provided pursuant to chapter 40 of title 28, United
24 States Code (commonly known as title VI of the
25 Ethics in Government Act of 1978) shall apply with

1 respect to investigation of congressional impropri-
2 eties.

3 (2) ENFORCEMENT.—Notwithstanding any
4 other provision of law, any person may bring a civil
5 action described in subsection (a)(3)(B) in accord-
6 ance with such subsection against any party with a
7 duty under chapter 40 of title 28, to enforce para-
8 graph (1).

9 (e) PRESIDENTIAL APPOINTEES.—

10 (1) APPLICATION.—The rights and protections
11 provided pursuant to the provisions described in sub-
12 sections (a)(1), (b)(1), (c)(1), and (d)(1), shall apply
13 with respect to employment of Presidential ap-
14 pointees.

15 (2) ENFORCEMENT.—Notwithstanding any
16 other provision of law, a Presidential appointee or
17 any person, including a class or organization on be-
18 half of a Presidential appointee, may bring an ad-
19 ministrative action before an Executive agency in ac-
20 cordance with subparagraphs (A)(i), (B), and (C) of
21 subsection (a)(2), or a civil action described in sub-
22 section (a)(3)(B) in accordance with such sub-
23 section, against the United States to enforce para-
24 graph (1), if a similarly situated complaining party
25 may bring such an administrative or civil action.

1 (f) OTHER ENFORCEMENT.—Notwithstanding any
2 other provision of law, no congressional employee or Presi-
3 dential appointee may commence a proceeding or action
4 to enforce a provision of Federal law specified in sub-
5 section (a)(1), (b)(1), (c)(1), or (d)(1), except as provided
6 in this section.

7 (g) ADMINISTRATION.—

8 (1) SENATE.—The Committee on Rules and
9 Administration of the Senate shall issue such re-
10 quirements as the Committee may determine to be
11 appropriate to effectuate the application of the
12 rights, protections, and requirements described in
13 subsections (a) through (d) to the Senate.

14 (2) HOUSE OF REPRESENTATIVES.—The Com-
15 mittee on House Administration of the House of
16 Representatives shall issue such requirements as the
17 Committee may determine to be appropriate to effec-
18 tuate the application of the rights, protections, and
19 requirements described in subsections (a) through
20 (d) to the House of Representatives.

21 (3) INSTRUMENTALITIES.—Each congressional
22 employer described in subsection (i)(1)(C) shall issue
23 such requirements as the Committee may determine
24 to be appropriate to effectuate the application of the
25 rights, protections, and requirements described in

1 subsections (a) through (d) to the employees of the
2 employer.

3 (h) ALTERNATIVE MEANS OF DISPUTE RESOLU-
4 TION.—Where appropriate and to the extent authorized
5 by law, the use of alternative means of dispute resolution,
6 including settlement negotiations, conciliation, facilitation,
7 meditation, mediation, factfinding, minitrials, and arbitra-
8 tion, is encouraged to resolve complaints arising under a
9 provision of Federal law specified in subsection (a)(1),
10 (b)(1), (c)(1), or (d)(1).

11 (i) DEFINITIONS.—As used in this section:

12 (1) CONGRESSIONAL EMPLOYER.—The term
13 “congressional employer” means—

14 (A) a supervisor, as described in paragraph
15 12 of rule XXXVII of the Standing Rules of
16 the Senate;

17 (B)(i) a Member of the House of Rep-
18 resentatives, with respect to the administrative,
19 clerical, or other assistants of the Member;

20 (ii)(I) a Member who is the chairman of a
21 committee, with respect, except as provided in
22 subclause (II), to the professional, clerical, or
23 other assistants to the committee; and

1 (II) the ranking minority Member on a
2 committee, with respect to the minority staff
3 members of the committee;

4 (iii)(I) a Member who is a chairman of a
5 subcommittee which has its own staff and fi-
6 nancial authorization, with respect, except as
7 provided in subclause (II), to the professional,
8 clerical, or other assistants to the subcommit-
9 tee; and

10 (II) the ranking minority Member on the
11 subcommittee, with respect to the minority staff
12 members of the committee;

13 (iv) the Majority and Minority Leaders
14 and the Majority and Minority Whips, with re-
15 spect to the research, clerical, or other assist-
16 ants assigned to their respective offices; and

17 (v) the other officers of the House of Rep-
18 resentatives, with respect to the employees of
19 the officers; and

20 (C)(i) the Architect of the Capitol, with re-
21 spect to the employees of the Architect of the
22 Capitol;

23 (ii) the Director of the Congressional
24 Budget Office, with respect to the employees of
25 the Office;

1 (iii) the Comptroller General, with respect
2 to the employees of the General Accounting Of-
3 fice;

4 (iv) the Public Printer, with respect to the
5 employees of the Government Printing Office;

6 (v) the Librarian of Congress, with respect
7 to the employees of the Library of Congress;

8 (vi) the Director of the Office of Tech-
9 nology Assessment, with respect to the employ-
10 ees of the Office; and

11 (vii) the Director of the United States Bo-
12 tanic Garden, with respect to the employees of
13 the United States Botanic Garden.

14 (2) CONGRESSIONAL EMPLOYEE.—The term
15 “congressional employee” means an employee who is
16 employed by, or an applicant for employment with,
17 a congressional employer.

18 (3) INSTRUMENTALITY.—The term “instrumen-
19 tality” includes the Office of the Architect of the
20 Capitol, the Congressional Budget Office, the Gen-
21 eral Accounting Office, the Government Printing Of-
22 fice, the Library of Congress, the Office of Tech-
23 nology Assessment, and the United States Botanic
24 Garden.

1 (4) PRESIDENTIAL APPOINTEE.—The term
2 “Presidential appointee” means an employee, or an
3 applicant seeking to become an employee—

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

6 (B) whose position has been determined to
7 be of a confidential, policy-determining, policy-
8 making, or policy-advocating character by—

9 (i) the President for a position that
10 the President has excepted from the com-
11 petitive service;

12 (ii) the Office of Personnel Manage-
13 ment for a position that the Office has ex-
14 cepted from the competitive service; or

15 (iii) the President or head of an agen-
16 cy for a position excepted from the com-
17 petitive service by statute.

18 (5) SIMILARLY SITUATED COMPLAINING
19 PARTY.—The term “similarly situated complaining
20 party” means—

21 (A) in the case of a party seeking to en-
22 force a provision with a separate enforcement
23 mechanism for governmental complaining par-
24 ties, a governmental complaining party; or

1 (B) in the case of a party seeking to en-
2 force a provision with no such separate mecha-
3 nism, a nongovernmental complaining party.

4 (j) EFFECTIVE DATE.—This section shall take effect
5 120 days after the date of the enactment of this Act.

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