

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 366

To amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 7 (legislative day, JANUARY 30), 1995

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

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 “Civil Rights Proce-  
5       dures Protection Act of 1995”.

1 **SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS**  
2 **ACT OF 1964.**

3 Title VII of the Civil Rights Act of 1964 (42 U.S.C.  
4 2000e et seq.) is amended by adding at the end the follow-  
5 ing new section:

6 “EXCLUSIVITY OF POWERS AND PROCEDURES

7 “SEC. 719. Notwithstanding any Federal statute of  
8 general applicability that would modify any of the powers  
9 and procedures expressly applicable to a claim arising  
10 under this title, such powers and procedures shall be the  
11 exclusive powers and procedures applicable to such claim  
12 unless after such claim arises the claimant voluntarily en-  
13 ters into an agreement to resolve such claim through arbi-  
14 tration or another procedure.”.

15 **SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EM-**  
16 **PLOYMENT ACT OF 1967.**

17 The Age Discrimination in Employment Act of 1967  
18 (29 U.S.C. 621 et seq.) is amended—

19 (1) by redesignating sections 16 and 17 as sec-  
20 tions 17 and 18, respectively; and

21 (2) by inserting after section 15 the following  
22 new section 16:

23 “EXCLUSIVITY OF POWERS AND PROCEDURES

24 “SEC. 16. Notwithstanding any Federal statute of  
25 general applicability that would modify any of the powers  
26 and procedures expressly applicable to a right or claim

1 arising under this Act, such powers and procedures shall  
2 be the exclusive powers and procedures applicable to such  
3 right or such claim unless after such right or such claim  
4 arises the claimant voluntarily enters into an agreement  
5 to resolve such right or such claim through arbitration or  
6 another procedure.”.

7 **SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF**  
8 **1973.**

9 Section 505 of the Rehabilitation Act of 1973 (29  
10 U.S.C. 795) is amended by adding at the end the following  
11 new subsection:

12 “(c) Notwithstanding any Federal statute of general  
13 applicability that would modify any of the procedures ex-  
14 pressly applicable to a claim based on right under section  
15 501, such procedures shall be the exclusive procedures ap-  
16 plicable to such claim unless after such claim arises the  
17 claimant voluntarily enters into an agreement to resolve  
18 such claim through arbitration or another procedure.”.

19 **SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABIL-**  
20 **ITIES ACT OF 1990.**

21 Section 107 of the Americans with Disabilities Act  
22 of 1990 (42 U.S.C. 12117) is amended by adding at the  
23 end the following new subsection:

24 “(c) Notwithstanding any Federal statute of general  
25 applicability that would modify any of the powers and pro-

1 cedures expressly applicable to a claim based on a violation  
2 described in subsection (a), such powers and procedures  
3 shall be the exclusive powers and procedures applicable to  
4 such claim unless after such claim arises the claimant vol-  
5 untarily enters into an agreement to resolve such claim  
6 through arbitration or another procedure.”.

7 **SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED**  
8 **STATUTES OF THE UNITED STATES.**

9 Section 1977 of the Revised Statutes (42 U.S.C.  
10 1981) is amended by adding at the end the following new  
11 subsection:

12 “(d) Notwithstanding any Federal statute of general  
13 applicability that would modify any of the procedures ex-  
14 pressly applicable to a right to make and enforce a con-  
15 tract of employment under this section, such procedures  
16 shall be the exclusive procedures applicable to a claim  
17 based on such right unless after such claim arises the  
18 claimant voluntarily enters into an agreement to resolve  
19 such claim through arbitration or another procedure.”.

20 **SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT**  
21 **UNDER THE FAIR LABOR STANDARDS ACT OF**  
22 **1938.**

23 Section 6(d) of the Fair Labor Standards Act of  
24 1938 (29 U.S.C. 206(d)) is amended by adding at the end  
25 the following new paragraph:

1       “(5) Notwithstanding any Federal statute of general  
2 applicability that would modify any of the powers or proce-  
3 dures expressly applicable to a claim based on violation  
4 of this subsection, such powers and procedures shall be  
5 the exclusive procedures applicable to such claim unless  
6 after such claim arises the claimant voluntarily enters into  
7 an agreement to resolve such claim through arbitration or  
8 another procedure.”.

9       **SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE**  
10                                   **ACT OF 1993.**

11       Title IV of the Family and Medical Leave Act of  
12 1993 (29 U.S.C. 2601 et seq.) is amended by adding at  
13 the end the following new section:

14       **“SEC. 406. EXCLUSIVITY OF REMEDIES.**

15       “Notwithstanding any Federal statute of general ap-  
16 plicability that would modify any of the procedures ex-  
17 pressly applicable to a claim based on a right provided  
18 under this Act or under an amendment made by this Act,  
19 such procedures shall be the exclusive procedures applica-  
20 ble to such claim unless after such claim arises the claim-  
21 ant voluntarily enters into an agreement to resolve such  
22 claim through arbitration or another procedure.”.

1 **SEC. 9. AMENDMENT TO TITLE 9 OF THE UNITED STATES**

2 **CODE.**

3 Section 14 of title 9, United States Code, is amend-  
4 ed—

5 (1) by inserting “(a)” before “This”; and

6 (2) by adding at the end the following new sub-  
7 section:

8 “(b) This chapter shall not apply with respect to a  
9 claim of unlawful discrimination in employment if such  
10 claim arises from discrimination based on race, color, reli-  
11 gion, sex, national origin, age, or disability.”.

12 **SEC. 10. APPLICATION OF AMENDMENTS.**

13 The amendments made by this Act shall apply with  
14 respect to claims arising on and after the date of the en-  
15 actment of this Act.

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