

111TH CONGRESS
1ST SESSION

S. 166

To amend title VII of the Civil Rights Act of 1964 to clarify the filing period applicable to charges of discrimination, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2009

Mrs. HUTCHISON (for herself, Mr. CORNYN, Mr. BURR, Mr. ALEXANDER, Mr. ENZI, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title VII of the Civil Rights Act of 1964 to clarify the filing period applicable to charges of discrimination, 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 “Title VII Fairness
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Filing limitations periods serve important
9 functions. They ensure that all claims are promptly

1 raised and investigated, and, when remediation is
2 warranted, that the violations involved are promptly
3 remediated.

4 (2) Limitations periods are particularly impor-
5 tant in employment situations, where unresolved
6 grievances have a singularly corrosive and disruptive
7 effect.

8 (3) Limitations periods are also particularly im-
9 portant for a statutory process that favors the vol-
10 untary resolution of claims through mediation and
11 conciliation. Promptly raised issues are invariably
12 more susceptible to such forms of voluntary resolu-
13 tion.

14 (4) In instances in which that voluntary resolu-
15 tion is not possible, a limitations period ensures that
16 claims will be adjudicated on the basis of evidence
17 that is available, reliable, and from a date that is
18 proximate in time to the adjudication.

19 (5) Limitations periods, however, should not be
20 construed to foreclose the filing of a claim by a rea-
21 sonable person who exercises due diligence regarding
22 the person's rights but who did not have, and should
23 not have been expected to have, a reasonable sus-
24 picion that the person was the object of unlawful
25 discrimination. Such a person should be afforded the

1 full applicable limitation period to commence a claim
 2 from the time the person has, or should be expected
 3 to have, a reasonable suspicion of discrimination.

4 **SEC. 3. FILING PERIOD FOR CHARGES ALLEGING UNLAW-**
 5 **FUL EMPLOYMENT PRACTICES.**

6 Section 706(e) of the Civil Rights Act of 1964 (42
 7 U.S.C. 2000e–5(e)) is amended by adding at the end the
 8 following:

9 “(3)(A) This paragraph shall apply to a charge if—

10 “(i) the charge alleges an unlawful employment
 11 practice involving discrimination in violation of this
 12 title; and

13 “(ii) the person aggrieved demonstrates that
 14 the person did not have, and should not have been
 15 expected to have, enough information to support a
 16 reasonable suspicion of such discrimination, on the
 17 date on which the alleged unlawful employment
 18 practice occurred.

19 “(B) In the case of such a charge, the applicable 180-
 20 day or 300-day filing period described in paragraph (1)
 21 shall commence on the date when the person aggrieved
 22 has, or should be expected to have, enough information
 23 to support a reasonable suspicion of such discrimination.

24 “(C) Nothing in this paragraph shall be construed to
 25 change or modify the provisions of subsection (g)(1).

1 “(D) Nothing in this paragraph shall be construed
 2 to apply to a charge alleging an unlawful employment
 3 practice relating to the provision of a pension or a pension
 4 benefit.”.

5 **SEC. 4. FILING PERIOD FOR CHARGES ALLEGING UNLAW-**
 6 **FUL PRACTICES BASED ON AGE.**

7 Section 7(d) of the Age Discrimination in Employ-
 8 ment Act of 1967 (29 U.S.C. 626(d)) is amended—

9 (1) by redesignating paragraphs (1) and (2) as
 10 subparagraphs (A) and (B), respectively;

11 (2) by striking “(d)” and inserting “(d)(1)”;

12 (3) in the third sentence, by striking “Upon”
 13 and inserting the following:

14 “(2) Upon”; and

15 (4) by adding at the end the following:

16 “(3)(A) This paragraph shall apply to a charge if—

17 “(i) the charge alleges an unlawful practice in-
 18 volving discrimination in violation of this Act; and

19 “(ii) the person aggrieved demonstrates that
 20 the person did not have, and should not have been
 21 expected to have, enough information to support a
 22 reasonable suspicion of such discrimination, on the
 23 date on which the alleged unlawful practice occurred.

24 “(B) In the case of such a charge, the applicable 180-
 25 day or 300-day filing period described in paragraph (1)

1 shall commence on the date when the person aggrieved
 2 has, or should be expected to have, enough information
 3 to support a reasonable suspicion of such discrimination.

4 “(C) Nothing in this paragraph shall be construed to
 5 change or modify any remedial provision of this Act.

6 “(D) Nothing in this paragraph shall be construed
 7 to apply to a charge alleging an unlawful practice relating
 8 to the provision of a pension or a pension benefit.”.

9 **SEC. 5. APPLICATION TO OTHER LAWS.**

10 (a) AMERICANS WITH DISABILITIES ACT OF 1990.—
 11 Section 706(e)(3) of the Civil Rights Act of 1964 (42
 12 U.S.C. 2000e–5(e)(3)) shall apply (in the same manner
 13 as such section applies to a charge described in subpara-
 14 graph (A)(i) of such section) to claims of discrimination
 15 brought under title I and section 503 of the Americans
 16 with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.,
 17 12203), pursuant to section 107(a) of such Act (42 U.S.C.
 18 12117(a)), which adopts the powers, remedies, and proce-
 19 dures set forth in section 706 of the Civil Rights Act of
 20 1964 (42 U.S.C. 2000e–5).

21 (b) CONFORMING AMENDMENTS.—

22 (1) CIVIL RIGHTS ACT OF 1964.—Section 717 of
 23 the Civil Rights Act of 1964 (42 U.S.C. 2000e–16)
 24 is amended by adding at the end the following:

1 “(f)(1) Subject to paragraph (2), section 706(e)(3)
 2 shall apply (in the same manner as such section applies
 3 to a charge described in subparagraph (A)(i) of such sec-
 4 tion) to complaints of discrimination under this section.

5 “(2) For purposes of applying section 706(e)(3) to
 6 a complaint under this section, a reference in section
 7 706(e)(3)(B) to a filing period shall be considered to be
 8 a reference to the applicable filing period under this sec-
 9 tion.”.

10 (2) AGE DISCRIMINATION IN EMPLOYMENT ACT
 11 OF 1967.—

12 (A) IN GENERAL.—Section 15(f) of the
 13 Age Discrimination in Employment Act of 1967
 14 (29 U.S.C. 633a(f)) is amended by striking “of
 15 section” and inserting “of sections 7(d)(3)
 16 and”.

17 (B) APPLICATION.—For purposes of apply-
 18 ing section 7(d)(3) of the Age Discrimination in
 19 Employment Act of 1967 (29 U.S.C. 626(d)(3))
 20 to a complaint under section 15 of that Act (29
 21 U.S.C. 633a), a reference in section 7(d)(3)(B)
 22 of that Act to a filing period shall be considered
 23 to be a reference to the applicable filing period
 24 under section 15 of that Act.

○