

right to prosper through hard work and ingenuity. However, for many Americans, those rights still remain illusory. Today, we introduce a comprehensive bill to vindicate our founding principles and make the promise of equal opportunity in the workplace a reality for all Americans.

I am proud to cosponsor the Civil Rights Act of 2008, and I thank Senator TED KENNEDY for his leadership in the Senate on this issue, and Representative JOHN LEWIS for his leadership in the House. I have been a long-time supporter of efforts to rid the workplace of unlawful discrimination, and I believe the Civil Rights Act of 2008 is critical to achieving that important goal. We must continue to fight to end all workplace discrimination, including discrimination based on sexual orientation.

This legislation we are introducing today responds to several disappointing decisions by conservative courts. These court rulings have misconstrued congressional intent, and have had the effect of limiting important civil rights protections provided by Congress.

A 2000 decision from the Supreme Court of the United States greatly restricted the capacity of workers who suffer age discrimination to sue for full relief. In *Kimel v. Florida Board of Regents*, the Supreme Court ruled that, contrary to Congress's original intent, State employers do not have to provide back pay or other monetary damages when workers are discriminated against based on age. As a result, millions of State workers who are 40 or over lost the right to back pay. This bill would restore Congress's original intent that State employers give workers full relief for age discrimination, including back pay.

The bill would clarify the standard for challenging employment practices that have an unjustified discriminatory impact on older workers. It would make clear that the standard of proof in cases alleging a disparate impact based on age is the same as in cases alleging a disparate impact based on race, color, gender, national origin, or religion.

The bill would also restore the rights of victims of discrimination—in the workplace or otherwise—to challenge practices that have a disparate impact on certain communities based on race, national origin, sex, age, or disability. Since the Supreme Court's decision 7 years ago in *Alexander v. Sandoval*, individuals can no longer challenge discrimination by entities that receive Federal funding without facing the high burden of proving purposeful discrimination.

Currently, only the Federal Government has the right to challenge sophisticated forms of discrimination—by federally funded entities—that fall disproportionately on certain minority groups. So if a State decided to administer a driver's license exam only in English, rather than administering the exam in multiple languages, a non-

English speaker would be denied his or her right to have their day in court. This measure returns the Federal law to our original intentions by allowing individuals a right to challenge such practices:

These added protections provide a significant step forward in the fulfillment of our goal to eliminate the footprint of unlawful discrimination from the workplace and broader society. Civil rights legislation over the last 44 years—including antidiscrimination in the workplace laws—represents some of Congress's greatest achievements. With the passage of the Civil Rights Acts of 1964 and 1991, the Age Discrimination Act of 1975, and the Rehabilitation Act of 1973, Congress gave victims of discrimination a way to address the wrongs that they have suffered and put teeth into the sanctions faced by those who unlawfully discriminate against their victims.

Despite these gains, efforts to eliminate bias from the workplace and larger society have been largely eroded by decisions from conservative jurists on the Supreme Court and other Federal courts. Year after year, conservative courts have rolled back rights by denying certain types of relief and taking certain tools—designed to fight intentional and sophisticated forms of workplace discrimination—from individual workers. This bill would reverse that rollback, and restore the rights of victims to have their day in court and to have meaningful remedies when those rights are violated.

Discrimination on the basis of certain personal characteristics has no place in any workplace or in any State in America. It is long overdue for Congress to reinforce Americans' protections against bias in the workplace and eradicate barriers to full and equal participation in our society.

The time for this bill is now. It is particularly important that, on the week our Nation observes and honors the legacy of Dr. Martin Luther King, Jr., Congress has introduced this bill. We must remain vigilant in ensuring our precious civil rights, which generations of Americans fought and bled to protect, remain available for our children and grandchildren.

By Mr. REID:

S. 2556. A bill to extend the provisions of the Protect America Act of 2007 for an additional 30 days; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF THE PROTECT AMERICA ACT OF 2007.

Subsection (c) of section 6 of the Protect America Act of 2007 (Public Law 110-55; 121 Stat. 557; 50 U.S.C. 1803 note) is amended by striking "180" and inserting "210".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 425—MAKING PARTY APPOINTMENTS FOR THE 110TH CONGRESS

Mr. McCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 425

Resolved, That the following be the minority membership on the following committees for the remainder of the 110th Congress, or until their successors are appointed:

Committee on Armed Services: Mr. McCain, Mr. Warner, Mr. Inhofe, Mr. Sessions, Ms. Collins, Mr. Chambliss, Mr. Graham, Mrs. Dole, Mr. Cornyn, Mr. Thune, Mr. Martinez, Mr. Wicker.

Committee on Banking, Housing, and Urban Affairs: Mr. Shelby, Mr. Bennett, Mr. Allard, Mr. Enzi, Mr. Hagel, Mr. Bunning, Mr. Crapo, Mrs. Dole, Mr. Martinez, Mr. Corker.

Committee on Commerce, Science, and Transportation: Mr. Stevens, Mr. McCain, Mrs. Hutchison, Ms. Snowe, Mr. Smith, Mr. Ensign, Mr. Sununu, Mr. DeMint, Mr. Vitter, Mr. Thune, Mr. Wicker.

Committee on Finance: Mr. Grassley, Mr. Hatch, Ms. Snowe, Mr. Kyl, Mr. Smith, Mr. Bunning, Mr. Crapo, Mr. Roberts, Mr. Ensign, Mr. Sununu.

Committee on Rules and Administration: Mr. Bennett, Mr. Stevens, Mr. McConnell, Mr. Cochran, Mr. Chambliss, Mrs. Hutchison, Mr. Hagel, Mr. Alexander, Mr. Ensign.

Committee on Veterans' Affairs: Mr. Burr, Mr. Specter, Mr. Craig, Mr. Isakson, Mr. Graham, Mrs. Hutchison, Mr. Wicker.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3907. Mr. DODD (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. KENNEDY, Mr. HARKIN, Mr. WYDEN, Mr. SANDERS, Mr. OBAMA, Mrs. CLINTON, Mr. BIDEN, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table.

SA 3908. Mr. WHITEHOUSE (for himself, Mr. ROCKEFELLER, Mr. LEAHY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3909. Mr. FEINGOLD (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra.

SA 3910. Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. WYDEN, Mr. HAGEL, Mr. MENENDEZ, Ms. SNOWE, and Mr. SPECTER) submitted an amendment intended to be proposed by her to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3911. Mr. ROCKEFELLER (for himself and Mr. BOND) proposed an amendment to the bill S. 2248, supra.

SA 3912. Mr. FEINGOLD (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3913. Mr. FEINGOLD (for himself, Mr. MENENDEZ, and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill

S. 2248, supra; which was ordered to lie on the table.

SA 3914. Mr. FEINGOLD (for himself, Mr. MENENDEZ, and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3915. Mr. FEINGOLD (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3916. Mr. BOND proposed an amendment to amendment SA 3909 submitted by Mr. FEINGOLD (for himself and Mr. DODD) to the amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, supra.

SA 3917. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2248, supra; which was ordered to lie on the table.

SA 3918. Mr. REID proposed an amendment to the bill S. 2248, supra.

TEXT OF AMENDMENTS

SA 3907. Mr. DODD (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. KENNEDY, Mr. HARKIN, Mr. WYDEN, Mr. SANDERS, Mr. OBAMA, Mrs. CLINTON, Mr. BIDEN, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike title II.

SA 3908. Mr. WHITEHOUSE (for himself, Mr. ROCKEFELLER, Mr. LEAHY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

“(7) COMPLIANCE REVIEWS.—During the period that minimization procedures approved under paragraph (5)(A) are in effect, the Court may review and assess compliance with such procedures and shall have access to the assessments and reviews required by subsections (k)(1), (k)(2), and (k)(3) with respect to compliance with such procedures. In conducting a review under this paragraph, the Court may, to the extent necessary, require the Government to provide additional information regarding the acquisition, retention, or dissemination of information concerning United States persons during the course of an acquisition authorized under subsection (a). The Court may fashion remedies it determines necessary to enforce compliance.

SA 3909. Mr. FEINGOLD (for himself and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 3911 proposed by Mr. ROCKEFELLER (for himself and Mr. BOND) to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline

the provisions of that Act, and for other purposes; as follows:

Strike subsection (b) of section 103, and insert the following:

(b) REPORTS BY ATTORNEY GENERAL ON CERTAIN OTHER ORDERS.—Such section 601 is further amended by adding at the end the following new subsection:

“(c) SUBMISSIONS TO CONGRESS.—The Attorney General shall submit to the committees of Congress referred to in subsection (a)—

“(1) a copy of any decision, order, or opinion issued by the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review that includes significant construction or interpretation of any provision of this Act, and any pleadings associated with such decision, order, or opinion, not later than 45 days after such decision, order, or opinion is issued; and

“(2) a copy of any such decision, order, or opinion, and the pleadings associated with such decision, order, or opinion, that was issued during the 5-year period ending on the date of the enactment of the FISA Amendments Act of 2008 and not previously submitted in a report under subsection (a).”.

SA 3910. Mrs. FEINSTEIN (for herself, Mr. ROCKEFELLER, Mr. LEAHY, Mr. NELSON of Florida, Mr. WHITEHOUSE, Mr. WYDEN, Mr. HAGEL, Mr. MENENDEZ, Ms. SNOWE, and Mr. SPECTER) submitted an amendment intended to be proposed by her to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 102, and insert the following:

SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED.

(a) STATEMENT OF EXCLUSIVE MEANS.—Title I of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end the following new section:

“STATEMENT OF EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE AND INTERCEPTION OF CERTAIN COMMUNICATIONS MAY BE CONDUCTED

“SEC. 112. (a) Except as provided in subsection (b), the procedures of chapters 119, 121 and 206 of title 18, United States Code, and this Act shall be the exclusive means by which electronic surveillance (as defined in section 101(f), regardless of the limitation of section 701) and the interception of domestic wire, oral, or electronic communications may be conducted.

“(b) Only an express statutory authorization for electronic surveillance or the interception of domestic wire, oral, or electronic communications, other than as an amendment to this Act or chapters 119, 121, or 206 of title 18, United States Code, shall constitute an additional exclusive means for the purpose of subsection (a).”.

(b) OFFENSE.—Section 109 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809) is amended—

(1) in subsection (a), by striking “authorized by statute” each place it appears in such section and inserting “authorized by this Act, chapter 119, 121, or 206 of title 18, United States Code, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 112.”; and

(2) by adding at the end the following:

“(e) DEFINITION.—For the purpose of this section, the term ‘electronic surveillance’ means electronic surveillance as defined in section 101(f) of this Act regardless of the limitation of section 701 of this Act.”.

(c) CONFORMING AMENDMENTS.—

(1) TITLE 18, UNITED STATES CODE.—Section 2511(2) of title 18, United States Code, is amended—

(A) in paragraph (a), by adding at the end the following:

“(iii) If a certification under subparagraph (ii)(B) for assistance to obtain foreign intelligence information is based on statutory authority, the certification shall identify the specific statutory provision, and shall certify that the statutory requirements have been met.”; and

(B) in paragraph (f), by striking “, as defined in section 101 of such Act,” and inserting “(as defined in section 101(f) of such Act regardless of the limitation of section 701 of such Act)”.

(2) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding after the item relating to section 111, the following:

“Sec. 112. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted.”.

SA 3911. Mr. ROCKEFELLER (for himself and Mr. BOND) proposed an amendment to the bill S. 2248, to amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008” or the “FISA Amendments Act of 2008”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

Sec. 101. Additional procedures regarding certain persons outside the United States.

Sec. 102. Statement of exclusive means by which electronic surveillance and interception of domestic communications may be conducted.

Sec. 103. Submittal to Congress of certain court orders under the Foreign Intelligence Surveillance Act of 1978.

Sec. 104. Applications for court orders.

Sec. 105. Issuance of an order.

Sec. 106. Use of information.

Sec. 107. Amendments for physical searches.

Sec. 108. Amendments for emergency pen registers and trap and trace devices.

Sec. 109. Foreign Intelligence Surveillance Court.

Sec. 110. Technical and conforming amendments.

TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS

Sec. 201. Definitions.

Sec. 202. Limitations on civil actions for electronic communication service providers.

Sec. 203. Procedures for implementing statutory defenses under the Foreign Intelligence Surveillance Act of 1978.