

1 **From Title 42-THE PUBLIC HEALTH AND WELFARE**

2 CHAPTER 21-CIVIL RIGHTS SUBCHAPTER I-GENERALLY

3 **§1981. Equal rights under the law**

4 **(a) Statement of equal rights**

5 All **persons** within the jurisdiction of the United States shall have the **same right in every State**
6 **and Territory** to make and enforce contracts, to sue, **be parties, give evidence**, and to the full
7 and **equal benefit of all laws and proceedings** for the **security of persons and property** as is
8 **enjoyed by white citizens**, and **shall be subject** to like **punishment, pains, penalties,**
9 **taxes,** licenses, and **exactions of every kind**, and to no other.

10 **(b) “Make and enforce contracts” defined**

11 For purposes of this section, the term “make and enforce contracts” includes the making,
12 **performance**, modification, and termination of contracts, and the enjoyment of all benefits,
13 privileges, terms, and conditions of the **contractual relationship**.

14 **(c) Protection against impairment**

15 The rights protected by this section are protected against impairment by **nongovernmental**
16 **discrimination** and **impairment under color of State law**.

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20 (R.S. §1977; Pub. L. 102–166, title I, §101, Nov. 21, 1991, 105 Stat. 1071.)

21 **Codification**

22 R.S. §1977 derived from act May 31, 1870, ch. 114, §16, 16 Stat. 144.

23 Section was formerly classified to section 41 of Title 8, Aliens and Nationality.

24 **Amendments**

25 **1991**-Pub. L. 102–166 designated existing provisions as subsec. (a) and added subsecs. (b) and
26 (c).

27 **Effective Date of 1991 Amendment**

1 Pub. L. 102–166, title IV, §402, Nov. 21, 1991, 105 Stat. 1099, provided that:

2 “(a) In General.-Except as otherwise specifically provided, this Act [see Short Title of 1991
3 Amendment note below] and the amendments made by this Act shall take effect upon
4 enactment [Nov. 21, 1991].

5 “(b) Certain Disparate Impact Cases.-Notwithstanding any other provision of this Act, nothing in
6 this Act shall apply to any disparate impact case for which a complaint was filed before March
7 1, 1975, and for which an initial decision was rendered after October 30, 1983.”

8 **Short Title of 1991 Amendment**

9 Pub. L. 102–166, §1, Nov. 21, 1991, 105 Stat. 1071, provided that: “This Act [enacting section
10 1981a of this title and sections 601 and 1201 to 1224 of Title 2, The Congress, amending this
11 section and sections 1988, 2000e, 2000e–1, 2000e–2, 2000e–4, 2000e–5, 2000e–16, 12111,
12 12112, and 12209 of this title, and section 626 of Title 29, Labor, and enacting provisions set
13 out as notes under this section and sections 2000e and 2000e–4 of this title, and section 1a–5
14 of Title 16, Conservation] may be cited as the ‘Civil Rights Act of 1991.’”

15 **Short Title of 1976 Amendment**

16 Pub. L. 94–559, which amended section 1988 of this title, is known as “The Civil Rights
17 Attorney's Fees Awards Act of 1976”, see note set out under section 1988 of this title.

18 **Severability**

19 Pub. L. 102–166, title IV, §401, Nov. 21, 1991, 105 Stat. 1099, provided that: “If any provision of
20 this Act [see Short Title of 1991 Amendment note above], or an amendment made by this Act,
21 or the application of such provision to any person or circumstances is held to be invalid, the
22 remainder of this Act and the amendments made by this Act, and the application of such
23 provision to other persons and circumstances, shall not be affected.”

24 **Congressional Findings**

25 Pub. L. 102–166, §2, Nov. 21, 1991, 105 Stat. 1071, provided that: “The Congress finds that-

26 “(1) additional remedies under Federal law are needed to deter unlawful harassment and
27 intentional discrimination in the workplace;

28 “(2) the decision of the Supreme Court in *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989)
29 has weakened the scope and effectiveness of Federal civil rights protections; and

1 “(3) legislation is necessary to provide additional protections against unlawful discrimination in
2 employment.”

3 **Purposes of 1991 Amendment**

4 Pub. L. 102–166, §3, Nov. 21, 1991, 105 Stat. 1071, provided that: “The purposes of this Act
5 [see Short Title of 1991 Amendment note above] are-

6 “(1) to provide appropriate remedies for intentional discrimination and unlawful harassment in
7 the workplace;

8 “(2) to codify the concepts of ‘business necessity’ and ‘job related’ enunciated by the Supreme
9 Court in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and in the other Supreme Court
10 decisions prior to *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989);

11 “(3) to confirm statutory authority and provide statutory guidelines for the adjudication of
12 disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);
13 and

14 “(4) to respond to recent decisions of the Supreme Court by expanding the scope of relevant
15 civil rights statutes in order to provide adequate protection to victims of discrimination.”

16 **Legislative History for 1991 Amendment**

17 Pub. L. 102–166, title I, §105(b), Nov. 21, 1991, 105 Stat. 1075, provided that: “No statements
18 other than the interpretive memorandum appearing at Vol. 137 Congressional Record S 15276
19 (daily ed. Oct. 25, 1991) shall be considered legislative history of, or relied upon in any way as
20 legislative history in construing or applying, any provision of this Act [see Short Title of 1991
21 Amendment note above] that relates to Wards Cove-Business necessity/cumulation/alternative
22 business practice.”

23 **Construction of 1991 Amendment**

24 Pub. L. 102–166, title I, §116, Nov. 21, 1991, 105 Stat. 1079, provided that: “Nothing in the
25 amendments made by this title [enacting section 1981a of this title and amending this section,
26 sections 1988, 2000e, 2000e–1, 2000e–2, 2000e–4, 2000e–5, 2000e–16, 12111, and 12112 of
27 this title, and section 626 of Title 29, Labor] shall be construed to affect court-ordered
28 remedies, affirmative action, or conciliation agreements, that are in accordance with the law.”

29 **Alternative Means of Dispute Resolution**

30 Pub. L. 102–166, title I, §118, Nov. 21, 1991, 105 Stat. 1081, provided that: “Where appropriate
31 and to the extent authorized by law, the use of alternative means of dispute resolution,

1 including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials,
2 and arbitration, is encouraged to resolve disputes arising under the Acts or provisions of
3 Federal law amended by this title [enacting section 1981a of this title and amending this
4 section, sections 1988, 2000e, 2000e-1, 2000e-2, 2000e-4, 2000e-5, 2000e-16, 12111, and
5 12112 of this title, and section 626 of Title 29, Labor].”

6 **Executive Order No. 13050**

7 Ex. Ord. No. 13050, June 13, 1997, 62 F.R. 32987, which established the President's Advisory
8 Board on Race, was revoked by Ex. Ord. No. 13138, §3(e), Sept. 30, 1999, 64 F.R. 53880,
9 formerly set out as a note under section 14 of the Appendix to Title 5, Government
10 Organization and Employees.

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