

100TH CONGRESS  
1ST SESSION

# S. 557

To restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 19, 1987

Mr. KENNEDY (for himself, Mr. WEICKER, Mr. METZENBAUM, Mr. PACKWOOD, Mr. CRANSTON, Mr. STAFFORD, Mr. ADAMS, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. BURDICK, Mr. CHAFEE, Mr. CHILES, Mr. COHEN, Mr. DASCHLE, Mr. DeCONCINI, Mr. DODD, Mr. FORD, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUE, Mr. JOHNSTON, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PROXMIRE, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. STEVENS, Mr. WIRTH, Mr. DIXON, Mr. RUDMAN, Mr. DURENBERGER, Mr. EVANS, Mr. BOSCHWITZ, and Mr. HEINZ) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

## A BILL

To restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

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



SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Rights Restoration Act of 1987".

FINDINGS OF CONGRESS

SEC. 2. The Congress finds that—

(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; and

(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.

EDUCATION AMENDMENTS AMENDMENT

SEC. 3. Title IX of the Education Amendments of 1972 is amended by adding at the end the following new section:

"INTERPRETATION OF 'PROGRAM OR ACTIVITY'

"SEC. 908. For the purposes of this title, the term 'program or activity' and 'program' mean all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corpo-



1 ration, partnership, private organization, or sole propri-  
 2 etorship; or

3 “(4) any combination comprised of two or more of  
 4 the entities described in paragraph (1), (2), or (3);

5 any part of which is extended Federal financial assistance,  
 6 except that such term does not include any operation of an  
 7 entity which is controlled by a religious organization if the  
 8 application of section 901 to such operation would not be  
 9 consistent with the religious tenets of such organization.”.

#### 10 REHABILITATION ACT AMENDMENT

11 SEC. 4. Section 504 of the Rehabilitation Act of 1973 is  
 12 amended—

13 (1) by inserting “(a)” after “SEC. 504.”; and

14 (2) by adding at the end the following new  
 15 subsections:

16 “(b) For the purposes of this section, the term ‘program  
 17 or activity’ means all of the operations of—

18 “(1)(A) a department, agency, special purpose dis-  
 19 trict, or other instrumentality of a State or of a local  
 20 government; or

21 “(B) the entity of such State or local government  
 22 that distributes such assistance and each such depart-  
 23 ment or agency (and each other entity) to which the  
 24 assistance is extended, in the case of assistance to a  
 25 State or local government;

1 “(2)(A) a college, university, or other postsecond-  
 2 ary institution, or a public system of higher education;  
 3 or

4 “(B) a local educational agency (as defined in sec-  
 5 tion 198(a)(10) of the Elementary and Secondary Edu-  
 6 cation Act of 1965), system of vocational education, or  
 7 other school system;

8 “(3)(A) an entire corporation, partnership, or  
 9 other private organization, or an entire sole proprietor-  
 10 ship—

11 “(i) if assistance is extended to such corpora-  
 12 tion, partnership, private organization, or sole  
 13 proprietorship as a whole; or

14 “(ii) which is principally engaged in the busi-  
 15 ness of providing education, health care, housing,  
 16 social services, or parks and recreation; or

17 “(B) the entire plant or other comparable, geo-  
 18 graphically separate facility to which Federal financial  
 19 assistance is extended, in the case of any other corpo-  
 20 ration, partnership, private organization, or sole propri-  
 21 etorship; or

22 “(4) any combination comprised of two or more of  
 23 the entities described in paragraph (1), (2), or (3);  
 24 any part of which is extended Federal financial assistance.



1 “(c) Small providers are not required by subsection (a)  
2 to make significant structural alterations to their existing fa-  
3 cilities for the purpose of assuring program accessibility, if  
4 alternative means of providing the services are available. The  
5 terms used in this subsection shall be construed with refer-  
6 ence to the regulations existing on the date of the enactment  
7 of this subsection.”.

# AGE DISCRIMINATION ACT AMENDMENT

9 SEC. 5. Section 309 of the Age Discrimination Act of  
10 1975 is amended—

11 (1) by striking out “and” at the end of paragraph

12 (2);

13 (2) by striking out the period at the end of para-  
14 graph (3) and inserting “; and” in lieu thereof; and

15 (3) by inserting after paragraph (3) the following  
16 new paragraph:

17 “(4) the term ‘program or activity’ means all of  
18 the operations of—

19 “(A)(i) a department, agency, special purpose  
20 district, or other instrumentality of a State or of a  
21 local government; or

22 “(ii) the entity of such State or local govern-  
23 ment that distributes such assistance and each  
24 such department or agency (and each other entity)  
25 to which the assistance is extended, in the case of  
26 assistance to a State or local government;

1 “(B)(i) a college, university, or other postsec-  
2 ondary institution, or a public system of higher  
3 education; or

4 “(ii) a local educational agency (as defined in  
5 section 198(a)(10), of the Elementary and Second-  
6 ary Education Act of 1965), system of vocational  
7 education, or other school system;

8 “(C)(i) an entire corporation, partnership, or  
9 other private organization, or an entire sole  
10 proprietorship—

11 “(I) if assistance is extended to such  
12 corporation, partnership, private organiza-  
13 tion, or sole proprietorship as a whole; or

14 “(II) which is principally engaged in the  
15 business of providing education, health care,  
16 housing, social services, or parks and recrea-  
17 tion; or

18 “(ii) the entire plant or other comparable,  
19 geographically separate facility to which Federal  
20 financial assistance is extended, in the case of any  
21 other corporation, partnership, private organiza-  
22 tion, or sole proprietorship; or

23 “(D) any combination comprised of two or  
24 more of the entities described in subparagraph  
25 (A), (B), or (C);



1 any part of which is extended Federal financial assist-  
2 ance.”.

### 3 CIVIL RIGHTS ACT AMENDMENT

4 SEC. 6. Title VI of the Civil Rights Act of 1964 is  
5 amended by adding at the end the following new section:

6 “SEC. 606. For the purposes of this title, the term ‘pro-  
7 gram or activity’ and the term ‘program’ mean all of the  
8 operations of—

9 “(1)(A) a department, agency, special purpose dis-  
10 trict, or other instrumentality of a State or of a local  
11 government; or

12 “(B) the entity of such State or local government  
13 that distributes such assistance and each such depart-  
14 ment or agency (and each other entity) to which the  
15 assistance is extended, in the case of assistance to a  
16 State or local government;

17 “(2)(A) a college, university, or other postsecond-  
18 ary institution, or a public system of higher education;  
19 or

20 “(B) a local educational agency (as defined in sec-  
21 tion 198(a)(10) of the Elementary and Secondary Edu-  
22 cation Act of 1965), system of vocational education, or  
23 other school system;

24 “(3)(A) an entire corporation, partnership, or  
25 other private organization, or an entire sole proprietor-  
26 ship—

1 “(i) if assistance is extended to such corpora-  
2 tion, partnership, private organization, or sole  
3 proprietorship as a whole; or

4 “(ii) which is principally engaged in the busi-  
5 ness of providing education, health care, housing,  
6 social services, or parks and recreation; or

7 “(B) the entire plant or other comparable, geo-  
8 graphically separate facility to which Federal financial  
9 assistance is extended, in the case of any other corpo-  
10 ration, partnership, private organization, or sole propri-  
11 etorship; or

12 “(4) any combination comprised of two or more of  
13 the entities described in paragraph (1), (2), or (3);  
14 any part of which is extended Federal financial assistance.”.

### 15 RULE OF CONSTRUCTION

16 SEC. 7. Nothing in the amendments made by this Act  
17 shall be construed to extend the application of the Acts so  
18 amended to ultimate beneficiaries of Federal financial assist-  
19 ance excluded from coverage before the enactment of this  
20 Act.

○



1 (b) if assistance is extended to such corpora-  
2 tion, partnership, private organization, or sole  
3 proprietorship as a whole; or  
4 (c) which is principally engaged in the busi-  
5 ness of providing education, health care, housing,  
6 social services, or parks and recreation; or  
7 (d) the entire plant or other comparable, geo-  
8 graphically separate facility to which Federal financial  
9 assistance is extended, in the case of any other corpo-  
10 ration, partnership, private organization, or sole prop-  
11 erty, or  
12 (4) any combination consisting of two or more of  
13 the entities described in paragraph (1), (2), or (3);  
14 any part of which is extended Federal financial assistance;  
15 RULE OF CONSTRUCTION  
16 Sec. 7. Nothing in the amendments made by this Act  
17 shall be construed to extend the application of the Act so  
18 amended to ultimate beneficiaries of Federal financial assist-  
19 ance excluded from coverage before the enactment of this  
20 Act.  
21 (B)  
22 to, not include language in section 10361 of the Act  
23 relating to school system;  
24 "an entire corporation, partnership, or  
25 other private organization or an entire sole proprietor-  
26 ship—

