

(EQUAL JOB LAW, from page 15)

• Within 30 days of being so notified, the aggrieved may file a civil action against the accused in the appropriate federal district court. If the charge was filed by a member of the Commission, the action may be brought by any person alleged to be aggrieved by the charge.

• If the court deems it just, it may appoint an attorney for the aggrieved and authorize the beginning of the action without the payment of fees, costs, or security. The court also may permit the Attorney General to intervene in the action if he certifies that the case is of general public importance. In its discretion, the court may stay further proceedings for up to 60 days pending efforts by the Commission to obtain voluntary compliance.

• If the court finds that the accused intentionally engaged or is engaging in an unlawful employment practice, it may enjoin the practice and order such affirmative action as may be appropriate, including reinstatement or hiring with or without back pay. It also may award a reasonable attorneys' fee as part of the costs.

• If the accused fails to comply with the order issued by the court, the Commission may bring contempt proceedings to compel compliance. If the proceeding is for criminal contempt, the accused is entitled to a jury trial.

Where State Has Law

Where the alleged unlawful employment practice occurs in a state or city that has its own fair employment practice law, the Federal Commission has authority to enter into a cooperative agreement with the state or local agency under which the Commission relinquishes part or all of its enforcement function to the state or local agency. Even if there is no such agreement, the state or local authorities are given a chance to handle a charge before the Commission acts.

At the outset, an aggrieved individual may not file a charge with the Commission until 60 days after the beginning of the proceedings under the state or local law, unless such proceedings already have ended. The period is extended to 120 days during the first year after the effective date of the state or local law.

If a charge is filed by a member of the Commission, the state or local officials must be notified and then afforded a reasonable period of time of not less than 60 days, unless a shorter period is requested, to act on the charge under the state or local law. Here again, the period is extended to 120 days during the first year after the effective date of the state or local law.

The deadline for filing a charge with the Commission in these cases

is 210 days after the alleged unlawful practice occurred or 30 days after receiving notice that the state or local agency has ended its proceedings, whichever is earlier.

Even after an aggrieved individual has filed a civil action in a court, the court may stay further proceedings for up to 60 days pending the termination of a state or local proceeding.

Retaliation, Pattern Cases

There are two other enforcement provisions that affect the rights of employees and job applicants. One makes it unlawful to discriminate against any employee or job applicant because he has opposed any unlawful practice under the Act or has filed a charge, testified, assisted, or participated in an investigation, proceeding, or hearing.

The other provision, Section 707, authorizes the Attorney General to file an injunction action where he has reasonable cause to believe that any person or group is engaged in a "pattern or practice of resistance" to full enjoyment of the rights protected by Title VII and that the pattern or practice is of such a nature, and is intended, to deny the full exercise of those rights. There is no deferral to state or local agencies in such cases.

WHAT IT MEANS TO THE STATES

At the time the Federal Fair Employment Practice Law was adopted, 25 of the states already had similar laws of their own. Moreover, several cities had fair employment practice ordinances. Section 708 of Title VII of the Federal Act makes clear that there is no intent to undercut or preempt these laws.

According to Section 708, nothing in Title VII exempts or relieves any person from any liability, duty, penalty, or punishment provided by any present or future state or local law, except where such law purports to require or permit an action that would violate the Federal Act.

More important, the Federal Act provides an incentive for states that do not have laws of their own to enact them. First, there are the provisions discussed above for deferral to state and local agencies in enforcement proceedings. Then, there is the authority given to the Federal Commission to enter into cooperative agreements with state and local agencies under which the Commission will refrain from processing a charge in any case or class of cases specified in the agreement. The agreement also may bar an aggrieved individual from suing under the Federal Act. The Commission may, however, rescind such an agreement if it "no longer serves the interest of effective enforcement."

Finally, there are the provisions relieving employers, employment agencies, and labor unions that are subject to state laws from keeping duplicate records.

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