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112-7

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Treaty Number: 112-7

Transmitted: May 17, 2012

Short Title: Convention on the Rights of Persons with Disabilities

Type: Human Rights

Formal Title: The Convention on the Rights of Persons with Disabilities, adopted by the United Nations General Assembly on December 13, 2006, and signed by the United States of America on June 30, 2009 (the "Convention").

Senate Executive Report(s): 112-6; 113-12

Related Document(s): Ex.Rept. 112-6

Legislative Actions

Floor Action: May 17, 2012 - Received in the Senate and referred to the Committee on Foreign Relations by unanimous consent removing the injunction of secrecy.

Committee Action: July 12, 2012 - Committee on Foreign Relations. Hearings held.

Committee Action: July 26, 2012 - Committee on Foreign Relations. Ordered to be reported with an amendment favorably.

Floor Action: July 31, 2012 - Reported favorably by Senator Kerry, Committee on Foreign Relations with printed Ex. Rept. 112-6 minority views filed and a resolution of advice and consent to ratification with 3 reservations, 8 understandings, and 2 declarations. Executive Calendar No. 6.

Floor Action: November 27, 2012 - Motion to proceed to executive session to consideration of treaty agreed to in Senate by Yea-Nay Vote. 61 - 36. Record Vote Number: 205.

Floor Action: November 27, 2012 - Considered by Senate.

Floor Action: November 27, 2012 - By unanimous consent agreement, debate extended until 6:30 p.m.

Floor Action: November 30, 2012 - By unanimous consent agreement, debate and vote on 12/4/12.

Floor Action: December 04, 2012 - Considered by Senate.

Floor Action: December 04, 2012 - Treaty moved through its parliamentary stages up to and including presentation of the resolution of advice and consent to ratification.

Floor Action: December 04, 2012 - Resolution of advice and consent to ratification not agreed to in Senate by Yea-Nay Vote. 61 - 38. Record Vote Number: 219.

Floor Action: January 03, 2013 - No further action at sine die adjournment of the 112th Congress; automatically rereferred to the Committee on Foreign Relations under the provisions of Rule XXX, section 2, of the Standing Rules of the Senate.

Committee Action: November 05, 2013 - Committee on Foreign Relations. Hearings held.

Committee Action: November 21, 2013 - Committee on Foreign Relations. Hearings held.

Committee Action: July 22, 2014 - Committee on Foreign Relations. Ordered to be reported with amendments favorably.

Floor Action: July 28, 2014 - Reported by Senator Menendez, Committee on Foreign Relations with printed Ex. Rept.113-12 and a resolution of advice and consent to ratification with 3 reservations, 9 understandings, and 2 declarations. Executive Calendar No. 12.

Resolution: NewCenturySchlbk-Roman;

As reported by the Committee on Foreign Relations:

Resolved,(two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO RESERVATIONS, UNDERSTANDINGS, AND DECLARATIONS.

The Senate advises and consents to the ratification of the Convention on the Rights of Persons with Disabilities, adopted by the United Nations General Assembly on December 13, 2006, and signed by the United States of America on June 30, 2009 (the Convention) (Treaty Doc. 112-7), subject to the reservations of section 2, the understandings of section 3, and the declarations of section 4.

SEC. 2. RESERVATIONS.

The advice and consent of the Senate to the ratification of the Convention is subject to the following reservations, which shall be included in the instrument of ratification:

(1) The Convention shall be implemented by the Federal Government of the United States of America to the extent that it exercises legislative and judicial jurisdiction over the matters covered therein, and otherwise by the State and local governments. To the extent that State and local governments exercise jurisdiction over such matters, the obligations of the United States of America under the Convention are limited to the Federal Government's taking measures appropriate to the Federal system, which may include enforcement action against State and local actions that are inconsistent with the Constitution, the Americans with Disabilities Act (42 U.S.C. 12101 et seq.), or other Federal laws, with the ultimate objective of fully implementing the Convention.

(2) The Constitution and laws of the United States of America establish extensive protections against discrimination, reaching all forms of governmental activity as well as significant areas of non-governmental activity. Individual privacy and freedom from governmental interference in certain private conduct are also recognized as among the fundamental values of our free and democratic society. The United States of America understands that by its terms the Convention can be read to require broad regulation of private conduct. To the extent it does, the United States of America does not accept any obligation under the Convention to enact legislation or take other measures with respect to private conduct except as mandated by the Constitution and laws of the United States of America.

(3) Article 15 of the Convention memorializes existing prohibitions on torture and other cruel, inhuman, or degrading treatment or punishment contained in Articles 2 and 16 of the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations General Assembly December 10, 1984, and entered into force June 26, 1987 (the CAT) and in Article 7 of the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly December 16, 1966, and entered into force March 23, 1976 (the ICCPR), and further provides that such protections shall be extended on an equal basis with respect to persons with disabilities. To ensure consistency of application, the obligations of the United States of America under Article 15 of the Convention shall be subject to the same reservations and understandings that apply for the United States of America with respect to Articles 1 and 16 of the CAT and Article 7 of the ICCPR.

SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate to the ratification of the Convention is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that this Convention, including Article 8 thereof, does not authorize or require legislation or other action that would restrict the right of free speech, expression, and association protected by the Constitution and laws of the United States of America.

(2) Given that under Article 1 of the Convention [t]he purpose of the present Convention is to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, with respect to the application of the Convention to matters related to economic, social, and cultural rights, including in Articles 4(2), 24, 25, 27, 28, and 30, the United States of America understands that its obligations in this respect are to prevent discrimination on the basis of disability in the provision of any such rights insofar as they are recognized and implemented under United States law.

(3) Current United States law provides strong protections for persons with disabilities against unequal pay, including the right to equal pay for equal work. The United States of America understands the Convention to require the protection of rights of individuals with disabilities on an equal basis with others, including individuals in other protected groups, and does not require adoption of a comparable worth framework for persons with disabilities.

(4) Article 27 of the Convention provides that States Parties shall take appropriate steps to afford to individuals with disabilities the right to equal access to equal work, including nondiscrimination in hiring and promotion of employment of persons with disabilities in the public sector. Current interpretation of Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) exempts United States military departments charged with defense of the national security from liability with regard to members of the uniformed services. The United States of America understands the obligations of Article 27 to take appropriate steps as not affecting hiring, promotion, or other terms or conditions of employment of uniformed employees in the United States military departments, and that Article 27 does not recognize rights in this regard that exceed those rights available under United States law.

(5) The United States of America understands that the terms disability, persons with disabilities, and undue burden (terms that are not defined in the Convention), discrimination on the basis of disability, and reasonable accommodation are defined for the United States of America coextensively with the definitions of such terms pursuant to relevant United States

law.

(6) The United States understands that the Committee on the Rights of Persons with Disabilities, established under Article 34 of the Convention, has an important, but limited and advisory role. The United States understands that the Committee has no authority to compel actions by the United States, and the United States does not consider conclusions, recommendations, or general comments issued by the Committee as constituting customary international law or to be legally binding on the United States in any manner. The United States further understands that the Committee's interpretations of the Convention are not legally binding on the United States.

(7) The United States of America understands that the Convention is a nondiscrimination instrument. Therefore, nothing in the Convention, including Article 25, addresses the provision of any particular health program or procedure. Rather, the Convention requires that health programs and procedures are provided to individuals with disabilities on a nondiscriminatory basis.

(8) The United States of America understands that, for the United States of America, the term or principle of the best interests of the child as used in Article 7(2), will be applied and interpreted to be coextensive with its application and interpretation under United States law. Consistent with this understanding, nothing in Article 7 requires a change to existing United States Federal, State, or local law.

(9) Nothing in the Convention limits the rights of parents to homeschool their children.

SEC. 4. DECLARATIONS.

The advice and consent of the Senate to the ratification of the Convention is subject to the following declarations:

(1) The United States of America declares that the provisions of the Convention are not self-executing.

(2) The Senate declares that, in view of the reservations to be included in the instrument of ratification, current United States law fulfills or exceeds the obligations of the Convention for the United States of America

Index Terms :

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Disabilities

Rights of Persons

TD 112-7

United Nations General Assembly

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