CIVIL RIGHTS NEWS

AFL-CIO DEPARTMENT OF CIVIL, HUMAN AND WOMEN'S RIGHTS

DECEMBER 2007

In This Issue:

- Civil Rights
- Voting Rights
- Immigration
- LGBT Developments
- Women's Rights
- Resources

CIVIL RIGHTS

FEDERAL NEWS

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Age Discrimination Case Settled. A consent decree, issued in October, ended a lawsuit brought by EEOC in 2005 against one of the country's largest law firms, Sidley Austin LLP. EEOC contended that Sidley Austin had violated the Age Discrimination in Employment Act (ADEA) by taking away the partnership status of 32 partners based on their age. Last year the U.S. Supreme Court refused to hear the firm's appeal. As part of the consent decree, the law firm agreed that each of the partners was an employee for purposes of the age discrimination act. Under the consent decree, the law firm is also barred from "terminating, expelling, retiring, reducing the compensation of or otherwise adversely changing the partnership status of a partner because of age" or "maintaining any formal or informal policy or practice requiriing retirement as a partner or requiring permission to continue as a partner once the partner has received a certain age." [*See* www.eeoc.gov/press/10-5-07.html for information on the consent decree.]

Stuart Ishimaru Confirmed for New Term. Long-time civil rights attorney Stuart Ishimaru's nomination for a new five-year term on the EEOC was approved by the U.S. Senate during the Senate's final week in session for 2007. Ishimaru will serve through July 1, 2012. The five member EEOC Commission currently includes two Democratic and two Republican members; the fifth seat remains vacant since former chair, Cari Dominguez, left in the summer of 2006.

EEOC Funding. On December 26, the President signed into law legislation funding all federal agencies through September 2008, the end of the federal fiscal year. The bill (H.R. 2764) contains funding for EEOC at $329.3 million, an increase of only $600,000 over the 2007 fiscal year.

U.S. COMMISION ON CIVIL RIGHTS

President Bush Reappoints Two Conservative Commissioners. The President reappointed Peter Kirsanow to the U.S. Commission on Civil Rights in late November. Kirsanow was reappointed to serve though Novermber 2013. No Senate confirmation is required for appointments to the Commission. Kirsanow opposes affirmative action programs and supports school choice. He also serves on the National Labor Relations Board, having been appointed during a period when Congress was in recess, effectively bypassing any opportunity for Senate review and confirmation.

Also reappointmented to the Commission was its Vice-Chair, Abigail Thernstron, who serves as senior fellow at the Manhattan Institute. All Commissioners serve six-year terms, so Ms. Thernstron will serve through December 2013. [*See* http://www.whitehouse.gov/news/releases/2007/11/20071127-6.html for copy of President's announcement.]

Administration Creates a Conservative Majority on the Commission. The U.S. Commission on Civil Rights, which was created 50 years ago, is composed of eight commissioners, four appointed by the President and four appointed by the Congress – two by the Majority party and two by the Minority party. No more than four members of the same party can serve on the Commission at the same time, yet, according to a recent article in the *Boston Globe*, in 2004 two Republican commissioners re-registered as Independents, allowing the President to appoint two Republicans to open seats. That unprecedented move has resulted in a majority of Commission members opposed to historic efforts used to offset discrimination, such as school integration and affirmative action.

Commissioner Thernstron was initially appointed as a Reputlican but re-registered as an Independent six weeks before one of the new Republican appointments was made. She acknowledged discussing the vacancies and party affiliation issue with the White House prior to her re-registration. After her switch to Independent, the President appointed her as Vice-Chair of the Commission. Her recent renomination to the Commission is as a Republican. In early 2007, Gail Heriot was appointed to the Commission, supported by Senate Republicans. Commissioner Heriot had been a registered Republican until August 2006 when she switched to become an Independent, making her qualified for the vacancy. [*See* "Maneuver gave Bush a conservative rights panel," November 6, 2007 at www.boston.com.]

FBI

Hate Crimes Report Released. In mid-November, the Federal Bureau of Investigation released its annual report on hate crimes committed in the previous year. *Hate Crime Statistics, 2006*, includes data from voluntary hate crime reports submitted by many, but not all, local law enforcement agencies around the country. According to the FBI report, just over half of hate crimes were motivated by racial bias; almost 19% were based on religious bias; 15.5% were triggered by sexual-orientation bias; and close to 13% involved ethnicity/nation origin bias. [For a copy of the report, go to http://www.fbi.gov/ucr/hc2006/index.html.]

OTHER FEDERAL AGENCY NEWS

DOJ Civil Rights Nominee. On November 15, the President nominated Grace Becker to be the Assistant Attorney General for the Civil Rights Division at the U.S. Department of Justice. She currently serves as the Deputy Assistant Attorney General in that Division. She previously served as an Associate Deputy General Counsel at the Department of Defense and as a prosecutor with DOJ. The nomination is pending

in the U.S. Senate. [*See* announcement at http://www.whitehouse.gov/news/releases/2007/11/print/20071115-2.html.]

Chief of DOJ Voting Rights Resigns. John Tanner, Chief of the Voting Rights Section of the Civil Rights Division, resigned his position after making controversial statements at a national Latino conference, regarding the impact of voter identity laws on people of color. In response to concerns that those laws unfairly impact minority and senior voters, among others, Mr. Tanner responded that while the elderly may face problems with photo identity requirements, since many don't have driver's licences, minorities don't need to worry because they die younger than whites, so they won't be negatively impacted by these requirements. [*See* http://www.civilrights.org/press_room/buzz_clips/civilrightsorg-stories/justice-official-questioned.html.]

CONGRESS

Senate Committee Hearing on Americans with Disabilities Act. On November 15, the Senate Health, Education, Labor and Pensions Committee held a hearing on pending legislation (S. 1881/H.R. 3195) that would address four U.S. Supreme Court decisions and lower court rulings that ignore the original intent of the ADA. According to two attorneys who helped to draft the ADA, three 1999 U.S. Supreme Court decisions held that courts must consider mitigating circumstances in determining if an individual with an impairment is disabled. They stated that those rulings were contrary to the intent of the ADA, which tied the definition of "disability" in the ADA to that already used in Section 504 of the Rehabilitation Act of 1973 because courts had applied that Act to provide broad protections to "handicapped" individuals. As a result of these 1999 Supreme Court decisions, courts have denied coverage under the ADA to persons with serious illnesses and impairments, contrary to Congress' intent. [*See* hearing record at http://help.senate.gov/./Hearings.html.]

STATE AND LOCAL NEWS

COURT DEVELOPMENTS

Los Angeles, CA. On December 11, the Superior Court of the State of California for the County of Los Angeles upheld the legality of two challenged programs that were created to diversify the Los Angeles public schools. The American Civil Rights Foundation claimed that use of these programs to maintain diversity in the school system violated the state's Proposition 209 that bans the granting of preferences based on race. Under a 1981 court order, still in effect today, the L.A. School District was expressly required to consider race in selecting students for its magnet schools and in diversifying schools through its busing programs. The Superior Court noted this fact when it upheld the Magnet School and Permit with Transportation Programs run by the School District. [For more about this decision and a copy of the court's ruling, go to www.naacpldf.org]

VOTING RIGHTS

FEDERAL NEWS

U.S. SUPREME COURT

Indiana Voter Identity Law. The Indiana voter ID case, *Crawford v. Marion County Election Board,* is due to be heard by the U.S. Supreme Court on January 9, 2008. Voting rights advocates claim the Indiana

law is the most restrictive ID law in America and stands to exclude many eligible voters from participating in the democratic process. This decision could have widespread impact since a number of states are increasingly considering implmenting similar voter ID requirements, pending the outcome of the Supreme Court's decision.

On November 13, 2007, the Brennan Center for Justice at NYU School of Law filed one of more than 20 *amicus*, or friend-of-the-court, briefs with the Supreme Court, challenging the constitutionality of the Indiana law requiring citizens to present photo ID as a condition of voting. Indiana's law requires that before voting in person, all voters must show a photo identification issued by either the federal government or the State of Indiana that is not expired, or expired subsequent to the most recent general election. Absentee voters are not covered by this requirement. Indiana's law supposedly is aimed at stopping or preventing in-person voter fraud. [The Center's *amicus* brief and information about the other *amicus* briefs, are available at www.brennancenter.org.]

DEPARTMENT OF JUSTICE (DOJ)

California. On November 9, 2007, the U.S. District Court For the Central District of California Western Division entered a consent decree in *United States v. City of Walnut, CA*, to ensure that election materials and assistance at the polling places are provided in Chinese and Korean to voters with limited-English proficiency. DOJ and the City of Walnut, California reached an agreement on September 20, 2007 to settle a lawsuit brought by DOJ under the language minority provisions (Section 203) of the Voting Rights Act. The consent decree incorporates the terms of the settlement agreement. [Consent decree at http://www.usdoj.gov/crt/voting/sec_203/documents/walnut_cd.htm.]

Florida. On October 29, 2007, the Department of Justice sent a letter to the Florida Attorney General asking for additional information on the effect that proposed changes adopted by the state would have on minority voters. The proposed changes relate to Florida's third-party voter registration laws and would limit private voter registration drives. Florida had submitted these proposed changes to DOJ, since they are required, under Section 5 of the Voting Rights Act, to get approval (or "preclearance") of changes made to their election laws. DOJ's letter followed comments submitted to them in September by the Brennan Center for Justice and the Advancement Project, arguing that since the new provisions could force organizations to cease or restrict their voter registration drives – an action which would disproportionately affect black, Hispanic, and Spanish-speaking voters – DOJ should not approve, or preclear, these changes. On behalf of the League of Women Voters of Florida and other groups, the Brennan Center successfully challenged Florida's restrictive 2006 changes to third-party voter registration. The changes at issue here were made by the legislature in response to that case, *League of Women Voters of Florida v. Cobb*. [For documents and background, *see* http://www.brennancenter.org/press_detail.asp?key=100&subkey=50821.]

STATE AND LOCAL NEWS

COURT CASES

Florida. The U.S. District Court for the Northern District of Florida Tallahassee Division issued a preliminary injunction preventing enforcement of a statewide election law that would make it harder for individuals to register to vote. The law at issue would have imposed barriers when registering to vote if the state could not match or otherwise validate the driver's license or Social Security number provided on a registration form. According to the Brennan Center for Justice, there are common database errors that make matching either of these documents unreliable. The federal district court found that at least 14,000 otherwise eligible Florida citizens had been blocked from registering to vote for the 2008 elections under

the new law. [For text of the consent order and other documents relating to *Florida NAACP v. Browning*, see http://www.brennancenter.org/press_detail.asp?key=100&subkey=51093.]

New Mexico. On October 2, 2007, the City of Albuquerque, NM asked the U.S. Court of Appeals for the Tenth Circuit to suspend (or "stay") ongoing litigation regarding its voter identification law, pending the U.S. Supreme Court decision involving Indiana's voter ID law. The ACLU of New Mexico, which initiated the challenge to the City's municipal law, which is similar to the Indiana law, did not oppose the motion to stay the proceedings in this case, as long as the City replied to the ACLU's brief objecting to the City law. At issue here is an amendment to the City's Election Code approved by voters in October 2005 that requires voters who vote in person to present one photo ID, from a list of permissible IDs. The District Court for the District of New Mexico ruled the law unconstitutional in March 2007. The City appealed that decision to the Court of Appeals and it is that proceeding which they are seeking to have suspended pending the U.S. Supreme Court's decision in *Crawford v. Marion County Election Board*. [See http://moritzlaw.osu.edu/electionlaw/litigation/documents /ACLUNM-Replybrief11-9-07.pdf for text of legal documents in the case of *ACLU of New Mexico v. Chavez*.]

South Dakota. A South Dakota county has agreed to federal supervision of its elections through 2024, under a settlement agreement with the ACLU. The agreement resolves a 2005 ACLU lawsuit charging Charles Mix County with discriminating against Native American voters in violation of the Voting Rights Act of 1965 and the Fourteenth and Fifteenth Amendments to the United States Constitution. At issue were district boundaries for elections of county commissioners. The federal court ruled in July 2006 that the districts violated the Fourteenth Amendment but reserved ruling on other claims raised in the case. Under the settlement, approved December 4, by the U.S. District Court for the District of South Dakota Southern Division, the county is required to get approval from the federal government before implementing new voting laws in the county through 2024. The agreement also authorizes federal election observers to monitor county elections through 2014. The December 4 settlement resolves all remaining issues in the case of *Blackman v. Charles Mix County*. [For text of the consent decree and background on the case, *see* http://www.aclu.org/votingrights/minority/32972prs20071204.html.]

IMMIGRATION

FEDERAL NEWS

FEDERAL COURT DECISIONS

Social Security No-Match Rule Developments. On December 14, the U.S. District Court for the Northern District of California agreed to stay proceedings in a lawsuit seeking to prevent the government from implementing a new federal rule under which employers would face civil and criminal penalties for failing to resolve employees' mismatched Social Security numbers. The U.S. Department of Homeland Security (DHS) made the request, saying it would consider amending the SSA rule to meet concerns expressed by the District Court. The DHS and those challenging the rule will be back in court on March 28. On October 10, the federal district court issued a preliminary order preventing DHS from implementing this new Social Security No-Match Rule until the court made a final ruling after the trial on the issue; that order remains in effect. Separately, DHS has filed an appeal with the U.S. Court of Appeals for the Ninth Circuit, asking it to lift this preliminary injunction. [For more information and copies of court documents in *AFL-CIO v. Chertoff*, N.D. Cal., No. 3:07-cv-4472-CRB, *stay granted* 12/14/07, *see* Daily Labor Report, No. 241, Page A-1, November 27, 2007.]

STATE AND LOCAL NEWS

As of mid-November, 1,562 immigration-related pieces of legislation were introduced in the states during 2007, with 244 bills in 46 states becoming law, according to the National Conference of State Legislatures. [The November 29 NCSL report is available at http://www.ncsl.org/programs/immig/index.htm.]

COURT CASES

Arizona Employer Sanction Law. The U.S. Court of Appeals for the Ninth Circuit declined to stop the implementation of an Arizona law – the "Legal Arizona Workers Act" – pending action by the trial court. The new law would require businesses to check the work authorization status of employees using the U.S. Department of Homeland Security's (DHS) Basic Pilot Program (recently renamed e-Verify). The law would institute state penalties for failure to use the DHS program, including possible revocation of business licenses. Because the E-Verify Program is a federal, voluntary program, challenges to the program by the ACLU, MALDEF and the National Immigration Law Center charge that the Act conflicts with federal law. The Court of Appeals said it would wait to consider the request for an emergency stay, ruling that since proceedings to implement the new law would not begin until February 2008, there was time to wait for the trial court to hear arguments and rule on the groups' request for a preliminary injunction. The court hearing is set for January 16. [For case documents and a history of this case, *Valle del Sol vs. Goddard*, *see* http://www.aclu.org/immigrants/discrim/33338prs20071221.html.]

Illinois E-Verify Litigation. A federal district court in Illinois halted efforts by the U.S. DHS to stop the implementation of an Illinois law that would prohibit employers from participating in the government's e-Verify Program unless they got a response by DHS on a worker's ineligibility within three days in 99 percent of cases that they submitted. The court acted on a joint motion by DHS and the state Attorney General to stay the proceedings for 60 days, so that the Illinois state legislature can consider legislation to repeal this law. Governor Rod Blagojevich had signed the bill, the "Right to Privacy in the Workplace Act," (H.R. 1744) into law in August 2007. [Text of H.R. 1744 is available at http://www.ilga.gov/legislation/default.asp by typing in the bill number. *See* also Daily Labor Report, No. 241, Page A-14, December 17, 2007.]

Oklahoma Immigration Law Takes Effect. An Oklahoma law that, among other things, will penalize employers that knowingly hire undocumented aliens and sets criminal penalties for knowingly harboring undocumented aliens went into effect on November 1. While a federal district court denied a motion for a preliminary injunction to stop the "Taxpayer and Citizen Protection Act of 2007" (H.B. 1804) from being enforced, the lawsuit will continue to move forward. The National Coalition of Latino Clergy and Christian Leaders filed the lawsuit and has indicated it will amend its complaint to show evidence of harm by immigrants as the law is enforced. [Text of bill is available at http://webserver1.lsb.state.ok.us/2007-08bills/HB/HB1804_ENR.RTF; *see* also Daily Labor Report, No. 213, Page A-1, November 5, 2007.]

Gwinnett County, Georgia Ordinance Effective in January. A federal judge in the U.S. District Court for the Northern District of Georgia declined to issue a temporary restraining order (TRO) against a Gwinnett County ordinance. The ordinance, scheduled to take effect in January 2008, prohibits contractors who hire undocumented immigrants from receiving county contracts. While indicating that federal law may well preempt the ordinance because it imposes sanctions on employers, the judge noted that since the law had not yet been enforced, contractors do not face a risk of irreparable harm, a showing they would need to make in order to get a TRO. [For more information regarding *Ga. Util. Contractors Ass'n Inc. v. Gwinnett County*, N.D. Ga., No. 1:07-CV-02964, *oral ruling* December 4, 2007, *see* Daily Labor Report, No. 235, Page A-12, December 7, 2007.]

STATE ACTIONS

California. In October, California Governor Arnold Schwarzenegger signed into law a bill (AB 976) that prohibits California cities and counties from punishing landlords who rent to undocumented immigrants. In effect, this law prohibits cities and/or counties from requiring landlords to inquire about, collect, or disclose information regarding tenants' or prospective tenants' immigration or citizenship status. [Bill text is available at http://www.leginfo.ca.gov/bilinfo.html by typing in the bill number.]

New York. New York Governor Eliot Spitzer announced in November that he would rescind his plan to issue driver's licenses to all state residents, without regard to a person's immigration status. The Governor received a lot of negative reaction to his plan when he first announced it in September. [*See* "Spitzer Abandons Immigrant License Plan," Washington Post, November 14, 2007 at www.washingtonpost.com; *see* also www.nilc.org under Driver's Licenses.]

LGBT DEVELOPMENTS

FEDERAL NEWS

CONGRESS

Hate Crimes Legislation. In December, House and Senate negotiators removed hate crime provisions from the Department of Defense Authorization bill before finalizing a compromise bill. The Matthew Shephard Act, also known as the Local Law Enforcement Enhancement Hate Crimes Prevention Act of 2007, was added to the DOD Authorization bill in the Senate since it had not been able to move a free-standing bill. The hate crime provisions were not included in the House version of the DOD bill because the House already had passed a stand-alone bill (H.R. 1592). The Act would extend current federal hate crimes protection to individuals attacked because of real or perceived sexual orientation, gender, gender identity or disability. Current law applies to hate crimes committed because of an individual's race, color, religion or national origin. The Senate can consider its hate crimes bill (S. 1105) when it returns in 2008. [For copies of these bills, *see* http://thomas.loc.gov/.]

Domestic Partner Legislation. In mid-December, legislation was introduced in both the House and the Senate to make domestic partners of federal employees eligible to participate in federal benefit programs, such as health insurance, retirement benefits and family and medical leave, in the same way as spouses of married employees. The legislation (S. 2521/H.R. 4838), the Domestic Partner Benefits and Obligations Act, was introduced with bipartisan co-sponsors in both the Senate and the House. [Copies of the bills are available at www.thomas.loc.com.]

Employment Non-Discrimination Act (ENDA). On November 7, the House passed H.R. 3685, legislation to make it an unlawful employment practice to discriminate on the basis of actual or perceived sexual orientation. H.R. 3685 was sent to the Senate. [For text of H.R. 3685, go to http://thomas.loc.gov/.]

STATE AND LOCAL NEWS

Arizona. The state's Department of Administration proposed a state rule to extend health and other benefits to same-sex and opposite-sex domestic partners of state employees. The proposed rule, published

November 30, is open for a 30-day comment period, with public hearings expected to follow, although none have yet been set. Governor Janet Napolitano has indicated support for the measure. The cities of Scottsdale and Phoenix, Arizona already have similar domestic partner benefit programs. [For a copy of the proposed rule, go to http://azsos.gov/public_services/Register/2007/48/proposed.pdf; *see* Daily Labor Report, No. 233, Page A-7, December 5, 2007 for more information.]

Florida. Palm Beach County, Florida adopted two ordinances in November, one to ban discrimination on the basis of "gender identity or expression" in housing and public accommodations and a second to ban such actions in employment. They will become law on January 1, 2008. [*See* Daily Labor Report, No. 224, Page A-6, November 21, 2007; the ordinances are available at http://www.pbcgov.com/pubInf/Agenda/20071120/5c2.pdf.]

Maryland. The Montgomery County Council, by an eight to 0 vote, adopted a bill to prohibit discrimination against transgender people in employment, housing, public accommodations, cable television service and taxicab service. Bill 23-07 was approved in November. [Text of Bill 23-07 is available at http://www.montgomerycountymd.gov/content/council/pdf/agenda/col/2007/071113/20071113_11.pdf; *see* also Daily Labor Report, No. 221, Page A-5, November 16.]

Michigan. Under an executive directive (E.D. No. 2007-24) signed by Governor Jennifer Granholm on November 21, state employees who work in the Executive Branch in Michigan will be protected from discrimination in state employment based on gender identity or expression. [The executive directive can be found at http://www.michigan.gov/gov/0,1607,7-168-36898-180697--,00.html; *see* also www.stateaction.org/blog/.]

Ohio. In November, two cities in Ohio adopted LGBT ordinances. The **Toledo City Council**, by a vote of 10 to two, created a domestic partnership registry for same-sex and opposite-sex partners. When the registry takes effect in December, Toledo will join Cleveland Heights as the two cities in Ohio with such a registry. [Text of Ordinance 705-07, signed by the Mayor on November 21, is available at http://www.ci.toledo.oh.us/ToledoCityCouncil/DomesticPartnershipRegistry/tabid/405/Default.aspx.]

The **Dayton City Commission** added sexual orientation and gender identity to the city's existing anti-discrimination law. The vote on Ordinance No. 30698-07 was three-to-one, with one abstention. [For text of this ordinance, go to http://www.ci.dayton.oh.us/city_commission/data_files/agenda/2007%20Agenda/11-21-07Agenda.pdf; the Ordinance is at the end of the Agenda for the November 21 Commission meeting.]

WOMEN'S RIGHTS

FEDERAL NEWS

U.S. SUPREME COURT

The Court heard oral arguments on December 3 in a case that concerns whether an employee can seek to prove discrimination by offering what is sometimes known as "me too" or "other supervisor" evidence – testimony from other employees who also claim to have suffered discrimination under similar circumstances, but at the direction of different supervisors. In this particular case, *Sprint/United Management Company v. Mendelsohn*, the federal appeals court in Denver ordered a new trial after a jury had rejected a woman's argument that her dismissal at age 51, in a reduction in force, was a result of age discrimination. The Federal District Court had refused to permit the plaintiff, Ellen Mendelsohn, to present testimony from five other employees who lost their jobs in the same reduction in force and who

also claimed age discrimination. [*See* http://www.supremecourtus.gov/oral_arguments/argument_transcripts/06-1221.pdf; for transcript of Supreme Court oral argument; text of court documents can be found at http://supreme.lp.findlaw.com/supreme_court/docket/2007/december/sprint-v-mendelsohn-06-1221.html.]

CONGRESS

The Unemployment Insurance Modernization Act. The Unemployment Insurance Modernization Act (S. 1871 and H.R. 2233) offers federal funding to states that update their unemployment insurance (UI) systems by expanding coverage for low-wage workers, temporary employees, and the long-term unemployed. Modernization of UI systems are key for women since they comprise 70% of the part-time workforce, yet are ineligible for unemployment benefits in most states unless they are able to look for full-time work. In addition, some states deny benefits to workers who have extenuating circumstances, such as needing to care for a sick or disabled relative or fleeing a domestic violence situation. On October 31, 2007 the House passed the Trade and Globalization Assistance Act (H.R. 3920), to which the UI Modernization Act was added. H.R. 3921 provides up to $7 billion in additional funds to states' accounts in the Unemployment Trust Fund (UTF) to allow states to update their unemployment laws. [For a text of the bills and their status, go to www.thomas.loc.org and type in the bill numbers.]

Family and Medical Leave Act (FMLA) Expanded to Cover Military Families. The FMLA, passed in 1993, was expanded in December, when the House and Senate voted to include provisions relating to service members and their families in the National Defense Authorization Act (H.R. 1585). The President vetoed the bill on December 28. The FMLA would have included 12 weeks of coverage for immediate family members (spouses, children or parents) of reservists and members of the National Guard who are called to active duty. Also, under the new law, employers would have been required to provide 26 weeks of unpaid leave to employees who are caring for family members wounded while serving in the U.S. military. When Congress returns in January, they can try to override the veto or fix the unrelated provisions in the bill to which the President objected. [For text of the bill, go to **www.thomas.loc.org**.]

STATE AND LOCAL NEWS

California. In October, Governor Schwarzenegger vetoed three bills that would have increased protections for California workers struggling to balance work and family responsibilities. SB 727 would have expanded the state's existing Family Temporary Disability Insurance program, which provides up to six weeks of wage replacement benefits to workers who take time off to care for a seriously ill family member, as defined in the law, or to bond with a new child. SB 727 would have added coverage for grandparents, siblings, parents-in-law and grandchildren. AB 537 would have expanded the state's Family Rights Act, which makes it an unlawful employment practice for an employer to refuse to grant an employee's request for up to 12 weeks of unpaid protected leave to care for specified family members. AB 537 would have expanded the Act's coverage to adult children, grandparents, siblings, grandchildren or domestic partners. California's Fair Employment and Housing Act would have been expanded to prohibit discrimination against workers based on family responsibilities under SB 836. [For copies of the vetoed bills, go to http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.]

Ohio. The Ohio Civil Rights Commission, on October 24, 2007, voted to approve new maternity rules that would guarantee 12 weeks of leave for pregnant women. As noted below, however, the new rule is on hold. The proposed rule would apply to employers with 50 or more employees, who would have to provide female employees with 12 weeks of unpaid maternity leave, with guaranteed job reinstatement, or face charges of sex discrimination under the regulation. The civil-rights commissioners maintained their new policy was intended to clarify a vague reference in the 1977 law that required companies to provide a

"reasonable" leave of absence for moms-to-be. The proposal was sent to the Joint Committee on Agency Rule Review (JCARR), which must approve proposed state agency proposals. In December, by a nine-to-one vote, the JCARR ordered the Commission to conduct a comprehensive analysis of the proposed policy's financial impact on public employers. [See http://crc.ohio.gov/pregnancy/FinalRevisionRedline.pdf for text of final proposal; see http://www.policymattersohio.org/AdoptingMaternityLeave2007.htm for background information about the proposal.]

RESOURCES

KEY CIVIL, HUMAN AND WOMEN'S RIGHTS REPORTS

Civil Rights

- In November, the Brookings Institute released a report, "Economic Mobility of Black and White Families." The report found that the income gap between black and white families has grown. While incomes have increased for both black and white families, due mainly to the increase in working women, the increase was greater among whites. The report examined overall income trends based on data from the U.S. Census Bureau, to provide an intergenerational look at income disparities. The report is available at www.brookings.edu.

- The ACLU released a report, "Race & Ethnicity in America: Turning a Blind Eye to Injustice," in December which questions many of the claims in a report submitted by the U.S. Government to the United Nations' Committee on the Elimination of Racial Discrimination (CERD) in April of this year. The CERD, an independent group of internationally recognized human rights experts, oversees compliance with the International Convention on the Elimination of All Forms of Racial Discrimination, a treaty signed and ratified by the U.S. in 1994. The ACLU report is available at http://www.aclu.org/intlhumanrights/index.htm.

  The Lawyers' Committee for Civil Rights Under Law similarly submitted a report to the CERD on December 11. Its report, according to the Lawyer's Committee, was produced in order to provide a realistic picture of how discrimination in a number of key areas, continues to impact communities of color in the Unites States. The report, "Unequal Opportunity: A Critical Assessment of the U.S. Commitment to the Elimination of Racial Discrimination," is available at www.lawyerscommittee.org.

- In December, the federal Office of Personnel Management (OPM) released its annual report on the status of Hispanic employment in the federal government, "OPM's Seventh Annual Report to the President on Hispanic Employment in the Federal Government." According to OPM, Hispanic employment increased from 7.5 percent in 2006 to 7.7 percent in 2007. Overall new hires increased from 7.5 percent in 2006 to 8.6 percent in 2007 but most new hires were in the lower General Schedule (GS) levels, with Senior Executive Service decreasing in Hispanic hires. OPM's report offers strategies for recruitment and retention of Hispanics, as well as employees in general. For the December 13 report, go to http://www.opm.gov/news/index.aspx.

Voting Rights

- Minority, low-income and less educated Indiana residents are less likely than others to have the photo identification required to vote under Indiana's stringent voting requirements, according to a recent survey of prospective voters. The November 2007 survey, led by the Washington Institute for the Study of Ethnicity and Race, is providing the first direct evidence that Indiana's voter identification law – requiring a photo identification issued by either the federal government or the state of Indiana that is not expired, or expired subsequent to the most recent general election – is disenfranchising thousands of Indiana voters. The study reveals that 83.2 percent of white eligible voters had current, valid photo identification, compared to 71.7 percent of black eligible voters. The researchers have previously found a strong correlation between the lack of access to valid photo identification and racial minorities, the elderly, and low-income populations in Washington State, California and New Mexico. "The Disproportionate Impact of Indiana Voter ID Requirements on the.

Electorate," November 8, 2007 is available at http://depts.washington.edu/uwiser/documents/Indiana_voter.pdf

Immigration

- A report released on October 31 by the National Council of La Raza and the Urban Institute examines the consequences of immigration enforcement operations on children's psychological, educational, economic and social well-being and concludes that they are being put at "profound risk." The report focused on the arrest of 900 adults during workplace raids in Colorado, Nebraska and Massachusetts this year; 500 children were impacted by those raids, most of whom were U.S. citizens 10 years old or younger. "Paying the Price: The Impact of Immigration Raids on America's Children," is available at www.nclr.org/payingtheprice or from www.urban.org.

- A report released by the Migration Policy Institute (MPI) found that many of the immigration laws adopted by state and local governments are likely to fall to legal challenges, particularly since the principle that the federal government has exclusive responsibility over immigration is fairly entrenched. The December 2007 MPI report, "Testing the Limits: A Framework for Assessing the Legality of State and Local Immigration Measures," is available at http://www.migrationpolicy.org/.

- Immigrants comprise 21 percent of people living in New York State. In 2006, the state economy was boosted by $229 billion added by immigrants, a figure that represents 22.4 percent of the state's Gross Domestic Product, according to the November 26 report, "Working for a Better Life: A Profile of Immigrants in the New York Economy." In New York City, 37 percent of the population and 46 percent of its labor force are immigrants. According to the report, twenty-five percent of the city's chief executive officers, 50 percent accountants and 33 percent of office clerks, receptionists and building cleaners are immigrants. The report is available at http://www.fiscalpolicy.org/immigration2007.html.

- The National Immigration Law Center has created a quick menu of affirmative measures that state and local governments can consider. The September document, "Pro-Immigrant Measures Available to State or Local Governments: A Quick Menu of Affirmative Ideas," is available at http://www.nilc.org/immlawpolicy/misc/affirmstatelocalmenu_2005-09-13.pdf.

LGBT

- According to a new report, workers who have an unmarried domestic partner are doubly burdened: first, many employers do not provide coverage for domestic partners and, secondly, even when employers do provide such coverage, the partner's coverage is taxed as income to the employee. The report, prepared by M.V. Lee Badgett for the Center for American Progress and the Williams Institute at the UCLA School of La Health, notes that benefits for married partners and their children are not taxed on the value of that coverage. In addition, employers who provide domestic partners with benefits are also penalized under current law, since their payroll tax responsibilities increase along with the employees' income and Social Security taxes. The report, "Unequal Taxes on Equal Benefits: The Taxation of Domestic Partner Benefits," is available at http://www.americanprogress.org/issues/2007/12/domestic_partners.html.

Women's Rights

- Social Security is the most common source of income for seniors in the United States, and it is especially crucial for women, according to a December briefing paper by the Institute for Women's Policy Research. The paper also notes that women are more likely than men to be poor or disabled and older African American and Hispanic women are most likely to be poor and least likely to have income from assets such as savings or stocks and bonds. A copy of the briefing paper, "The Economic Security of Older Women and Men in the United States, is available at www.iwpr.org.

- The Institute for Women's Policy Research (IWPR) also issued a report outlining strategies for unions to use in promoting women's voices and leadership. "I Knew I Could Do This Work: Seven Strategies That Promote Women's Activism and Leadership in Unions," December 2007 is now available at www.iwpr.org