**KEY FEDERAL ACTS**

| Name of Act | Brief Description |
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| Americans with Disabilities Act (“ADA”) (1990) 42 U.S.C. Sec. 12101 | Affects the employment, training, potion, compensation and termination policies for every employer having 25 or more employees; requires ADA accommodations for businesses open to the public; An employer can avoid liability for compensatory or punitive damages, if it demonstrates a “good-faith-effort” to provide reasonable accommodations. |
| Consumer Credit Protection Act | Prohibits an employer from discharging any employee because their earnings are subject to a garnishment for any one indebtedness. |
| Drug-Free Workplace Act of 1988 |  |
| Employee Retirement Income Security Act of 1974 (“ERISA”) | Governs pension and health and welfare benefits plans |
| Equal Employment Opportunity Commission | Defines sexual harassment as the unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. Protects against retaliation of reporters. |
| Equal Pay Act (Executive Order 11246) | Requires men and women receive equal pay for equal work for substantially the same work, skill, effort and responsibility, unless there is a seniority system, merit system, system that measures earnings by quantity or qualify of production or any factor other than sex. |
| Fair Credit Reporting Act | Governs the activities of consumer reporting agencies and users of information procured from such agencies to ensure its use in a manner that is fair and equitable to the consumer. |
| Fair Labor Standards Act (FLSA) | Fed law sets min wage standard, overtime pay after 40 yrs at time & ½ rate; with exception of exempt employees.  (2004 Amendment) change most paralegals from exempt to non-exempt status. |
| Age Discrimination in Employment Act of 1967 (“ADEA”) | Prohibits discrimination of employees 40+ |
| Older Workers Benefit Protection Act (Amends ADEA) | Prohibits mandatory retirement at any age, with exception of Executives: 65+, held position for at least two preceding years, and entitled to at least $44K annual retirement income. |
| Family and Medical Leave Act of 1993 (“FMLA”) | Employees of same employer for at least 1 year and 1250 hours within last 12 months are entitled to 12 weeks unpaid leave during any 12m period for: new child (birth or adoption/foster care), spouse, child or parent health condition; or serious health condition of employee. |
| Freedom of Information Act of 1966 (“FOIA”) 5 U.S.C. § 552. | Gives citizens the right to access information and records from the federal government, except to the extent that such records (or portions of records) are protected from disclosure. A FOIA request can be made to any FEDERAL agency. There is a 20 day clause for FOI. Within 20 days after receipt of the request, the agency is required by law to respond to your request – not necessary provide the documents  Each agency’s website contains information about the types of records maintained, some commonly requested agency information and data, as well as procedures for making a FOIA request. Be sure to check all the tabs and perform searches to determine if the information sought is publically available through the agency’s website. If not, check out that agency’s procedures for making a FOIA request. |
| Immigration Reform and Control Act, 8 U.S.C. 1101 et seq. | Asking interviewee wrong question can result in discrimination suite. Improper questions: age, marital status, religion, medical conditions, family information or if ever received workers’ compensation. May ask if a U.S. citizen. |
| Jury System Improvement Act | Protects employees from discrimination for their attendance or schedules attendance in connection with jury service. Employees cannot be penalized for jury service. |
| Occupational Safety and Health Act (“OSHA”) | To ensure safe and healthful working conditions for every working man and woman in the nation. |
| The United State Bankruptcy Code | Prohibits private employers from termination the employment of, or discriminating against, any individual who is or has been a debtor to a bankruptcy proceeding. |
| Title VII, Civil Rights Act of 1964 | Non-discrimination based upon race, color, religion, se or national orgin. Prohibits sexual Harassment and pregnancy discrimination by limiting, segregation or classifying employees.  1991 Act – Amended 5 Related Acts and effectively reversed several US Supreme Court decisions that had harrowed the scope of those statues.  Key provision – adds new awards for compensatory and punitive damages for victims who were intentional discriminated against. Set the following caps:  15-100 employees $50,000;  101-200 $100,000  201-500 $200,000  500+ $300,000 |
| *Uniform Child Custody Jurisdictional Act (“UCCJA”)* | establishes guidelines for determining jurisdiction and provides for cooperation between states in the enforcement of child custody orders |
| *Uniform Commercial Code (UCC)* |  |
| *Uniform Reciprocal Enforcement of Support Act (“URESA”)* | has now been adopted by all states and is a pact that states will assist one another in enforcing support orders. |

**KEY LANDMARK CASES (OR CASES) TO KNOW**

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| **Name of Act** | **Brief Description** |
| Missouri v. Jenkins  (paralegal billing) | U.S. Supreme court decision stating paralegal fees may be awarded at market rates.  In its opinion, the Court stated:  By encouraging the use of lower cost paralegals rather than attorneys wherever possible, permitting market-rate billing of paralegal hours "encourages cost-effective delivery of legal services and, by reducing the spiraling cost of civil rights litigation, furthers the policies underlying civil rights statutes. |
| Daubert  (standard for admitting expert testimony)  [*Daubert v. Merrell Dow Pharmaceuticals, Inc.*](http://www.law.cornell.edu/supct/html/92-102.ZS.html), 509 U.S. 579 (1993). | Standard used by a trial judge to make a preliminary assessment of whether an expert’s scientific testimony is based on reasoning or methodology that is scientifically valid and can properly be applied to the facts at issue. The Daubert standard is the test currently used in the federal courts and some state courts.  Under this standard, the factors that may be considered in determining whether the methodology is valid are:  (1) whether the theory or technique in question can be and has been tested;  (2) whether it has been subjected to peer review and publication;  (3) its known or potential error rate;  (4) the existence and maintenance of standards controlling its operation; and  (5) whether it has attracted widespread acceptance within a relevant scientific community. |
| Hickman v Taylor  (work product) | Established the Doctrine of Work Product. Qualified immunity from discovery for layer’s trail preparations, including mental impressions, ideas and legal research amounted to unqualified privilege Factual research was covered by qualified privilege. |
| Miranda v. Arizona (constitutional 5th Amendment rights). | whenever a person is taken into police custody, before being questioned he or she must be told of the [Fifth Amendment](http://criminal.findlaw.com/criminal-rights/u-s-constitution-fifth-amendment.html) right not to make any self-incriminating statements. As a result of Miranda, anyone in police custody must be told four things before being questioned:   1. You have the right to remain silent. 2. Anything you say can and will be used against you in a court of law. 3. You have the right to an attorney. 4. If you cannot afford an attorney, one will be appointed for you. |