



# **From the Dream of the Sixties to the Vision of the Nineties—the Case for an Alabama Human Relations Commission**

**Alabama Advisory Committee to the  
U.S. Commission on Civil Rights**

**December 1992**

*A report of the Alabama Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission and the Commission will make public its reaction. In the meanwhile, the findings and recommendations of this report should not be attributed to the Commission but only to the Alabama Advisory Committee.*

## **The United States Commission on Civil Rights**

The United States Commission on Civil Rights, first created by the Civil Rights Act of 1957, and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the 1983 act, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

## **The State Advisory Committees**

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 6(c) of the United States Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference that the Commission may hold within the State.

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## Letter of Transmittal

Alabama Advisory Committee to the  
U.S. Commission on Civil Rights

### Members of the Commission

Arthur A. Fletcher, *Chairman*  
Charles Pei Wang, *Vice Chairman*  
William B. Allen  
Carl A. Anderson  
Mary Frances Berry  
Esther G. Buckley  
Blandina Cardenas Ramirez  
Russell G. Redenbaugh

Wilfredo J. Gonzalez, *Staff Director*

The Alabama Advisory Committee submits this report regarding the need for a Alabama State and human relations commission as part of its responsibility to advise the Commission on civil rights issues within the State. The report includes findings with one major recommendation.

The Advisory Committee and staff of the Central Regional Office held a factfinding meeting on June 17-18, 1992, to obtain information regarding the need for a State civil rights law and a human relations commission. The Committee heard from over 20 persons representing Federal, State and local governments, civil rights groups, community and religious organizations and concerned citizens.

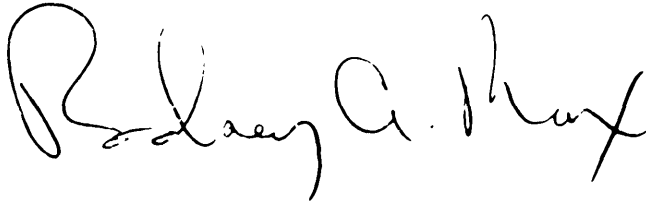
Prior to the factfinding meeting, the Advisory Committee drafted a document reflecting a collection of various State laws regarding a State human relations commission with authority to enforce laws against discrimination in employment, housing and public accommodations. The documents was circulated to over 50 persons for review and comment.

During the course of the Advisory Committee's background investigation and factfinding meeting, it became clear and convincing that there is a need for a State agency to deal with human relations concerns in the State. Based on comments received, the Alabama Advisory Committee recommends that the Governor and members of the Alabama State Legislature consider enacting an Alabama Human Relations Law. As a starting point for those persons interested in such, the Advisory Committee offers Appendix B as a guide to developing a State human relations law.

It is the Advisory Committee's hope that a constructive dialogue be held concerning a State human relations law. A statewide human relations commission will be able to afford to those protected classes timely investigations of their complaints regarding discrimination. Such a commission will also allow persons within the State an opportunity to mediate differences, while establishing and preserving the harmony among the races, religions, and other groups of the State's social structure. Finally, a human relations commission will allow those in Alabama to better remove the walls of separation and form bridges of understanding.

The Advisory Committee urges the Commission to assist it in follow-up activities to this report.

Respectfully,

A handwritten signature in cursive script that reads "Rodney A. Max". The signature is written in black ink on a white background.

For the Alabama Advisory Committee Members,  
(By) Rodney A. Max  
William D. Barnard, *Chairperson* \*

\*During the course of the Advisory Committee's project, Dr. William D. Barnard was out of the State.

## **Alabama Advisory Committee**

**William D. Barnard, *Chairperson***  
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**Ms. Freddi Aronov**  
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**Charlena Bray**  
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**Rodney A. Max**  
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**Dr. Rex J. Morthland**  
Selma

**Dr. George Munchus III**  
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**Anne Shumaker**  
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**Dr. Annie M. Wells**  
Huntsville

### **Acknowledgments**

The Alabama Advisory Committee wishes to thank the staff of the Commission's Central Regional Office for its help in the preparation of this report. Editorial assistance and preparation of the report were provided by Gloria Hong Izumi. The project was the principal assignment of and written by Melvin L. Jenkins, Director, Central Regional Office, with support from Jo Ann Daniels.

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# I. Introduction and Background

At its February 6, 1990, meeting, the Alabama Advisory Committee to the U.S. Commission on Civil Rights discussed at some length the need for a State human relations commission to handle civil rights concerns (including complaints of discrimination and community relations) of the citizens of Alabama. It was pointed out by several Advisory Committee members that the State had not enacted general civil rights legislation.<sup>1</sup> By consensus, the Advisory Committee agreed to conduct a project regarding the need for a State human relations commission.<sup>2</sup> However, the project was postponed so that the Committee could undertake an extensive study of race relations in Selma.<sup>3</sup>

At its May 7, 1992, meeting, the Advisory Committee returned to its discussion of the need for a State human relations commission and ap-

proved a proposal to conduct a factfinding meeting on the topic.<sup>4</sup>

Prior to August 1991, the State of Alabama had never passed a State civil rights law nor sought to establish a State human relations commission. The State has no statutory provision of general application concerning civil rights laws, except a provision which specifies that the handicapped are to be employed in the State services on the same terms as the able-bodied.<sup>5</sup>

On August 8, 1991, Governor Guy Hunt signed into law the Alabama Fair Housing Law (AFHL).<sup>6</sup> The general purpose of that law was to set a policy for the "[S]tate to provide for fair housing throughout the [S]tate."<sup>7</sup> This statute will be discussed in more detail in a later chapter.

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1 Alabama State Advisory Committee Minutes, Feb. 6, 1990.

2 Ibid.

3 Alabama Advisory Committee to the U.S. Commission on Civil Rights, *Crisis and Opportunity: Race Relations in Selma* (December 1991).

4 SAC Minutes, May 7, 1992.

5 ALA. CODE § 21-7, (Supp. 1991).

6 *Id.* §§ 24-8-1 to 24-8-15.

7 *Id.* § 24-8-2.



## II. The Need For A State Human Relations Commission

The Alabama Advisory Committee convened a factfinding meeting in Birmingham, Alabama, on June 17-18, 1992, to obtain information regarding the need for a State human relations commission. The Committee heard from over 20 persons representing Federal, State, and local governments, community and religious organizations, civil rights groups, concerned citizens, and experts on the topic. Public officials who were invited and made presentations included Jane Weeks, executive director, Alabama Indian Affairs Commission; Warren Bullock, district director, U.S. Equal Employment Opportunity Commission; State Representative John Buskey of Montgomery County; and State Representative George Perdue of House District 54. Mayor Mike Dow of Mobile, Alabama, and State Representative Bobbie McDowell of Jefferson County were invited but did not attend due to scheduling conflicts. The Advisory Committee also issued an invitation to Dr. Don Hines of the Alabama Department of Economic and Community Affairs, but he did not attend the meeting. Dennis Nabors of the Governor's office attended the meeting but did not make a presentation.

Prior to the factfinding meeting, the Advisory Committee drafted a document reflecting a collection of various State laws regarding a State human relations commission with authority to enforce laws against discrimination in employment, housing, and public accommodations.<sup>2</sup> Those persons invited to participate in the factfinding meeting were sent a copy of the document along with other background information and were asked to provide the Advisory Committee comments on

the document at the meeting. Further, the participants were asked to provide comments on the concept of a human relations commission for the State of Alabama.

Michael Calvert, executive director of Operations New Birmingham, told the Advisory Committee of his support for a State human relations commission.<sup>3</sup> He views a human relations commission as providing public education (on civil rights issues) and as encouraging communication and reconciliation of issues rather than confrontations.<sup>4</sup> He related that:

It [human relations commission] provides a mediation service, a way to bring people together to resolve differences, and it's really a conflict resolution that does not involve sweeping problems under the rug, does not involve achieving harmony at the expense of justice, but rather is aimed at achieving harmony through justice.<sup>5</sup>

Rev. John Herndon, president of the Huntsville, Alabama, branch of the NAACP, voiced his concern regarding the lack of a State agency to handle employment discrimination complaints. He reported that the local NAACP office, as of the day of the factfinding meeting, was handling 21 active cases of alleged racial discrimination in education and employment.<sup>6</sup> He said:

At the present time there is no State agency charged with the comprehensive responsibility of insuring that all citizens have equal access to education, housing, and employment opportunities, nor is there a statutory civil rights package to protect citizens against discriminatory practices and procedures.

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1 See appendix A for the factfinding meeting agenda.

2 Although the State of Alabama has passed a fair housing law, there are questions as to whether it is enforceable. See discussion in chap. IV.

3 *Factfinding Meeting Before the Alabama Advisory Committee to the U.S. Commission on Civil Rights*, Birmingham, Ala., June 17-18, 1992, vol. I at p. 151 (hereafter cited as *Transcript*).

4 *Ibid.*

5 *Ibid.*, p. 152.

6 *Ibid.*, p. 163.

Debi Shendelman, director of the Community Relations Committee, Birmingham Jewish Federation, agreed with the concept of a State human relations commission. She pointed out that such an agency could also provide advice to the Governor and the State legislature on civil rights matters.<sup>7</sup> Ms. Shendelman said:

Efforts must be enhanced to promote civil rights and sound intergroup relations. If this commission is empowered to study and report on what appears to be a state of increased tension between [members] of different ethnic groups in our society, then we can move ahead with the development and implementation of specific programs and policies aimed at ameliorating the conditions that perpetuate intergroup tension. In fact, the mere existence of such a body may serve in and of itself to alleviate potential tension. An Alabama human relations commission can serve as a sounding board. It can be a one-stop phone number that the ordinary citizen can call for advice regarding possible human rights complaints. Presently no such number exists.

Doug Mitchell, executive director of the Greater Birmingham Ministries, discussed his thoughts of a human relations commission. He noted to the Advisory Committee that he had worked for 5 years as a community representative for the Pittsburgh, Pennsylvania, Commission on Human Relations. Mr. Mitchell believed that "the historical reliance on the Federal system for the civil rights protection is inadequate and dated . . . ."<sup>8</sup> He believed that many civil rights issues result from community tensions, violence, and harassment. If a human relations commission is created in the State, it should have a community

relations section. Mr. Mitchell said that in the city of Birmingham there are several organizations that can provide a grassroots response to community tension, but there is a need for a coordinating agency to provide resources and technical assistance.<sup>9</sup>

State Representative John Buskey added his support to establishing a human relations commission.<sup>10</sup> He related several incidents to the Advisory Committee that he had read about that pointed to the need of a human relations commission. In one incident a black Alabama highway department engineer was left by the side of the road by his supervisors every day for more than a month with no workers to supervise. The black engineer is now part of a class action lawsuit alleging that the highway department's promotion practices discriminate against blacks.<sup>11</sup>

In another incident Representative Buskey said a wheelchair-bound person filed a complaint because the building where she worked did not have adequate facilities for the handicapped.<sup>12</sup> He used those incidents to set the tone calling for a human relations commission. He said with a human relations commission "we could fight for those who have already become the victim of such prejudices and establish a network throughout the State to aid in these efforts."<sup>13</sup>

However, Representative Buskey cautioned the Advisory Committee that it would be difficult to pass legislation to create a human relations commission without a united effort from the political and business leaderships.<sup>14</sup> Such a human relations commission would need the support of the Governor and groups like the local chambers of com-

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7 Ibid., p. 163.

8 Ibid., p. 174.

9 Ibid., p. 175.

10 Ibid., p. 184.

11 Ibid., p. 186.

12 Rep. John Buskey, testimony regarding Human Relations Commission, June 17, 1992, on file at CRO.

13 *Transcript*, p. 214.

14 Ibid.

15 Ibid., p. 216.

16 Ibid., p. 217.

merce and the political leadership in both houses of the legislature

Representative Buskey noted that

when minority members come with legislation such as the [establishment of a human relations commission] as the prime sponsors, it has a tendency to be termed civil rights legislation or something of that nature, and it doesn't get much of a hearing

So that if one of the key leaders of the House would serve as a sponsor of the bill, then his [her] influence would bring on board a number of other key people and hopefully enough cosponsors to pass the legislation out of committee without any real problems

A very compelling rationale for establishing a human relations commission was presented by Curtis Steele of the Birmingham African American Association for the Family. He said that every family needs the basics of employment, equal pay, health care, education, housing, and equal protection of the law. Mr. Steele pointed out that

When a family member or families experience discrimination in any form, based on a family's race, religion, national origin, sex, age, or equal pay, it begins to break down and divide not only that family member but, worse, their entire family

He believed that a human relations commission would greatly assist and enhance the State of Alabama's role in protecting a person's human rights.<sup>17</sup>

Elise Penfield, executive director of the Partnership Assistance to the Homeless, spoke to the Advisory Committee as a supporter of a human relations commission. She said

I am doing so as a citizen of the State but also as an individual who knows that discrimination exists today and

that civil rights are regularly denied. I believe that the establishment of a civil rights commission would be a symbol of our State's commitment to address the harms of the past and the residual settlement of racism which exists in our society.<sup>18</sup>

Ms. Penfield related that racial discrimination may be difficult to identify except to those who are experiencing it. She observed

As one who works with the homeless in our community, I am keenly aware that individual civil rights are denied and that discrimination is practiced, and I am keenly aware that the vast majority are not aware of any recourse that they have or that there might be someplace they could ask the State about.

I also am aware in the homeless community that shelter staff members operate with very limited budgets, do not have people to do research, do not have people to make referrals except to get food and clothing and shelter, and that they are not aware of how to advise clients to act. And I think that is another reason to establish an Alabama human relations commission.<sup>19</sup>

In her call for a human relations commission, Ms. Penfield took her rationale one step further. She believed that the State needs to establish a human relations commission primarily for the reason that it would enable local commissions to be established.<sup>20</sup> She commented that

Although I support all Federal and State legislation which will address civil rights and discrimination, I truly believe that those issues are best addressed at the local level. And I know that homeless individuals who are already ashamed of their situation and obviously may lack the ability to pursue a claim in a regional office of the Federal Government, may be willing to walk through a claimant's process in their local community, particularly if they are joined with shelter staff members and volunteers whom they trust.<sup>21</sup>

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17 Ibid.

18 Ibid., pp 223-24

19 Ibid., p 226

20 Ibid., p 228

21 Ibid., vol. II, p 41

22 Ibid., p. 46

23 Ibid., p. 47.

Dr. Julius Brown, president of Wallace Community College Selma, listed six points in support of a human relations commission. These include

- (1) a systematic way of handling complaints,
- (2) need for an agency that is proactive and positive as it relates to good human relations,
- (3) establishment of a human relations commission would send two messages, one within the State and one to the outside. Both messages would be positive,
- (4) a human relations commission could accent positive relations among the races,
- (5) the proposed commission would help the State to better focus on its most valuable resources, its people; and
- (6) by taking forward looking measures such as establishing a human relations commission, Alabama can become a leader in human relations and enhance the quality of life for all of its citizens.<sup>25</sup>

Dr. Brown expanded his presentation to include human relations in the public schools and on college campuses. He pointed out that there are many superintendents of schools and college presidents who would like to have some assistance to deal with human relations problems. At the present time there is no assistance available. Dr. Brown noted that if a human relations commission were to be established, one charge for the human relations commission would be to set up workshops for teachers, school administrators, college presidents, and college administrators to learn to deal with typical human relations issues.<sup>26</sup>

Regarding his comments that the establishment of a human relations commission would give two messages, Dr. Brown said

The inside message is that you don't have to leave Alabama to have a good and productive life, that you will have a chance to develop your skills and abilities, that you will have a chance to live in peace and have the quality of life that some right now seek in other parts of the country. We need to send a message to our own citizens saying that.

The outside message is that Alabama is a place or should be or can become a place of fairness, a place where corporations, business, and organizations can come to us and not only experience the growth of their companies and organizations but can take advantage of the many resources and opportunities that exist in Alabama. That's very important for all of our citizens, and I would say to you that most people tend to think of the chamber of commerce or other types of organizations who would have those kind of concerns.

But as an African American and as a citizen of Alabama, I'm very concerned that we have a great and positive business climate because that way my son and daughter can get a job. That way, the youngster who was in difficulty can get a job. That way, young people will feel that they have a future. It's so important, as an educator, to have young people feel that they can make it, that they can achieve. That's the way we get them to go to school and that's the way we get them to do homework, etc.

So that message to the outside is extremely important, just as important as the message to the inside. And the human relations commission can send that message.<sup>27</sup>

When Dr. Brown was asked whether the recent problems regarding racial tensions in Selma<sup>28</sup> could have benefited from having a human relations commission in place, he responded that "it would have been very helpful because it would have constituted a third party where mediation, discussion, and the solving of some of those problems could have occurred."<sup>29</sup>

Mary Jones, assistant to the Mayor of Birmingham, told the Advisory Committee that too many

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24 Ibid.

25 Ibid., pp. 59-63

26 Ibid., pp. 80-81

27 Ibid., pp. 60-61

28 See *Crisis and Opportunity*

29 *Transcript*, vol. 1, p. 65

Alabamians are still viewed as the last bastion of racial insensitivity.<sup>30</sup> She said:

A human relations commission makes sense. The time is now. I call upon the Governor of this State, legislators, various business interest groups, and the people of Alabama to get behind this idea and propel it to completion by adopting such a vehicle now. It would not be very costly. It is the fair thing to do. Such an agency, when established, would be a progressive step for our people. It will express our collective intent to come to terms with our past even if we take steps that will ensure a more productive future for all Alabamians. This commission's greatest asset would be its attempt to bring to bear the common might of goodwill on problems that have long held us back, that have long stunted our economy and made life unbearable for a number of persons who call this special place in our country, home.

Ms. Jones added that a human relations commission could address many of those historic problems regarding race relations in Alabama. Such an agency could bring about the changes that are needed for the State.

Rev. Abraham Woods, president of the local Southern Christian Leadership Conference (SCLC), indicated that he was in favor of a human relations commission, but he had some reservations. During his presentation he posed a series of questions, including:

- (1) Is there a will in the State of Alabama to establish an effective human relations commission?
- (2) Is there a commitment to adequately fund a human relations commission?
- (3) Will the human relations commission be staffed by persons committed to carrying out the agency's mandate?
- (4) Will the human relations commission have clout?

(5) Will the human relations commission be viable?

However, Reverend Woods indicated that if a human relations commission were to be established, then that would be a step in the right direction. When asked whether SCLC would support a State human relations commission, Reverend Woods responded:

Well, certainly SCLC will take the position that it must be a viable human relations commission. It is going to be a struggle to just get a human relations commission. And frankly, to tell you the truth, I don't know just how to think about what's going to be the outcome, because it's going to be a struggle just to get a human relations commission here in the State of Alabama.

There are going to be those who want to make all kinds of compromises with it and in the final analysis, what we might get might not be anything that we want. And that's another frightening thing too, but SCLC is going to be pushing to try to get it and try to get a viable one.

And, of course, I don't know what will happen in the struggle. We might get to the point where forces which dominate want one which will not be the kind that will have clout, and then we'll have to, probably will oppose that, that sort of situation. But trying to get this baby born, you see, that is going to be the real problem.

Leslie Proil, a civil rights attorney practicing in Birmingham, related to the Advisory Committee that she and her clients are frustrated at the lack of a State law prohibiting discrimination in employment and housing.<sup>34</sup> If there were State laws, then they would be enforced in Alabama State courts. Ms. Proil said that "State laws providing for streamlined investigatory and conciliation procedures would go a long way toward reducing the back load [of complaints] at the Federal agencies such as HUD and EEOC."<sup>35</sup>

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<sup>30</sup> *Ibid.*, p. 84.

<sup>31</sup> *Ibid.*, pp. 84-85.

<sup>32</sup> *Ibid.*, pp. 100-03.

<sup>33</sup> *Ibid.*, pp. 109-10.

<sup>34</sup> *Ibid.*, p. 135.

<sup>35</sup> *Ibid.*, p. 136.

Robert Avery, a member of the city council of Gadsden and president of the Alabama Black Caucus of Local Elected Officials, spoke in support of a human relations commission. He reported that the city of Gadsden has established a human relations commission to respond to race relations and other community problems.<sup>36</sup>

The Advisory Committee also heard from two directors of State civil rights agencies: Lawrence Myers, director of the Nebraska Equal Opportunity Commission and Warren Moore, director of the Tennessee Human Rights Commission. Both directors supported the establishment of a human relations commission for the State of Alabama.

Commenting on the importance of a State agency to handle discrimination complaints and possible duplication of efforts by EEOC and HUD, Mr. Myers said that the issue is more localized. He added:

The State, and if local agencies were to adopt the State law, means that you have an opportunity for more interaction between the housing provider, employers, and the agencies.

At the current position in the Federal Government, for example, in the area of housing, the complaint must be filed with the Atlanta office of HUD and it is investigated from that office. And I, knowing HUD, will do a good job, however, it does not have the resources or the ability at this point to deal with particular situations that may exist within Birmingham, Alabama, and Mobile, because HUD has other States to cover. And by having a State agency, that agency is able to lend technical assistance to the individuals within that State, to understand and be very familiar with the unique circumstances of that situation. Whereas the Federal Government, in all honesty, due to the fact that it has many States in its jurisdiction, does not have that ability.

I think that you will find, if you are successful in this effort, that in the long run the employers, housing providers, and complainants, will be satisfied and will have looked upon the creation of this agency as a benefit.

Mr. Myers believed that a State agency would be able to save the business community money in terms of providing a quicker response to complaints of discrimination. He reported that even if it took 6 or 7 months to investigate a complaint, that would be more responsive than the Federal system.<sup>37</sup>

Mr. Moore said that by establishing a human relations commission the State of Alabama would be saving to its citizens. "We think enough of you as a citizen of this State to protect you in those areas where you cannot protect yourself, inexpensively."<sup>38</sup> He added that a human relations commission would be a resource for the business community by providing technical assistance in the areas of employment and housing discrimination concerns.<sup>39</sup>

Also addressing the Advisory Committee regarding the creation of a human relations commission was Warren Bullock, District Director of the U.S. Equal Employment Opportunity Commission. He said that such a State agency would ease EEOC's caseload. Mr. Bullock added that if a human relations commission were to be established, it should have a multifaceted role, including the ability to investigate, conciliate, litigate, and provide technical assistance, training, and education. Further:

And it is in that technical assistance and training and education that your greatest payoff is going to occur. If you look at your commission strictly as one of investigating, conciliating, negotiation, and even to include very few, but even some litigate, that is not the key here. It has never been the key, and it never will be the key in any type of social endeavor that you undertake of this nature.

It has to be technical assistance, training. It has to be education and awareness. There is no substitute for that. I mean, you have to have this element there, but that has to be your major thrust if you're going to be successful and make a positive impact.<sup>40</sup>

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<sup>36</sup> Ibid., p. 152.

<sup>37</sup> Ibid., p. 17.

<sup>38</sup> Ibid., p. 17.

<sup>39</sup> Ibid., p. 70.

<sup>40</sup> Ibid., p. 71.

As can be seen from the comments above, many of the speakers who participated in the Advisory Committee's factfinding meeting offered positive comments concerning a human relations commission. The Advisory Committee attempted to ascertain the Governor's position regarding a State human relations commission. Contact was made with the Governor's office, and Dr. Don Hines of the Alabama Department of Economic

and Community Affairs was scheduled to make a presentation to the Committee. Dennis Nabors of the Governor's staff attended the meeting and an offer was made to Mr. Nabors to submit, for the record, a statement regarding the Governor's position on the establishment of a human relations commission.<sup>42</sup> No statement was received by the Advisory Committee.

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41 Ibid., p. 142.

42 Ibid., p. 9.

### III. Duplication of Services of Other Agencies

At the present time in Alabama, if a person is discriminated against in employment because of race, color, sex, religion, national origin, or disability, that person can file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC). In the area of housing, if a person is discriminated against because of race, color, religion, national origin, sex, familial status, or, in some instances, because of being handicapped, that person can file a complaint with the U.S. Department of Housing and Urban Development (HUD).<sup>1</sup>

Would having a State agency to enforce similar provisions of Federal laws cause duplication of services? Warren Moore of the Tennessee Human Rights Commission placed the question in the following context, "that human rights legislation provides the potential for orderly, legal and inexpensive accessibility and redress of grievances."<sup>2</sup>

As noted earlier, Lawrence Myers of the Nebraska Equal Opportunity Commission told the Advisory Committee that with a human relations commission the issue of discrimination is more localized.<sup>3</sup> The jurisdiction of EEOC and HUD often expands beyond the boundaries of one State. He noted that persons who make use of a State human relations commission will be more adequately served than they are currently by EEOC and HUD. In a prepared statement Mr. Myers wrote:

The service which they [parties involved in a discrimination complaint] now receive is not due to any bad faith on the part of the Federal government, but only that they [the Federal government] are a larger operation and do not necessarily have the State of Alabama as its main concern. An agency created and operated by the State of Alabama

would have as its main concern that of eliminating discrimination in the State.<sup>4</sup>

With a State agency there can be more interaction between the enforcement agency and the various parties involved in the complaint. Mr. Myers added:

But the process [of investigating a complaint of discrimination] is that it will be able to be done in a timely manner. Further, that people will understand that they at least can see the person that they know they can contact. I have found that in this field one of the ways to overcome attitudes, other than using the law, is just the ability to be there and for the employer, a complainant, a housing provider, a person seeking housing, just to know that they can contact someone in the State to discuss their concerns by picking up the telephone or walk in.

I know that we have people in Nebraska who will drive 40, 50 miles to come to the office, just to visit without an appointment. That is possible when you have an agency of this nature.

I know as a fact that our State commission has worked with the employers, has worked with the community, and there is still disagreement as to the decisions we sometimes make, but everyone is in agreement that the agency has provided a good for the community and the State of Nebraska. We are able to do workshops for the employers and for the housing providers. We can deal specifically with their problems.

Mr. Myers also pointed out that a human relations commission could serve as a listening post for citizens to discuss their concerns. This could be accomplished by a human relations commission holding various meetings around the State to

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1 Although the State of Alabama has passed a fair housing law, there are questions as to whether it is enforceable. See discussion in chap. V.

2 *Transcript*, vol. I., p. 67.

3 *Ibid.*, p. 14.

4 Written statement of Lawrence Myers to the Alabama Advisory Committee, June 17, 1992.

5 *Transcript*, pp. 15-16.



allow more citizen input in the human relations agenda of the State. A human relations commission could also act as a referral agency regarding general complaints. If during the course of a human relations commission meeting a citizen has a specific concern about State government not within the human relations commission's jurisdiction, the agency could log that concern and refer it to the proper State agency.

Michael Calvert indicated that a human relations commission could provide public education regarding human relations matters within the State. This could very well include better communication and reconciliation of issues rather than confrontation.<sup>6</sup> Currently, there is no mechanism in State government to provide such a service.

Mr. Moore said that a human relations commission creates a mandate from the State of Alabama to do away with discrimination. The administrative agency would enforce the laws against discrimination.

In response to a question regarding a human relations commission reducing EEOC's caseload, Warren Bullock told the Advisory Committee that his agency's caseload is expected to increase at least 25 percent. He does not expect any additional resources to process the cases. Mr. Bullock said that he would welcome any organization that would allow his agency to work more effectively to channel and handle employment discrimination complaints.<sup>7</sup>

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6 Ibid., p. 151.

7 Ibid., p. 140.

## IV. The Cost of Establishing a State Human Relations Commission

As with any new idea, program, policy consideration, expansion of an existing agency, or the establishment of a new agency, the question of cost is one that has to be discussed. In an effort to deal with this consideration, the Advisory Committee asked several experts in the human relations field to explore this concern. Comments were also received from other interested parties.

Lawrence Myers, of the Nebraska Equal Opportunity Commission, reported that, based on information received from EEOC and HUD concerning the number of complaints filed over several years in Alabama, the average is 2,700 complaints per year. Based on that average, Mr. Myers recommended a funding level of approximately \$3,750,000 per year. That figure is predicted upon taking all 2,700 complaints, and the State agency not receiving reimbursement from HUD and EEOC.<sup>1</sup> If the State civil rights laws regarding employment discrimination and fair housing were equivalent to the Federal laws, the State agency would be eligible for reimbursement for receiving and investigating complaints. The reimbursement would be \$1,200 per complaint from HUD and \$450 per complaint from EEOC. These reimbursements are only possible if the State agency has been certified by the Federal agencies to receive and investigate complaints.<sup>2</sup> Mr. Myers pointed out that although the State agency may have the capacity to handle 2,000 employment discrimination complaints or charges, because of

funding from Congress, EEOC may contract for a lesser number.<sup>3</sup> The funding level also applies to complaints referred to the State agency by HUD.

Mr. Myers reported that his agency, the Nebraska Equal Opportunity Commission, processes approximately 1,400 cases per year on a budget of \$1.5 million. Of that \$1.5 million, approximately \$200,000 is reimbursable cost from EEOC and HUD.<sup>4</sup> However, Mr. Myers said that to administer an agency in Alabama to assist Federal agencies with being a clearinghouse for civil rights information and to be a forum for persons to come for investigatory matters or for mediation the cost would be between \$300,000 to \$500,000.<sup>5</sup>

Warren Moore of the Tennessee Human Rights Commission reported that his agency's overall budget is \$1.2 million and \$900,000 of that is from the State's general fund.<sup>6</sup> But Mr. Moore agreed with Mr. Myers that a startup cost for an agency in Alabama would be between \$300,000 to \$500,000.<sup>7</sup>

Rep. John Buskey told the Advisory Committee that he thought it would take about \$500,000 to set up a State agency to deal with human relations matters.<sup>8</sup> He further related that:

I don't think it's too much and it would not be difficult to fit that into our budget the way we operate. There are some things and some areas that we spend money on that are much less worthy, I guess, than an agency like this would be and I don't think a half million dollars would be too

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1 Ibid., vol. I., pp. 26-27.

2 Ibid., pp. 27-29.

3 Ibid., p. 30.

4 Ibid., p. 61.

5 Ibid., p. 59.

6 Ibid., p. 89.

7 Ibid., p. 117.

8 Ibid., p. 221.

much at all, and I think we could do it. It would not hurt anybody. Of course, there would be opposition to it.

You would have opposition to it, number one, based on the fact that it will cost money, and number two, there would be the perception and some legislators that an agency such as this will be set up to further deny the majority some things. And, of course, this is not what it's all about.

I think, overall, an agency such as this can save the State money by intervening in some situations and at least consulting and making some recommendations. It can cut down on some losses perhaps, advising some department heads on how to treat people and how to run their depart-

ments where they would not be found guilty of discrimination and that kind of thing.

So I can see that it would save the State money. So I don't think the half million dollar figure would be that great to begin with and I know that you're talking about setting up a staff of people who would be available to run the agency.

I think it's something that—like I said before, if the leadership would get behind it, the administration and, of course, like I said before, we do literally waste millions of dollars on other I guess projects and programs that are not as worthy as this one in my estimation, so that would not be difficult.

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<sup>9</sup> *Ibid.*, pp. 221-23.

## V. Alabama Fair Housing Law

The Alabama Fair Housing Law became effective on August 8, 1991. As Emily Eberhardt, executive director of the Neighborhood Housing Services of Birmingham, told the Advisory Committee, "... I just found out that Alabama had a fair housing law. It was a quietly kept secret."<sup>1</sup> As was the case with many persons interviewed prior to participating in the Advisory Committee's factfinding meeting, very few knew about the State fair housing law.

With some exceptions, the Alabama fair housing law is reflective of the Federal fair housing law. Those exceptions were pointed out by Law-

rence Myers of the Nebraska Equal Opportunity Commission.<sup>2</sup> Persons who appeared before the Advisory Committee were concerned about the State enforcement agency for fair housing, the Alabama Department of Economic and Community Affairs (ADECA). Doug Mitchell, executive director of Greater Birmingham Ministries, said that ADECA is not set up to enforce the fair housing law and the agency is not accessible to most of the people in the State.<sup>3</sup>

Dr. Don Hines of ADECA was invited to appear before the Advisory Committee but did not show up.<sup>4</sup>

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1 *Transcript*, vol. II., p. 255.

2 *Ibid.*, vol. I., pp. 26-32.

3 *Ibid.*, p. 191.

4 Letter to Don Hines from Melvin L. Jenkins, June 8, 1992.

## VI. Conclusion and Recommendation

**D**uring the course of the Advisory Committee's factfinding meeting, it became clear and convincing that there is a need for a State agency to deal with human relations concerns in Alabama. Based on the comments received, the Alabama Advisory Committee to the U.S. Commission on Civil Rights recommends that the Governor and members of the Alabama State Legislature consider enacting an Alabama Human Relations Law. As a starting point for those persons interested in such, the Advisory Committee offers appendix B as a guide to developing a State human relations law.

It is the Advisory Committee's hope that a constructive dialogue be held concerning a State civil rights law. A statewide human relations commission will be able to afford to those protected classes timely investigations of their complaints

regarding discrimination. Such a commission will also allow persons within the State an opportunity to mediate differences, while establishing and preserving the harmony among the races, religions, and other groups of the State's social structure. Finally, a human relations commission will allow those in Alabama to better remove the walls of separation and form bridges of understanding. (See appendix C, a Statement by Rodney Max, a member of the Alabama Advisory Committee; appendix D, letter from State Representative Bobbie G. McDowell to Melvin L. Jenkins; appendix E, letter from Mayor Johnny Ford of Tuskegee, Alabama; and appendix F, Petition for the creation of a statewide human relations commission.)

## Appendix A

ALABAMA ADVISORY COMMITTEE  
TO THE  
U.S. COMMISSION ON CIVIL RIGHTS  
BIRMINGHAM-JEFFERSON CIVIC CENTER  
MEDICAL FORUM MEETING ROOM C  
950 22nd STREET, NORTH  
BIRMINGHAM, ALABAMA

JUNE 17-18, 1992

### AGENDA

#### WEDNESDAY, JUNE 17, 1992

- 9:00 a.m.            OPENING STATEMENTS  
                      --Rodney Max, Acting Chair  
                          Alabama Advisory Committee  
                      --Melvin L. Jenkins, Regional Director  
                          U.S. Commission on Civil Rights
- 9:10 a.m.            --Lawrence Myers, Executive Director  
                          Nebraska Equal Opportunity Commission
- 10:10 a.m.           --Dr. Warren Moore, Executive Director  
                          Tennessee Human Rights Commission
- 11:10 a.m.           --Dr. Don Hines, Director  
                          Alabama Department of Economic and Community  
                          Affairs
- 11:30 a.m.           --Hon. Mike Dow, Mayor  
                          Mobile, Alabama
- 12:00 p.m.           LUNCH

- 1:00 p.m. --Warren Bullock, District Director  
U.S. Equal Employment Opportunity Commission
- 1:20 p.m. --Michael Calvert, Executive Director  
Community Affairs Committee of Operations  
New Birmingham
- 1:40 p.m. --Robert Corley  
National Conference of Christians and Jews
- 2:00 p.m. --Joe Lampley, Esq.  
Huntsville, Alabama
- 2:20 p.m. --Dr. Michele Wilson  
National Organization of Women
- 2:40 p.m. --Rev. John Herndon  
Huntsville Branch of the NAACP
- 3:00 p.m. --Debi Shendelman  
Community Relations Committee of the Birmingham  
Jewish Federation
- 3:20 p.m. --Sen. John Buskey  
Montgomery County
- 3:30 p.m. --Doug Mitchell, Executive Director  
Greater Birmingham Ministries
- 3:40 p.m. --Curtis Steele  
Birmingham African American Association for  
the Family
- 4:00 p.m. --Barbara Larson, Executive Director  
Leadership Alabama
- 4:20 p.m. --Billy Eberhart  
Birmingham, Alabama
- 4:40 p.m. --Bunny Gamble  
Selma, Alabama
- 5:00 p.m. OPEN SESSION
- 5:30 p.m. RECESS

THURSDAY, JUNE 18, 1992

9:00 a.m.            OPENING STATEMENTS  
                      --Rodney Max, Acting Chair  
                          Alabama Advisory Committee  
                      --Melvin L. Jenkins, Regional Director  
                          U.S. Commission on Civil Rights

9:10 a.m.            --Jane Weeks, Executive Director  
                          Alabama Indian Affairs Commission

9:30 a.m.            --Rev. Joe Rembert  
                          Brown Chapel A.M.E. Church, Selma, AL

9:50 a.m.            --Elise Penfield, Executive Director  
                          Partnership Assistance to the Homeless

10:10 a.m.           --Dr. Julius Brown, President  
                          Wallace Community College-Selma

10:30 a.m.           --Rep. Bobbie McDowell  
                          Jefferson County

10:50 a.m.           --Mary Jones  
                          Assistant to the Mayor of Birmingham

11:10 a.m.           --Rev. Abraham Woods  
                          SCLC

11:30 a.m.           --Rep. George Perdue  
                          House District 54

11:50 a.m.           --Leslie Proll, Attorney  
                          Birmingham, Alabama

12:00 p.m.           Governor's Office

12:15 p.m.           --Robert Avery, City Council  
                          Gadsden, AL

12:30 p.m.           ADJOURNMENT



## **Appendix B**

# **ALABAMA HUMAN RELATIONS ACT**

## **PART I— GENERAL PROVISIONS**

### **ARTICLE 1.**

#### **PURPOSE AND INTENT.**

**Sec. 1.01.** It is the purpose and intent of the State of Alabama by this Act:

(1) To provide for execution within Alabama of the policies embodied in the Federal Civil Rights Act of 1964, 1968, 1972, 1991, as amended, the Pregnancy Amendment of 1978, and the Age Discrimination in Employment Act of 1967 and the American with Disabilities Act, as amended;

(2) To assure that Alabama has appropriate legislation prohibiting discrimination in employment, public accommodations, and housing sufficient to justify the deferral of cases to the U.S. Equal Employment Opportunity Commission, the U.S. Department of Housing and Urban Development, the Secretary of Labor, and the Department of Justice under those statutes;

(3) To safeguard all individuals within the State from discrimination because of race, creed, color, disability, religion, sex, age, national origin in connection with employment and public accommodations, and because of race, color, creed, religion, sex, or national origin, familial status or handicap in connection with housing;

(4) To protect their interest in personal dignity and freedom from humiliation;

(5) To make available to the State their full productive capacity in employment;

(6) To secure the State against internal domestic strife and unrest which would menace its democratic institutions;

(7) To preserve the public safety, health, and general welfare; and

(8) The prohibitions in this chapter against discrimination because of age in connection with employment and public accommodations shall be limited to individuals who are at least forty (40) years of age.

### **ARTICLE 2.**

#### **DEFINITIONS.**

**Sec. 2.01. Definitions.** — As used in this Act:

(1) "Commission" means the Alabama Human Relations Commission;

(2) "Commissioner" means a member of the Commission;

(3) "Discriminatory practices" means any direct or indirect act of practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, creed, color, religion, sex, age, national origin, where appropriate familial status or handicap;

(4) "Employer" includes the State, any political or civil subdivision thereof, and persons employing eight (8) or more persons within the State, or any person acting as an agent of an employer, directly or indirectly;

(5) "Employment agency" includes any person or agency, public or private, regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes any person;

(6) "Family" includes a single individual;

(7) "Financial institution" means a bank, banking organization, savings and loan association, mutual savings, credit union, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction,

rehabilitation, repair, maintenance, or improvements of real property, or an individual employed by or acting on behalf of any of these;

(8) "Hearing examiner(s)" is one (1) or more persons or commissioners, designated by the Commission to conduct a hearing. The Commission shall have the sole power to determine qualifications of the examiner;

(9) "Housing accommodation" includes improved and unimproved property and means a building, structure, lot or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as the home or residence of one or more individuals;

(10) "Labor organization" includes any organization which exists for the purpose in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment or any agent acting for organizations;

(11) "National origin" includes the national origin of an ancestor;

(12) "Person" includes one (1) or more individuals, governments, governmental agencies, public authorities, labor organizations, corporations, legal representatives, partnerships, associations, trustees, trustees in bankruptcy, receivers, mutual companies, joint stock companies, trusts, unincorporated organizations, or other organized groups of persons;

(13) "Places of public accommodation, resort or amusement" includes any place, store or other establishment, either licensed or unlicensed, which supplies goods or services to the general public or which solicits or accepts the patronage or trade of the general public, or which is supported directly or indirectly by government funds; except that:

(A) A bona fide private club is not a place of public accommodation, resort or amusement if its policies are determined solely by its members, and

(B) Its facilities or services are available only to its members and their bona fide guests.

(14) "Real estate broker" or "real estate salesperson" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these;

(15) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, or the county or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these;

(16) "Real estate transaction" includes the sale, exchange, rental or lease of real property;

(17) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, corporal and incorporeal, or any interest in the above;

(18) "Familial status" means one or more individuals, who have not attained eighteen (18) years of age, being domiciled with:

(A) A parent or another person having legal custody of such individual or individuals; or

(B) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

(19) Age discrimination applies to those persons over 40 years of age.

(20) Disability/handicap shall mean any physical or mental condition, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy or seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog, wheelchair, or other remedial appliance or device and shall also mean the physical or mental condition of a person which constitutes a substantial handicap, as determined by a physician, but does not reasonably preclude a person's ability to engage in a particular occupation. Disability shall not include an addiction to alcohol, controlled substances, or gambling which is currently being practiced by the employee. For purposes of this subdivision, "does not reasonably preclude," shall mean that an employer shall not be subject to more than a de minimis expense;

(21) Marital status shall mean the status of a person whether married or single;

(22) Because of sex or on the basis of sex shall include, but not be limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and

(23) Unlawful under Federal law or the laws of this State shall mean acting contrary to or in defiance of the law or disobeying or disregarding the law;

(24) Additional definitions may be contained in the various articles under this Act.

## **PART II—ALABAMA HUMAN RELATIONS COMMISSION**

### **ARTICLE 3.**

#### **HUMAN RELATIONS COMMISSION: CREATION; POWERS.**

##### **Sec. 3.01 Human Relations Commission. --**

(1) There is hereby created a Commission to be known as the Alabama Human Relations Commission (hereinafter referred to as Commission or HRC). The Commission shall consist of nine members and shall be appointed as follows:

(a) three members of the Commission shall be appointed by the Governor;

(b) two members of the Commission shall be appointed by the Lieutenant Governor and of the members appointed not more than one shall be appointed from the same political party;

(c) two members of the Commission shall be appointed by the Speaker of the House, and of the members appointed not more than one shall be appointed from the same political party; and

(d) two members of the Commission shall be appointed by the Chief Justice of the Alabama Supreme Court, upon the recommendations of the other Justices, and of the members appointed not more than one shall be appointed from the same political party

(2) The term of office of each member of the Commission shall be six years; except that (A) members first taking office shall serve as designated by the Governor, subject to the provisions of Article (3), for terms of three years and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) The Governor shall designate term of members first appointed under Section 3.01, so that one member appointed under Sections 3.01(a)(b)(c) and (d) are designated for terms of three years and one member appointed under Sections 3.01(b)(c) and (d) and two members appointed under Section 3.01(a) are designated for terms of six years.

(4) The appointing authorities shall strive to achieve representation on the Commission that is diverse with respect to disability, religion, age, economic status, sex, race, ethnicity, and geographical location.

(5) The Governor shall designate a Chair and Vice Chair from among the Commission's members with the concurrence of a majority of the Commission's members. The Vice Chair shall act in the place and stead of the Chair in the absence of the Chair

(6) The Governor may remove a member of the Commission only for neglect of duty or malfeasance in office. (The vacancy will be filled by the authority making the original appointment.)

(7) Five members of the Commission constitute a quorum. A vacancy on the Commission does not impair the authority of the remaining Commission members to exercise the powers of the Commission.

(8) A Commission member is entitled to reimbursement of actual and necessary expenses incurred in the performance of official duties.

(9) In the event of the death or resignation of a member, his or her successor shall be appointed to serve the unexpired term.

(10) The Commission shall employ a full-time executive director who shall be in the unclassified service under the Alabama Civil Service system and who shall receive an annual salary fixed by the Commission, with the approval of the Governor. The Commission shall employ such professional and support staff as necessary to carry out the provisions of the Act.

(11) The State Attorney General shall represent and appear for the Commission in all actions and proceedings involving any questions under the Alabama Human Relations Act.

**Sec. 3.02. Powers of the Alabama Human Relations Commission.** (a) The Commission has the following powers:

(1) To establish and maintain its principal office in the city of Montgomery; and such other offices elsewhere within the State as it may deem necessary;

(2) To meet and exercise its powers at any place within the State to implement the purposes of this Act first by conference, conciliation and persuasion so that persons may be guaranteed their rights and goodwill be fostered;

(3) To promote the creation of local commissions on human relations and to cooperate or contract with individuals or State, local, or other agencies, both public and private, including agencies of the Federal government and other States;

(4) To enter into cooperative working agreements with local human relations commissions which have enforceable ordinances, orders, or resolutions and professional staff;

(5) To accept public grants or private gifts, bequests, or other payments;

(6) To receive, investigate, seek to conciliate, and render decisions in connection with complaints alleging violations of this Act, and file civil actions to effectuate the purposes of this Act;

(7) To request and, if necessary, compel by subpoena the attendance of necessary witnesses of examination under oath or affirmation, and the production for inspection and copying, of records, documents, and other evidence relevant to the investigation of alleged violations of this Act. The Commission by rule may authorize a director or one of its staff to exercise the powers stated in this subdivision on behalf of the Commission.

(8) To furnish technical assistance requested by a person subject to this Act to further compliance with the Act or with rules or orders issued under this Act;

(9) To render at least annually a comprehensive written report to the Governor, the State Supreme Court and to the Legislature, which report may contain recommendations of the Commission for legislative or other action to carry out the purposes and policies of the Act;

(10) To cooperate fully and accept reimbursement from the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development under appropriate authorizing Federal laws;

(11) To file annually with the Governor and the presiding officer of each house of the Legislature and the Chief Justice of the Supreme Court complete and detailed written report accounting for all funds received and disbursed by the Commission during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

(12) To prepare and maintain a written plan that describes how a disabled person or a person who does not speak English can be provided reasonable access to the Commission's programs.

(13) To develop on a biennial basis an inventory of equal employment opportunity policies and programs adopted and implemented by the various State agencies. The Commission shall conduct studies of the policies and programs of selected State agencies if directed to do so by a resolution of the Legislature or by an executive order of the Governor.

(14) To issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination because of race, color, religion, national origin, ancestry, sex, or disability.

(15) To cooperate with community, professional, civic, and religious organizations, Federal agencies, local governments, and agencies from other States in the development of public information programs, leadership, and activities in the interest of equal opportunity and treatment of all individuals.

(16) To adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

**Sec. 3.03. Vacant.**

**Sec. 3.04. Personnel.**— (1) The executive director or the executive director's designee shall develop an interagency career ladder program. The program shall require interagency posting of all non-entry-level positions concurrently with public posting.

(2) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for Commission employees must be based on the system established under this subsection.

(3) The Commission shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for State officers or employees.

(4) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(A) personnel policies, including policies related to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(B) a comprehensive analysis of the Commission work force that meets Federal and State guidelines;

(C) procedures by which a determination can be made of significant underutilization in the Commission work force of all persons for whom Federal or State guidelines encourage a more equitable balance; and

(D) reasonable methods to appropriately address those areas of significant underutilization.

(5) A policy statement prepared under Subsection (4) must cover an annual period, be updated not less than annually, and be filed with the Governor's office.

(6) The Governor's office shall develop a biennial report to the Legislature based on the information received under Subsection (4). The report may be made separately or as part of other biennial reports made to the Legislature.

(7) The Commission shall develop and implement policies that clearly define the respective responsibilities of the Commission and staff of the Commission.

**Sec. 3.05. Public Interest Information and Complaints.**— (1) The Commission shall prepare information of public interest describing the functions of the Commission and the Commission's procedures by which complaints are filed with and resolved by the Commission. The Commission shall make the information available to the public and appropriate State agencies.

(2) If a written complaint is filed with the Commission that the Commission has authority to resolve, the Commission, at least quarterly, and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would

jeopardize an undercover investigation by another agency of the State, Federal, or local government.

(3) The Commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Commission.

## **ARTICLE 4. LOCAL HUMAN RELATIONS COMMISSIONS.**

**Sec. .01. Local Ordinances.**— A political subdivision may adopt and enforce an ordinance that prohibits practices designated as unlawful under this Act, or otherwise under Federal or State law.

**Sec. .02. Local Human Relations Commissions.**— A political subdivision, or two or more political subdivisions acting jointly, may create a local commission to promote the purposes of this Act and to secure for all individuals within the jurisdiction of the political subdivision or subdivisions freedom from discrimination because of race, color, disability, religion, sex, national origin, age, or, where appropriate, familial status and may appropriate funds for the expenses of the local commission.

**Sec. .03. Powers of Local Human Relations Commissions.**— A local commission may exercise the following powers in addition to other powers authorized by this Act or other laws:

(1) to employ an executive director and other employees and agents and fix their compensation;

(2) to meet and exercise its power as provided in this Act;

(3) to cooperate or contract with individuals or State, local, or other agencies, public or private, including agencies of the Federal government and of other States and municipalities;

(4) to accept public grants or private gifts, bequests, or other payments;

(5) to receive, investigate, seek to conciliate, and pass on complaints alleging violations of this Act, and file civil actions to effectuate the purposes of this Act if the Federal government or Alabama Human Relations Commission has referred the complaint to the local commission or has deferred jurisdiction over the subject matter of the complaint to the local commission.

(6) to render at least annually a report, a copy of which shall be furnished to the Alabama Human Relations Commission; and

(7) to request and, if necessary, compel by subpoena the attendance of necessary witnesses for examination under oath or affirmation, and the production, for examination under oath or affirmation, and the production, for inspection and copying, of records, documents, and other evidence relevant to the investigation of alleged violations of this Act.

**Sec. .04. Referral to Local Commission.**— (A) The Alabama Human Relations Commission may refer a complaint filed with it to a local commission with the necessary investigatory and conciliatory powers if the complaint concerns discrimination in housing, employment, or public accommodations because of race, color, disability, religion, sex, national origin, age, or, where appropriate, familial status, and;

(1) the complaint has been referred to the Alabama Human Relations Commission by the Federal government; or

(2) the jurisdiction over the subject matter of the complaint has been deferred to the Alabama Human Relations Commission by the Federal government.

(B) On referral by the Alabama Human Relations Commission, the local commission shall take appropriate action within the scope of its powers. After referral to the local commission, the Alabama Human Relations Commission shall afford the local Commission a reasonable time, but not less than 60 days, to act to remedy the practice alleged as discriminatory in the referred complaint. If the local commission has not acted on the complaint within a reasonable time, the Alabama Human Relations Commission shall resume responsibility for the complaint and take appropriate action on it.

(C) A local commission may refer a matter under its jurisdiction to the Alabama Human Relations Commission.

## PART III—EMPLOYMENT

### ARTICLE 5. DISCRIMINATION IN EMPLOYMENT.

**Sec. .01. Employers.**— It is an unlawful employment practice for an employer:

(1) to fail or refuse to hire or to discharge an individual or otherwise to discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment because of race, color, disability, religion, sex, national origin, ancestry, or age; or

(2) to limit, segregate, or classify an employee or applicant for employment in a way that would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect the status of an employee because of race, color, disability, religion, sex, national origin, ancestry, or age.

**Sec. .02. Employment Agencies.**— It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against an individual because of race, color, disability, religion, sex, national origin, ancestry, or age, or to classify or refer for employment an individual on the basis of race, color, disability, religion, sex, national origin, or age.

**Sec. .03. Labor Organizations.**— It is an unlawful employment practice for a labor organization:

(1) to exclude or to expel from membership or otherwise to discriminate against an individual because of race, color, disability, religion, sex, national origin, ancestry, or age,

(2) to limit, segregate, or classify members or applicants for membership or to classify or to fail or refuse to refer for employment an individual because of race, color, disability, religion, sex, national origin, ancestry, or age in a way:

(A) that would deprive or tend to deprive an individual of employment opportunities; or

(B) that would limit employment opportunities or otherwise adversely affect the status of an employee or of an applicant for employment; or

(C) that would cause or attempt to cause an employer to violate this article.

**Sec. .04. Training Programs.**—

(A) Unless the training or retraining opportunities or programs are provided under an affirmative action plan approved according to Federal laws, rule, or regulations, it is an unlawful employment practice for an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job, or other training or retraining program to discriminate against an individual because of disability, age, race, color, religion, sex, ancestry, or national origin in admission to or participation in a program established to provide apprenticeship, on-the-job or other training or retraining opportunities.

(B) For the purposes of this section, “because of age” refer only to discrimination because of age against an individual who is at least 40 years of age.

**Sec. .05. Other Discriminatory Employment Practices.**— (A) It is an unlawful employment practice for an employer, labor union, or employment agency:

(1) to retaliate or discriminate against a person who has opposed a discriminatory practice or who has made or filed a charge, filed a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act;

(2) to aid, abet, incite, or coerce a person to engage in a discriminatory practice;

(3) willfully to interfere with the performance of a duty or the exercise of a power by the Commission, one of its staff, or its representatives; or

(4) willfully to obstruct or prevent a person from complying with the provisions of this Act or a valid rule or order issued under this Act.

(B) Unless disability, religion, sex, national origin, or age is a bona fide occupational qualification, it is an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job, or other training or retraining program to print or publish or cause to be printed or published a notice or advertisement relating to employment indicating a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age, if the notice or advertisement concerns an employee's status, employment, or admission to or membership or participation in a labor union or an apprenticeship, on-the-job or other training or retraining program.

**Sec. 06. Exceptions.**— This article does not apply to:

(1) the employment of an individual of a particular religion by a religious corporation, association, or society to perform work connected with the performance of religious activities by the corporation, association, or society;

(2) the employment of an individual by his parent, spouse, or child; or

(3) any labor union, firm, association, or individual participating in a U.S. Department of Labor-approved statewide hometown plan on the effective date of this Act.

**Sec. 07. Nondiscriminatory Practices.**— (a) Notwithstanding any other provision of this article, it is not an unlawful employment practice:

(1) for an employer to hire and to employ employees, for an employment agency to classify or refer for employment an individual, for a labor organization to classify its members or to classify or refer for employment an individual, for a labor organization to classify its members or to classify or refer for employment an individual, or for an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job, or other training or retraining program to admit or employ an individual in its program, on the basis of disability, religion, sex, national origin, or age, if disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise;

(2) for a religious corporation, association, society, or educational institution or an educational organization operated, supervised, or controlled, in whole or in substantial part, by a religious corporation, association, or society to limit employment or give preference to members of the same religion;

(3) for an employer to apply different standards of compensation or different terms, conditions, or privileges of employment under a bona fide seniority system, bona fide merit system, or a bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade this Act, or under a system that measures earning by quantity or quality of production if those different standards are not discriminatory on the basis of race, color, disability, religion, sex, national origin, or age, except that no employee benefit plan may excuse a failure to hire on the basis of age and no seniority or employee benefit plan may require or permit involuntary retirement on the basis of age;

(4) for an employer to apply to employees who work in different locations different standards of compensation or different terms, conditions, or privileges of employment if those different standards are not discriminatory on the basis of race, color, disability, religion, sex, national origin, or age;

(5) for an employer to impose minimum or maximum age requirements for peace officers or fire fighters;

(6) for a public school official to adopt or implement a plan reasonably designed to end discriminatory school practices; or

(7) for an employer to engage in any practice that has a discriminatory effect and that would otherwise be prohibited by this Act if the employer establishes that the practice is not intention-



ally devised or operated to contravene the prohibitions of this Act and is justified by business necessity.

(b) The employment of one person in place of another, standing by itself, is not evidence of an unlawful employment practice

**Sec. .08. No Liability for Good Faith Reliance on Human Relations Commission**

**Rules.**—In any action or proceeding based on any alleged unlawful employment practice, no person is subject to any liability arising out of the Commission of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance of any written interpretation or opinion of the Human Relations Commission.

**Sec. .09. Imbalance Plans.**— This Act may not be interpreted to require a person subject to this Act to grant preferential treatment to an individual or to a group on the basis of the race, color, disability, religion, sex, national origin, or age of that individual or group because an imbalance exists between the total number or percentage of persons of that individual's or group's race, color, disability, religion, sex, ancestry, national origin, or age employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to or employed in any apprenticeship, on-the-job, or other training or retraining program, and the total number or percentage of persons of that race, color, disability, religion, sex, ancestry, national origin, or age in any community, this State, region, or other area, or in the available work force in any community, this State, region, or other area.

**Sec. .10. [Other-State Employees].**—This Act does not apply to an employer with respect to employment of persons outside the State of Alabama.

## **ARTICLE 6. COMMISSION; POWERS; DUTIES.**

The Commission shall have the following powers and duties:

(1) To receive, investigate, initiate, and pass upon charges of unlawful employment practices anywhere in the State;

(2) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books and papers relevant to any allegation of unlawful employment practice pending before the Commission. The Commission may make rules as to the issuance of subpoenas, subject to the approval by a constitutional majority of the elected members of the Legislature;

(3) To cooperate with the Federal government and with local agencies to effectuate the purposes of this Act, including the sharing of information possessed by the Commission on a case that has also been filed with the Federal government or local agencies if both the employer and complainant have been notified of the filing;

(4) to attempt to eliminate unfair employment practices by means of conference, conciliation, and persuasion;

(5) To require that every employer, employment agency, and labor organization subject to this Act, shall (a) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed; (b) preserve such records for such periods, and (c) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this Act or the regulations or orders thereunder. The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this Act which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purposes of this Act, including but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which

such applications were received, and to furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program. Any management committee which believes that the application to it of any regulation or order issued under this section would result in undue hardship may either apply to the Commission for an exemption from the application of such regulation or order, or bring a civil action in the circuit court for the circuit where such records are kept. If the Commission or the court, as the case may be, finds that the application of the regulation or order to the employer, employment agency, or labor organization in question would impose an undue hardship, the Commission or the court, as the case may be, may grant appropriate relief.

**ARTICLE 7.**  
**UNLAWFUL PRACTICE; CHARGE, INVESTIGATION,**  
**CONFIDENTIAL INFORMAL ACTIONS; VIOLATION;**  
**PENALTY; JUDICIAL ENFORCEMENT.**

(1) Whenever it is charged in writing under oath or affirmation by or on behalf of a person or persons claiming to be aggrieved, and such charge sets forth the facts upon which it is based, that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization with a copy of such charge within ten days, including a statement of the date, place, and circumstances of the alleged unlawful employment practice, and shall make an investigation of such charge, but such charge shall not be made public by the Commission. If the Commission determines, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding;

(2) A written charge of violations of the Act shall be filed within 180 days after the occurrence of the alleged unlawful employment practice, and notice of the charge, including a statement of the date, place, and circumstances of the alleged unlawful employment practice shall be served upon the person against whom such charge is made within ten days thereafter;

(3) In connection with any investigation of a charge filed under this section, the Commission or its authorized agents may, at any time after a charge is filed, issue or cause to be served interrogatories and shall have at all reasonable times access to, for the purposes of examination, and the right to copy, any evidence or records of any person being investigated or proceeded against that relate to unlawful employment practices covered by the Act and are relevant to the charge under investigation. The Commission may seek judicial enforcement through the office of the Attorney General to require the answering of interrogatories and in order to gain access to evidence or records.

**ARTICLE 8.**  
**UNLAWFUL PRACTICE; COMPLAINT, NOTICE; HEARING;**  
**WITNESSES; EVIDENCE; FINDINGS; ORDER.**

(1) In case of failure to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion, the Commission may order a public hearing. If such hearing is ordered, the Commission shall cause to be issued and served a written notice, together with a copy of the complaint, requiring the person, employer, labor organization or employment agency named in the complaint, hereinafter referred to as respondent, to answer such charges at a hearing before the Commission at a time and place which shall be specified in such notice.

Such hearing shall be within the county where the alleged unfair practice occurred. The complainant shall be a party to the proceeding, and in the discretion of the Commission any other person whose testimony has a bearing on the matter may be allowed to intervene therein. Both the complainant and the respondent, in addition to the Commission, may introduce witnesses at the hearing. The respondent may file a verified answer to the allegations of the complaint and may appear at such hearing in person and with or without counsel. Testimony or other evidence may be introduced by either party. All evidence shall be under oath and a record thereof shall be made and preserved. Such proceedings shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the circuit courts of the State of Alabama, and shall be of public record;

(2) No person shall be excused from testifying or from producing any book, document, paper, or account in any investigation, or inquiry by, or hearing before the Commission when ordered to do so, upon the ground that the testimony or evidence, book, document, paper, or account required of such person may tend to incriminate such person in or subject such person to penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any forfeiture or penalty for or on account of any act, transaction, matter, or thing concerning which such person shall have been compelled under oath to testify or produce documentary evidence. **Provided** that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by such person in his or her testimony; **and provided further**, that the immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. Nothing in this subsection shall be construed as precluding any person from claiming any right or privilege available to such person under the fifth amendment to the Constitution of the United States.

(3) After the conclusion of the hearing, the Commission shall make and file its finding of fact and conclusions thereon, and make and enter an appropriate order. Such findings shall be in sufficient detail to enable the court on appeal to determine the controverted questions presented by the proceedings and whether proper weight was given to the evidence. If the Commission shall determine that the respondent has intentionally engaged in or is intentionally engaging in any unlawful employment practice, it shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice and include reinstatement or hiring of employees, with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay or reinstatement of an individual as a member of a labor organization or the hiring, reinstatement, or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused admission, suspended, or expelled, or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, disability, marital status, or national origin. If the Commission shall find that respondent has not engaged in any unfair employment practice, it shall state its findings of fact and conclusion thereon. A copy of any order shall be served upon the person against whom it runs, or his or her attorney, and notice thereof shall be given to the other parties to the proceedings of their attorneys. Such order shall take effect twenty days after the service thereof, unless otherwise provided, and shall continue in force, either for a period which may be designated therein or until changed or revoked by the Commission;

(4) Until a transcript of the record of the proceedings shall be filed in a court, the Commission may, at any time, upon reasonable notice, and in such a manner it shall deem proper, modify or set aside, in whole or in part, any finding or order made by it.

**ARTICLE 9.**  
**UNLAWFUL PRACTICE; COMPLAINT; ORDER;**  
**APPEAL; PROCEDURE.**

(1) Any party to a proceeding before the Commission aggrieved by such decision and order and directly affected thereby may appeal the decision and order, and the appeal shall be in accordance with the Administrative Procedure Act;

(2) In any action or proceeding under this Act wherein an appeal is lodged in the circuit court, the court in its discretion may allow the prevailing party a reasonable attorney's fee as part of the costs;

(3) If a respondent does not appeal an order, the Commission may obtain a decree of the court for the enforcement of such order upon showing that the respondent is subject to the Commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

**ARTICLE 10.**  
**CONTESTED CASE; APPEAL; PROCEDURE.**

(1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, shall be entitled to judicial review under the Administrative Procedure Act. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law;

(2)(a) Proceedings for review shall be instituted by filing a petition in the circuit court of the county where the action is taken within thirty days after the service of the final decision by the agency. All parties of record shall be made parties to the proceedings for review. If an agency's only role in a contested case is to act as a neutral factfinding body, the agency shall not be a party of record. In all other cases, the agency shall be a party of record. Summons shall be served within thirty days of the filing of the petition in the manner provided for service of a summons in a civil action. If the agency whose decision is appealed from is not a party of record, the petitioner shall serve a copy of the petition and a request for preparation of the official record upon the agency within thirty days of the filing of the petition. The court, in its discretion, may permit other interested persons to intervene.

(b) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the agency whose action is at issue; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) identification of the parties in the contested case that led to the final decision; (v) facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

(3) The filing of the petition or the service of summons upon such agency shall not stay enforcement of a decision. The agency may order a stay. The court may order a stay after notice of the application therefor to such agency and to all parties of record. If the agency has found that its action on an application for stay or other temporary remedies is justified to protect against a substantial threat to the public health, safety, or welfare, the court may not grant relief unless the court finds that: (a) The applicant is likely to prevail when the court finally disposes of the matter; (b) without relief, the applicant will suffer irreparable injuries; (c) the grant of relief to the applicant will not substantially harm other parties to the proceedings; and (d) the threat to the public health, safety, or welfare relied on by the agency is not sufficiently serious to justify the agency's action in the circumstances. The court may require the party requesting such stay to give bond in such amount and conditioned as the court may direct.

(4) Within thirty days after service of the petition or within such further time as the court for good cause shown may allow, the agency shall prepare and transmit to the court a certified copy

of the official record of the proceedings had before the agency. Such official record shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and any similar correspondence to or from the agency pertaining to the contested case; (c) the transcribed record of the hearing before the agency including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the agency during the proceedings, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The agency shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. The agency may require payment or bond prior to the transmittal of the record.

(5) The review shall be conducted by the court without a jury on the record of the agency. Review may not be obtained of any issue that was not raised before the agency unless such issue involves one of the grounds for reversal or modification enumerated in subsection (6) of this section. If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the agency, the court may remand the case to the agency for further proceedings.

(6) The court may affirm the decision of the agency or remand the case to the agency for further proceedings, or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the agency decision is:

- (a) In violation of constitutional provisions;
- (b) In excess of the statutory authority or jurisdiction of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law;
- (e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or
- (f) Arbitrary or capricious.

(7) The review provided by this section shall not be available in any case where other provisions of law prescribe the method of appeal.

## **PART IV—HOUSING**

### **ARTICLE 11. FAIR HOUSING.**

**Sec. .01.** Except as exempted by Article 15, it shall be unlawful to:

(1) Refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of or otherwise make unavailable or deny, refuse to show, or refuse to receive and transmit an offer for a dwelling to any person because of race, color, religion, national origin, familial status, or sex;

(2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, national origin, familial status, or sex;

(3) Make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, handicap, familial status, or sex or an intention to make any such preferences, limitation, or discrimination;

(4) Represent to any person because of race, color, religion, national origin, handicap, familial status, or sex that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;

(5) Cause to be made any written or oral inquiry or record concerning the race, color, religion, national origin, handicap, familial status, or sex of a person seeking to purchase, rent, or lease any housing;

(6) Include in any transfer, sale, rental, or lease of housing any restrictive covenants or honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;

(7) Discharge or demote an employee or agent or discriminate in the compensation of such employee or agent because of such employee's or agent's compliance with the Alabama Fair Housing Act; and

(8) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, handicap, familial status, or sex.

## **ARTICLE 12. HANDICAPPED PERSON; DISCRIMINATORY PRACTICES PROHIBITED; DESIGN AND CONSTRUCTION STANDARDS; ENFORCEMENT OF ACT.**

**Sec. .01.** Except as exempted by Article 15, it shall be unlawful to:

(a) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

(i) The buyer or renter;

(ii) Any person associated with the buyer or renter; or

(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or

(b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:

(i) Such person;

(ii) Any person associated with such person; or

(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or

**Sec. .02.** For purposes of this section, discrimination shall include:

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of a rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use and enjoy a dwelling; and

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after passage of this Act, a failure to design and construct the dwellings in such a manner that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;

(ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) All premises within the dwellings contain the following features of adaptive design:

(A) An accessible route into and through the dwelling;

d) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(C) Reinforcement in bathroom walls to allow later installation of grab bars; and

(D) Kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

**Sec. .03.** Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A.17.1, shall satisfy the requirements of subdivision (02)(c)(iii) of this Article.

**Sec. .04.** (a) If a political subdivision has incorporated into its laws the design and construction requirements set forth in subdivision (02)(c) of this Article, compliance with such laws shall be deemed to satisfy the requirements.

(b) A political subdivision may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements are met.

(c) The Commission shall encourage but may not require political subdivisions to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings determinations as to whether the design and construction of the dwellings are consistent with the design and construction requirements and shall provide technical assistance to political subdivisions and other persons to implement the requirements.

(d) Nothing in this section shall be construed to require the Commission to review or approve the plans, designs, or construction of all covered multifamily dwellings to determine whether the design and construction of the dwellings are consistent with the design and construction requirements.

**Sec. .05.** (a) Nothing in subsection (04) of this Article shall be construed to affect the authority and responsibility of the Commission or a local agency certified pursuant to Article 25 to receive and process complaints or otherwise engage in enforcement activities under this Act.

(b) Determinations by the Commission or a political subdivision under (04)(a) or (b) of this section shall not be conclusive in enforcement proceedings under the Act.

(6) For purposes of this section, covered multifamily dwellings shall mean:

(a) Buildings consisting of four or more units if such buildings have one or more elevators; and

(b) Ground floor units in other buildings consisting of four or more units.

(7) Nothing in this section shall be construed to invalidate or limit any law of a political subdivision or other jurisdiction in which this section is effective that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this section.

(8) Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

## **ARTICLE 13.**

### **TRANSACTION RELATED TO RESIDENTIAL REAL ESTATE; DISCRIMINATORY PRACTICES PUBLISHED.**

**Sec. .01.** (1) It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential real estate to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction because of race, color, religion, sex, handicap, familial status, or national origin.

(2) For purposes of this article, transaction related to residential real estate shall mean any of the following:

- (a) The making or purchasing of loans or providing other financial assistance;
  - (i) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
  - (ii) Secured by residential real estate; or
- (b) The selling, brokering, or appraising of residential real property

(3) Nothing in this article shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

**ARTICLE 14.  
MULTIPLE LISTING SERVICE; OTHER SERVICE,  
ORGANIZATION, OR FACILITY; DISCRIMINATORY  
PRACTICES PROHIBITED.**

**Sec. .01.** It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, handicap, familial status, or sex.

**ARTICLE 15.  
RELIGIOUS ORGANIZATION, PRIVATE HOME, PRIVATE  
CLUB, OR HOUSING FOR OLDER PERSONS; RESTRICTING  
USE NOT PROHIBITED; LOCAL RESTRICTIONS; HOW  
TREATED; CONTROLLED SUBSTANCES; ILLEGAL  
ACTIVITIES; EFFECT.**

**Sec. .01.** Nothing in this Act shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of a dwelling which it owns or operates for other than commercial purposes to persons of the same religion or from giving preferences to such persons unless membership in such religion is restricted on account of race, color, national origin, handicap, familial status, or sex.

**Sec. .02.** Nothing in the Act shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than commercial purposes, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

**Sec. .03.** Nothing in the Act shall prohibit or limit the right of any person or his or her authorized representative to refuse to rent a room or rooms in his or her own home for any reason or for no reason or to change tenants in his or her own home as often as desired, except that this exception shall not apply to any person who makes available for rental or occupancy more than four sleeping rooms to a person or family within his or her own home.

**Sec. .04.** (a) Nothing in the Act shall limit the applicability of any reasonable local restrictions regarding the maximum number of occupants permitted to occupy a dwelling, and nothing in the act regarding familial status shall apply with respect to housing for older persons.

(b) For purposes of this subsection, housing for older persons shall mean housing:

- (i) Provided under any State program that the Commission determines is specifically designed and operated to assist elderly persons as defined in the program;



(ii) Intended for and solely occupied by persons sixty-two years of age or older; and  
(iii) Intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subdivision, the Commission shall develop regulations which require at least the following factors:

(A) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or, if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;

(B) That at least eighty percent of the units are occupied by at least one person fifty-five years of age or older per unit; and

(C) The publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older

(c) Housing shall not fail to meet the requirements for housing for older persons by reason of

(i) Persons residing in the housing as of passage of this Act, who do not meet the age requirements of subdivision (b)(ii) or (iii) of this subsection if succeeding occupants of the housing meet the age requirements; or

(ii) Unoccupied units reserved for occupancy by persons who do not meet the age requirements.

**Sec. 05.** Nothing in the Act shall prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 28-401

## **ARTICLE 16. AFFIRMATIVE ACTION REQUIRED; COOPERATION WITH COMMISSION.**

**Sec. 01.** All executive departments, State agencies, and independent instrumentalities exercising essential public functions, including any State agency having regulatory or supervisory authority over financial institutions, shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Act and shall cooperate with the Commission to further such purposes.

## **ARTICLE 17. ALABAMA HUMAN RELATIONS COMMISSION; EDUCATIONAL AND CONCILIATORY ACTIVITIES; PROGRAMS OF COMPLIANCE AND ENFORCEMENT.**

**Sec. 01.** The Commission shall conduct such educational and conciliatory activities as in the Commission's judgment will further the purposes of this Act. The Commission shall call conferences of persons in the housing industry and other interested persons to acquaint them with the Act and suggested means of implementing it and shall endeavor with their advice to work our programs of voluntary compliance and of enforcement. The Commission shall consult with local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their locality and whether and how local enforcement programs might be utilized to combat such discrimination in connection with or in place of the Commission's enforcement of the Act. The Commission shall issue reports on such conferences and consultations as it deems appropriate.

## **ARTICLE 18 COMMISSION; DUTIES.**

The Commission shall

**Sec. 01.** Make studies with respect to the nature and extent of discriminatory housing practices in representative urban, suburban, and rural communities throughout the State.

**Sec. 02.** Publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Legislature

(a) Specifying the nature and extent of progress made statewide in eliminating discriminatory housing practices and furthering the purposes of the Act, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action, and

(b) Containing tabulations of the number of instances and the reasons therefore in the preceding year in which

(i) Investigations have not been completed,

(ii) Determinations have not been made within the time specified in the Act, and

(iii) Hearings have not been commenced or findings and conclusions have not been made as required by this Act.

**Sec. 03.** Cooperate with and render technical assistance to State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices; and

**Sec. 04.** Annually report to the Legislature and make available to the public data on the age, race, color, religion, national origin, handicap, familial status, and sex of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of programs administered by the Commission. In order to develop the data to be included and made available to the public under this subdivision, the Commission shall, without regard to any other provision of law, collect such information relating to those characteristics as the Commission determines to be necessary or appropriate

## **ARTICLE 19. DISCRIMINATORY HOUSING PRACTICE; COMPLAINT PROCEDURE, INVESTIGATION.**

**Sec. 01 (1)(a)(i).** An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Commission alleging such discriminatory housing practice. The Commission, on its own initiative, may also file such a complaint.

(ii) The complaint shall be in writing and shall contain such information and be in such form as the Commission requires

(iii) The Commission may also investigate housing practices to determine whether a complaint should be brought under this section

(b) Upon the filing of a complaint

(i) The Commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this Act;

(ii) The Commission shall, not later than ten days after such filing or the identification of an additional respondent under this section, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under the Act, together with a copy of the original complaint.

(iii) Each respondent may file, not later than ten days after receipt of notice from the Commission, an answer to the complaint; and

(iv) Unless it is impracticable to do so, the Commission shall investigate the alleged discriminatory housing practice and complete such investigation within one hundred days after the filing of the complaint or, when the Commission takes further action under Article 25 with respect to a complaint, within one hundred days after the commencement of such further action.

(c) If the Commission is unable to complete the investigation within one hundred days after the filing of the complaint or after the commencement of such further action, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.

(d) Complaints and answers shall be under oath and may be reasonably and fairly amended at any time.

(2)(a) A person who is not named as a respondent in a complaint but who is identified as a respondent in the course of investigation may be joined as an additional or substitute respondent upon written notice of this section to such person from the Commission.

(b) The notice shall explain the basis for the Commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

## **ARTICLE 20. COMPLAINT; CONCILIATION; CONCILIATION AGREEMENT CONTENTS; RESTRICTIONS.**

**Sec. .01.** During the period beginning with the filing of the complaint and ending with the issuance of a charge or a dismissal by the Commission, the Commission shall, to the extent feasible, engage in conciliation with respect to the complaint.

**Sec. .02.** A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the Commission.

**Sec. .03.** A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

**Sec. .04.** Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Commission determines that disclosure is not required to further the purpose of this Act.

**Sec. .05.** A conciliation agreement between a respondent and complainant which has been approved by the Commission shall not be deemed an adjudication that the respondent has committed a discriminatory housing practice nor shall the conciliation agreement be the subject of an order for relief under Article 30, unless the conciliation agreement is entered after an adjudication pursuant to an administrative proceeding or a civil action pursuant to State or Federal law in which the respondent was found to have committed a discriminatory housing practice.

## **ARTICLE 21. FINAL INVESTIGATIVE REPORT; CONTENTS; AMENDMENT.**

**Sec. .01.** (1) At the end of each investigation of a complaint, the Commission shall prepare a final investigative report containing

- (a) The names and dates of contacts with witnesses;
- (b) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
- (c) A summary description of other pertinent records;
- (d) A summary of witness statements, and
- (e) Answers to interrogatories.

(2) A final investigative report may be amended if additional evidence is later discovered.

**ARTICLE 22.  
CONCILIATION AGREEMENT; BREACH; CIVIL  
ACTION AUTHORIZED.**

**Sec. .01.** Whenever the Commission has reasonable cause to believe that a respondent has breached a conciliation agreement, the Commission shall refer the matter to the State Attorney General for filing of a civil action under Article 36 for the enforcement of such agreement.

**ARTICLE 23.  
CONCILIATION PROCEEDINGS; INVESTIGATIONS;  
RESTRICTIONS ON USE OF INFORMATION.**

**Sec. .01.** Except as provided in section (.04) of Article 20, nothing said or done in the course of conciliation may be made public or used as evidence in a subsequent proceeding under this Act without the written consent of the persons concerned.

**Sec. .02.** Notwithstanding section (.01) of this Article, the Commission shall make available to the aggrieved person and the respondent at any time, upon request, information derived from an investigation and any final investigative report relating to that investigation.

**ARTICLE 24.  
TEMPORARY OR PRELIMINARY RELIEF; OTHER  
PROCEEDINGS; ACTIONS AUTHORIZED.**

**Sec. .01.** If the Commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of the Act, the Commission may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the State Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with other Articles of this Act. The commencement of a civil action under this section shall not affect the initiation or continuation of administrative proceedings under this section and Article 29.

**Sec. .02.** Whenever the Commission has reason to believe that a basis may exist for the commencement of proceedings against any respondent under subsection (1) or (3) of Article 36 or for proceedings by any governmental licensing or supervisory authorities, the Commission shall transmit the information upon which such belief is based to the State Attorney General or to such authorities, as the case may be.

**ARTICLE 25.  
COMPLAINT; REFERRAL TO LOCAL AGENCY; PROCEDURE;  
CERTIFICATION OF LOCAL AGENCY.**

**Sec. .01.** Whenever a complaint alleges a discriminatory housing practice (a) within the jurisdiction of a local agency in an incorporated city or a county and (b) as to which the agency has been certified by the Commission under this section, the Commission may refer the complaint to that agency before taking any action with respect to the complaint.

**Sec. .02.** After a referral is made, the Commission shall take no further action with respect to such complaint without the consent of the agency unless

(a) The agency has failed to commence proceedings with respect to the complaint before the end of the thirtieth day after the date of such referral;

(b) The agency, having so commenced proceedings, fails to carry forward the proceedings with reasonable promptness; or

(c) The Commission determines that the agency no longer qualifies for certification under this section with respect to the relevant jurisdiction.

**Sec. .03.** (a) The Commission may certify a local agency under this section only if the Commission determines that the following are substantially equivalent to those created by and under the Act:

(i) The substantive rights protected by the agency in the jurisdiction with respect to which certification is to be made;

(ii) The procedures followed by the agency;

(iii) The remedies available to the agency; and

(iv) The availability of judicial review of the agency's action.

(b) Before making such certification, the Commission shall take into account the current practices and past performance, if any, of the agency.

**ARTICLE 26.**  
**COMMISSION; DISCRIMINATORY HOUSING PRACTICE;**  
**DETERMINATION; CHARGE; CONTENTS; SERVICE;**  
**REFERRAL TO ATTORNEY GENERAL;**  
**DISMISSAL OF COMPLAINT.**

**Sec. .01.** (a) The Commission shall, within one hundred days after the filing of the complaint or after the commencement of further action under Article 25, determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur unless it is impracticable to do so or unless the Commission has approved a conciliation agreement with respect to the complaint. If the Commission is unable to make the determination within one hundred days after the filing of the complaint or after the commencement of such further action, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.

(b)(i) If the Commission determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall, except as provided in subdivision (iii) of this subdivision, immediately issue a charge on behalf of the aggrieved person, for further proceedings under Articles 27 to 31.

(ii) Such charge shall consist of a short and plain statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur, shall be based on the final investigative report, and need not be limited to the facts or grounds alleged in the complaint filed under Article 19.

(iii) If the Commission determines that the matter involves the legality of any State or local zoning or other land-use law or ordinance, the Commission shall immediately refer the matter to the State Attorney General for appropriate action under Article 36 instead of issuing such charge.

(c) If the Commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Commission shall promptly dismiss the complaint. The Commission shall make public disclosure of each such dismissal.

(d) The Commission may not issue a charge under this section regarding an alleged discriminatory housing practice after the filing of a civil action commenced by the aggrieved party under State or Federal law seeking relief with respect to that discriminatory housing practice.

**Sec. .02.** After the Commission issues a charge under this section, the Commission shall cause a copy of the charge, together with information as to how to make an election under Article 28 and the effect of such an election, to be served:

- (a) On each respondent named in the charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless such an election is made; and
- (b) On each aggrieved person on whose behalf the complaint was filed.

## **ARTICLE 27. COMMISSION; INVESTIGATIONS; HEARINGS; POWERS AND DUTIES; VIOLATION; PENALTY.**

**Sec. .01.** The Commission may issue subpoenas and order discovery in aid of investigations and hearings under the Act. The subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the circuit court.

**Sec. .02.** Witnesses summoned by a subpoena shall be entitled to the same witness and mileage fees as witnesses in proceedings in circuit court. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, when a party is unable to pay the fees, by the Commission.

**Sec. .03.** (a) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (1) of this section shall be guilty of a misdemeanor.

(b) Any person shall be guilty of a misdemeanor who, with intent to mislead another person in any proceeding under the act

(i) Makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (1) of this section;

(ii) Willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(iii) Willfully mutilates, alters, or by any other means falsifies any documentary evidence

## **ARTICLE 28. CIVIL ACTION IN LIEU OF HEARING; ELECTION AUTHORIZED.**

**Sec. .01.** When a charge is issued under Article 26, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in that charge decided in a civil action under Article 33 in lieu of a hearing under Article 29. The election must be made not later than twenty days after service has been made under Article 26. The person making the election shall give notice of doing so to the Commission and to all other complainants and respondents to whom the charge relates.

## **ARTICLE 29. COMMISSION; HEARINGS; HEARING OFFICER; APPEARANCE; DISCOVERY; DISCONTINUANCE OF PROCEEDINGS; WHEN.**

**Sec. .01.** If an election is not made under Article 28 with respect to a charge issued under Article 26, the Commission shall provide an opportunity for a hearing on the record with respect

to the charge. The Commission shall delegate the conduct of a hearing under this section to a hearing officer. The hearing officer shall be appointed by the Commission pursuant to rules and regulations promulgated by the Commission. The hearing officer shall conduct the hearing at a place in the vicinity of the place where the discriminatory housing practice is alleged to have occurred or to be about to occur.

**Sec. .02.** At the hearing each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under Article 27. Any aggrieved person may intervene as a party in the proceeding. The rules of evidence shall apply to the presentation of evidence in such hearing as they would in a civil action in circuit court.

**Sec. .03. (a)** Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible consistent with the need of all parties to obtain relevant evidence.

**(b)** A hearing under this section shall be conducted as expeditiously and inexpensively as possible consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

**Sec. .04.** Any resolution of a charge before issuance of a final order under Article 30 shall require the consent of the aggrieved person on whose behalf the charge is issued.

**Sec. .05.** A hearing officer may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the filing of a civil action by the aggrieved party under State or Federal law seeking relief with respect to that discriminatory housing practice.

## **ARTICLE 30. HEARING OFFICER; POWERS AND DUTIES; CIVIL PENALTIES; ORDER; EFFECT.**

**Sec. .01.** The hearing officer shall commence the hearing no later than one hundred twenty days following the issuance of the charge unless it is impracticable to do so. If the hearing officer is unable to commence the hearing within one hundred twenty days, he or she shall notify the Commission, the aggrieved person on whose behalf the charge was issued, and the respondent in writing of the reasons for not doing so.

**Sec. .02.** The hearing officer shall make findings of fact and conclusions of law within sixty days after the end of the hearing unless it is impracticable to do so. If the hearing officer is unable to make findings of fact and conclusions of law within such period or any succeeding sixty-day period thereafter, he or she shall notify the Commission, the aggrieved person on whose behalf the charge was issued, and the respondent in writing of the reasons for not doing so.

**Sec. .03. (a)** If the hearing officer finds that a respondent has engaged or is about to engage in a discriminatory housing practice, he or she shall promptly issue an order for such relief as may be appropriate which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief.

**(b)** Subject to the provisions of this Act, the order may, to vindicate the public interest, assess a civil penalty against the respondent:

**(i)** In an amount not exceeding ten thousand dollars if the respondent has not been adjudged to have committed any prior discriminatory housing practice or if subdivision (ii) or (iii) of this subdivision does not apply;

**(ii)** In an amount not exceeding twenty-five thousand dollars if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period ending on the date of the issuance of the current charge.

**(iii)** In an amount not exceeding fifty thousand dollars if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the issuance of the current charge.

(c) If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties set forth in subdivisions (b)(ii) and (iii) of this subsection may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

**Sec. .04.** No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge.

**Sec. .05.** In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a governmental agency, the Commission shall, not later than thirty days after the date of the issuance of the order or, if the order is judicially reviewed, thirty days after the order is in substance affirmed upon such review:

(a) Send copies of the findings of fact, conclusions of law, and the order to that governmental agency; and

(b) Recommend to that governmental agency appropriate disciplinary action, including, when appropriate, the suspension or revocation of the license of the respondent.

**Sec. .06.** In the case of an order against a respondent against whom another order was issued under this section within the preceding five years, the Commission shall send a copy of each such order to the State Attorney General.

**Sec. .07.** If the hearing officer finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, he or she shall enter an order dismissing the charge. The Commission shall make public disclosure of each such dismissal.

### **ARTICLE 31. FINDING, CONCLUSION, OR ORDER; REVIEW; FINAL ORDER; SERVICE.**

**Sec. .01.** The Commission may review any finding, conclusion, or order issued under Article 30. The review shall be completed not later than thirty days after the finding, conclusion, or order is so issued or the finding, conclusion, or order will become final.

**Sec. .02.** The Commission shall cause the findings of fact and conclusions of law made with respect to any final order or relief, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

### **ARTICLE 32. APPEAL; ENFORCEMENT OF HEARING OFFICER'S ORDER; PROCEDURE.**

**Sec. .01.** Any party aggrieved by a final order granting or denying in whole or in part the relief sought may appeal the order. The appeal shall be in accordance with the State Administrative Act, except that venue of the proceeding shall be in the county in which the discriminatory housing practice is alleged to have occurred.

**Sec. .02.** (a) The Commission may petition the circuit court of the county in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the hearing officer and for appropriate temporary relief or restraining order.

(b) The Commission shall file in court with the petition the record in the proceeding. A copy of such petition shall be transmitted by the clerk of the court to the parties to the proceedings before the hearing officer.



**Sec. .03.** (a) Upon the filing of a petition under subsection (01) or (02) of this section, the court may

(i) Grant to the petitioner or any other party such temporary relief, restraining order, or other order as the court deems just and proper;

(ii) Affirm, modify, or set aside the order, in whole or in part, or remand the order for further proceedings; and

(iii) Enforce the order to the extent that the order is affirmed or modified.

(b) Any party to the proceeding before the hearing officer may intervene in the circuit court.

(c) An objection not made before the hearing officer shall not be considered by the court unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

**Sec. .04.** If no appeal is filed before the expiration of forty-five days after the date the hearing officer's order is entered, the hearing officer's findings of fact and order shall be conclusive in connection with any petition for enforcement:

(a) Which is filed by the Commission under subsection (02) of this section after the end of such forty-fifth day; or

(b) Under subsection (05) of this section.

**Sec. .05.** If before the expiration of sixty days after the date the hearing officer's order is entered no appeal has been filed and the Commission has not sought enforcement of the order under subsection (02) of this section, any person entitled to relief under the order may petition for a decree enforcing the order in the circuit court for the county in which the discriminatory housing practice is alleged to have occurred.

**Sec. .06.** The circuit court in which a petition for enforcement is filed under subsection (02) or (05) of this section shall enter a decree enforcing the order. The clerk of the court shall transmit a copy of such decree to the Commission, the respondent named in the petition, and any other parties to the proceeding before the hearing officer.

### **ARTICLE 33.**

#### **CIVIL ACTION IN LIEU OF HEARING; RELIEF AUTHORIZED.**

**Sec. .01.** If an election is made under Article 28 to have the claims asserted in the charge decided in a civil action, the Commission shall authorize, and not later than thirty days after the election is made, the State Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in the appropriate circuit court seeking relief under this section.

**Sec. .02.** Any aggrieved person with respect to the issues to be determined in a civil action under this section may intervene as a right.

**Sec. .03.** In a civil action under this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant any relief which a court could grant with respect to such discriminatory housing practice in a civil action under Article 35. Any relief so granted that would accrue to an aggrieved person in such a civil action shall also accrue to that aggrieved person in a civil action under this section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

### **ARTICLE 34.**

#### **STATE ATTORNEY'S FEES AND COSTS; WHEN ALLOWED.**

**Sec. .01.** In any administrative proceeding brought under Article 29, any court proceeding arising from such a proceeding, or any civil action under Article 33, the hearing officer of the court, as the case may be, may allow the prevailing party, other than the State, reasonable

attorney's fees and costs. The State shall be liable for such fees and costs to the same extent as a private person.

**ARTICLE 35.**  
**STATUTE OF LIMITATIONS; CIVIL ACTION; RIGHTS AND**  
**DUTIES OF PARTIES; REMEDIES ALLOWED;**  
**ATTORNEY'S FEES AND COST**

**Sec. .01. (1)(a)(i)** An aggrieved person may commence a civil action in an appropriate circuit court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under Article 20, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(ii) The computation of such two-year period shall not include any time during which an administrative proceeding under Article 29 is pending with respect to a complaint or charge under the Alabama Fair Housing Act based upon such discriminatory housing practice. This subdivision shall not apply to actions arising from a breach of a conciliation agreement.

(b) An aggrieved person may commence a civil action under this section whether or not a complaint has been filed under Article 19 and without regard to the status of any such complaint, but if the Commission or a local agency has obtained a conciliation agreement with the consent of the aggrieved person, no action may be filed under this section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for the complaint except for the purpose of enforcing the terms of the agreement.

(c) An aggrieved person may not commence a civil action under this section with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Commission if a hearing officer has commenced a hearing on the record under Article 29 with respect to such charge.

(2) Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may, if in the opinion of the court the person is financially unable to bear the costs of an action:

(a) Appoint an attorney for the person; or

(b) Authorize the commencement or continuation of a civil action under this section without the payment of fees, costs, or security.

(3)(a) In a civil action under this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual damages and, subject to (04) of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate.

(b) In a civil action under this section, the court may allow the prevailing party, other than the State, reasonable attorney's fees and costs. The State shall be liable for such fees and costs to the same extent as a private person.

(4) Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the filing of a complaint with the Commission or a civil action under the act.

(5) Upon timely application, the State Attorney General may intervene in the civil action if the State Attorney General certifies that the case is of general public importance. Upon intervention the State Attorney General may obtain such relief as would be available under Article 36.

**ARTICLE 36.**  
**STATE ATTORNEY GENERAL; CIVIL ACTION; POWERS AND**  
**DUTIES; RELIEF AUTHORIZED; INTERVENTION;**  
**WHEN PERMITTED.**

**Sec. .01.** Whenever the State Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this Act regarding housing discrimination or that any group of persons has been denied any of the rights granted by the Act and such denial raises an issue of general public importance, the State Attorney General may commence a civil action in any appropriate circuit court.

**Sec. .02 (a)** The State Attorney General may commence a civil action in any appropriate circuit court for appropriate relief with respect to a discriminatory housing practice referred to the State Attorney General by the Commission under Article 30. The action may be commenced not later than the expiration of eighteen months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(b) The State Attorney General may commence a civil action in any appropriate circuit court for appropriate relief with respect to breach of a conciliation agreement referred to the State Attorney General by the Commission under Article 22. The action may be commenced not later than the expiration of ninety days after the referral of the alleged breach under such section.

**Sec. .03.** The State Attorney General, on behalf of the Commission or other party at whose request a subpoena is issued under Article 27, may enforce the subpoena in appropriate proceedings in the circuit court for the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

**Sec. .04 (a)** In a civil action under this section, the court.

(i) May award such temporary relief, including a permanent or temporary injunction, a restraining order, or any other order against the person responsible for a violation of the Act as is necessary to assure the full enjoyment of the rights granted by the Act;

(ii) May award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(iii) May, to vindicate the public interest, assess a civil penalty against the respondent;

(A) In an amount not exceeding fifty thousand dollars for a first violation; and

(B) In an amount not exceeding one hundred thousand dollars for any subsequent violation.

(b) In a civil action under this section, the court may allow the prevailing party, other than the State, reasonable attorney's fees and costs. The State shall be liable for such fees and costs to the same extent as a private person.

**Sec. .05.** Upon timely application, any person may intervene in a civil action commenced by the State Attorney General under subsection (1) or (2) of this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under Article 35.

**ARTICLE 37.**  
**VIOLATIONS; PENALTY.**

**Sec. .01.** It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise of enjoyment of or on account of the person having exercised or enjoyed or having aided and encouraged any other person in the exercise of benefits and rights guaranteed by the

Alabama Fair Housing Act. Any person who violates this section shall be guilty of a misdemeanor.

## **PART V—PUBLIC ACCOMMODATIONS.**

### **ARTICLE 38. FULL AND EQUAL ENJOYMENT OF ACCOMMODATIONS.**

All persons within this State shall be entitled to a full and equal enjoyment of any place of public accommodation, as defined in this Act, without discrimination or segregation on the grounds of race, color, sex, religion, national origin, or ancestry

### **ARTICLE 39. TERMS, DEFINED.**

As used in this Act, unless the context otherwise requires, places of public accommodation shall mean all places or businesses offering or holding out to the general public goods, services, privileges, facilities, advantages, and accommodations for the peace, comfort, health, welfare, and safety of the general public and such public places providing food, shelter, recreation, and amusement, including but not limited to

(1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

(2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including but not limited to any such facility located on the premises of any retail establishment.

(3) Any gasoline station, including all facilities located on the premises of such station and made available to the patrons thereof;

(4) Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment;

(5) Any public facility owned, operated, or managed by or on behalf of this or any agency or subdivision thereof, or any public corporation, and such facility supported in whole or in part by public funds; and

(6) Any establishment which is physically located within the premises of any establishment otherwise covered by this section or within the premises of which is physically located any such covered establishment and which holds itself out as serving patrons of such covered establishment.

### **ARTICLE 40. DISCRIMINATORY PRACTICES; VIOLATION; PENALTY.**

Any person who directly or indirectly refuses, withholds from, denies, or attempts to refuse, withhold, or deny, to any other person any of the accommodations, advantages, facilities, services, or privileges, or who segregates any person in a place of public accommodation on the basis of race, creed, color, sex, religion, national origin, or disability, shall be guilty of discriminatory practice and shall be subject to the penalties of this Part

**ARTICLE 41.  
PROHIBITED ACTIVITIES; VIOLATION; PENALTY.**

Any person who aids, abets, incites, compels, or coerces any activity prohibited by the provisions of this Act, or who attempts to do so, shall be guilty of discriminatory practice and shall be subject to the penalties of this Act.

**ARTICLE 42.  
RETALIATION; DISCRIMINATION; VIOLATION; PENALTY.**

Retaliation or discrimination in any manner, against any person who has opposed any activity prohibited by the provisions of this Act or who has testified, assisted, or participated in any manner in any investigation proceeding, or hearing conducted pursuant to this Act shall be a discriminatory practice and shall be punishable according to the provisions of this Act.

**ARTICLE 43.  
RELIGIOUS PREFERENCE; NOT VIOLATION OF  
DISCRIMINATORY PRACTICE.**

Any place of public accommodation owned by or operated on behalf of a religious corporation, association, or society which gives preference in the use of such place to members of the same faith as that of the administering body shall not be guilty of discriminatory practice.

**ARTICLE 44.  
PRIVATE CLUB; ESTABLISHMENT NOT OPEN TO PUBLIC;  
PROVISIONS OF ACT DO NOT APPLY.**

The provisions of this Act shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of Article 39.

**ARTICLE 45.  
ENFORCEMENT.**

The provisions contained in this part shall be enforced by the Alabama Human Relations Commission. Powers granted to and duties imposed upon the Commission pursuant to this Part shall be in addition to the provisions of Articles 6 to 10 of this Act, and shall not be construed to amend or restrict those provisions. Further the Commission shall have the power to:

**Sec. .01.** Seek to eliminate and prevent discrimination in places of public accommodation because of race, color, sex, religion, national origin, or ancestry;

**Sec. .02.** Effectuate the purposes of this Act by conference, conciliation, and persuasion so that persons may be guaranteed their civil rights and goodwill be fostered;

**Sec. .03.** Formulate policies to effectuate the purposes of this Act and to make recommendations to agencies and officers of the local subdivisions of government in aid of such policies and purposes;

**Sec. .04.** Designate one or more members of the Commission, or a member of the Commission staff, to conduct investigations of race, color, sex, religion, national origin, or ancestry, and to attempt to resolve such complaint by conference, conciliation, and persuasion, and conduct

such conciliation meetings and conferences as are deemed necessary to resolve a particular complaint, and which meeting shall be held in the county in which the complaint arose:

**Sec. .05.** Determine that probable cause exists for crediting the allegations of a complaint.

**Sec. .06.** Determine that a complaint cannot be resolved by conference, conciliation, or persuasion, such determination to be made only at a meeting where a quorum is present.

**Sec. .07.** Dismiss complaints when it is determined there is not probable cause to credit the allegations of a complaint:

**Sec. .08.** Hold hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith require for examination any books or papers relating to any matter under investigation or in question before the Commission, and

**Sec. .09.** Issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination because of race, color, sex, religion, or national origin.

## **ARTICLE 46. UNLAWFUL DISCRIMINATORY PRACTICE; COMPLAINT FILED WITH THE COMMISSION; CONTENTS; CONFIDENTIAL; VIOLATION; PENALTY.**

Any person claiming to be aggrieved by an unlawful discriminatory practice may by himself, his agent, or his attorney file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the Commission.

After filing of such complaint, the Commission shall furnish the person named in the complaint with a copy of the charge and make an investigation of such charge, but such charge shall not be made public by the Commission. If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during or as a part of such endeavors may be made public by the Commission without the written consent of the parties or used as evidence in a subsequent proceeding except as provided in subsection (2) of Article 47 of this Act. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars or imprisoned not more than thirty days.

## **ARTICLE 47. FAILURE TO ELIMINATE UNLAWFUL PRACTICE BY CONFERENCE, CONCILIATION, PERSUASION; WRITTEN NOTICE; HEARING; PROCEDURE.**

**Sec. .01.** In case of failure to eliminate any unlawful practice by informal methods of conference, conciliation, and persuasion, the Commission shall cause to be issued and served a copy of the complaint, requiring the person named in the complaint, hereinafter referred to as a respondent, to answer the charges of the complaint at a public hearing, at a time and place to be specified in the notice. The place of the hearing shall be in the county in which the alleged discrimination occurred.

**Sec. .02.** The case in support of the complaint shall be presented before the Commission.

**Sec. 03.** The respondent may file a written verified answer to the complaint and appear at the hearing with or without counsel, submit testimony, and compel the appearance of witnesses and records in his behalf. At the discretion of the Commission, the complainant may be allowed to intervene and present testimony in person or by counsel. The Commission may reasonably and fairly amend any complaint either prior to or during the hearing in accordance with facts developed by the investigation or adduced in evidence at the hearing, and the respondent may amend his answer in the same manner. The testimony taken at the hearing shall be under oath and be transcribed.

**Sec. 04.** If, upon all the evidence at the hearing, the Commission finds that a respondent has engaged in an unlawful discriminatory practice as defined in this Act, the Commission shall state its findings of fact and shall issue and cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice and to take such affirmative action, including, but not limited to, the extension of full, equal, and unsegregated accommodations, advantages, facilities, and privileges to all persons as in the judgment of the Commission will effectuate the purpose of this Act, including a requirement for a report of the manner of compliance.

**Sec. 05.** If, upon all the evidence, the Commission finds that a respondent has not engaged in any unlawful discriminatory practice, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the complaint as to the respondent. A copy of the order shall be delivered in all cases to the State Attorney General and such other public officers as the Commission deems proper.

**Sec. 06.** The Commission shall establish rules of practice to govern, expedite, and effectuate the procedure set forth in this section and its own actions thereunder. Any complaint filed pursuant to this section must be so filed within ten days after the alleged act of discrimination and the complainant shall give written notice of the filing of the complaint and furnish a copy thereof to the party complained against.

## **ARTICLE 48. APPEAL; PROCEDURE; ATTORNEY'S FEES; FAILURE TO APPEAL; EFFECT.**

**Sec. 01.** Any party to a proceeding before the Commission aggrieved by any decision and order of the Commission and directly affected thereby may appeal the decision and order, and the appeal shall be in accordance with the Administrative Procedure Act.

**Sec. 02.** In any action or proceeding under Articles 35 to 50, wherein an appeal is lodged in the circuit court, the court in its discretion may allow the prevailing party a reasonable attorney's fee as part of the costs.

**Sec. 03.** If no proceeding to obtain judicial review is instituted by a respondent within thirty days from the service of an order of the Commission, the Commission may obtain a decree of the court for the enforcement of such order upon showing that the respondent is subject to the Commission's jurisdiction and resides or transacts business within the county in which the petition for enforcement is brought.

## **ARTICLE 49. CONTESTED CASE; APPEAL; PROCEDURE.**

**Sec. 01.** Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, shall be entitled to judicial review under the Administrative Procedure Act. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

**Sec. 02** (a) Proceedings for review shall be instituted by filing a petition in the circuit court of the county where the action is taken within thirty days after the service of the final decision by the agency. All parties of record shall be made parties to the proceedings for review. If any agency's only role in a contested case is to act as a neutral factfinding body, the agency shall not be a party of record. In all other cases, the agency shall be a party of record. Summons shall be served within thirty days of the filing of the petition in the manner provided for service of a summons in a civil action. If the agency whose decision is appealed from is not a party of record, the petitioner shall serve a copy of the petition and a request for preparation of the official record upon the agency within thirty days of the filing of the petition. The court, in its discretion, may permit other interested persons to intervene.

(b) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the agency whose action is at issue; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) identification of the parties in the contested case that led to the final decision; (v) facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

**Sec. 03** The filing of the petition or the service of summons upon such agency shall not stay enforcement of a decision. The agency may order a stay. The court may order a stay after notice of the application therefore to such agency and to all parties of record. If the agency has found that its action on an application for stay or other temporary remedies is justified to protect against a substantial threat to the public health, safety, or welfare, the court may not grant relief unless the court finds that: (a) The applicant is likely to prevail when the court finally disposes of the matter; (b) without relief, the applicant will suffer irreparable injuries; (c) the grant of relief to the applicant will not substantially harm other parties to the proceedings; and (d) the threat to the public health, safety, or welfare relied on by the agency is not sufficiently serious to justify the agency's action in the circumstances. The court may require the party requesting such stay to give bond in such amount and conditioned as the court may direct.

**Sec. 04** Within thirty days after service of the petition or within such further time as the court for good cause shown may allow, the agency shall prepare and transmit to the court a certified copy of the official record of the proceedings had before the agency. Such official record shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary, or intermediate rulings and orders, and any similar correspondence to or from the agency pertaining to the contested case; (c) the transcribed record of the hearing before the agency including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the agency during the proceeding, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The agency shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. The agency may require payment of bond prior to the transmittal of the record.

**Sec. 05** The review shall be conducted by the court without a jury on the record of the agency. Review may not be obtained of any issue that was not raised before the agency unless such issue involves one of the grounds for reversal or modification enumerated in subsection (b) of this section. If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the agency, the court may remand the case to the agency for further proceedings.

**Sec. 06** The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the agency decision is:

- (a) In violation of constitutional provisions;
- (b) In excess of the statutory authority or jurisdiction of the agency;
- (c) Made upon unlawful procedure;
- (d) Affected by other error of law.



(e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or

(f) Arbitrary or capricious.

**Sec. .07.** The review provided by this section shall not be available in any case where other provisions of law prescribe the method of appeal.

## **ARTICLE 50. VIOLATION; PENALTY.**

Any person or place of public accommodation who or which shall willfully resist, prevent, impede, or interfere with the Commission or any of its members or representatives in the performance of duty under this Act, or shall willfully violate an order of the Commission shall, upon conviction thereof, be imprisoned in the county jail for not more than thirty days, or be fined not more than one hundred dollars, or be both so fined and imprisoned. Procedure for the review of an order for the Commission shall not be deemed to be such willful conduct.

## **ARTICLE 51. APPROPRIATIONS**

The State legislature shall appropriate the necessary funds to the Alabama Human Relations Commission and the state Attorney General's office to carry out the provisions of this Act

## Appendix C

FROM THE DREAM OF THE SIXTIES  
TO THE VISION OF THE NINETIES --  
THE CASE FOR AN ALABAMA HUMAN RELATIONS COMMISSION

by

Rodney A. Max, Member of the Alabama Advisory Committee  
to the  
U.S. Commission on Civil Rights

The issue of human relations, and particularly race relations, is always a sensitive one -- and even more so in the State of Alabama. We all shrug from having to deal with the topic for fear of having to discuss social mores that may have, over the last forty years, become antiquated. For the white community, generally, it is not easy to change that which has taken generations to successfully build; and for the minority community, generally, it is not easy to change that which has taken generations of subservience to overcome. In the words of Theodore Roosevelt, "This [State] will not be a good place for any of us to live in unless we make it a good place for all of us to live in."

In recent months, our nation has been challenged. The events of the Rodney King verdict, the Los Angeles riots that followed, and the increase of skinhead and Ku Klux Klan activity in the nation and particularly in Alabama have challenged this nation. Do we 'stick our head in the sand' hoping that the problem has resolved itself because tempers have cooled and marches have subsided, with the hope that the passing of time can heal the wounds; or do we meet the challenge by resolving among us -- among all of us -- that we can, we must actively seek better relations, better dialogue.

In the private sector, many organizations over the past several years have recognized the need for active dialogue: The Community Affairs Committee of Operation New Birmingham since 1969; One Montgomery since mid-eighties; and one Selma since the early nineties. Leadership Alabama also represents one of those private endeavors.

While our private sector has made significant strides in establishing multi-cultural dialogue in recent years, our public leaders have not set such similar positive tones for constructive human relations. Our governmental leadership has chosen not to choose, not to act decisively. This vacuum has encouraged the rise of those who would like to use racial, religious and other prejudice for their own misgiven purposes. The result is (1) the expansion of hate groups throughout our State (and worse, they are promoting it among our youth); (2) our justice system is threatened by a perception that there are two justice systems; and (3) our State is still represented by a Confederate flag flying over our State Capitol, telling the world that in doing business with Alabama, you must accept that our traditions are more important than our human resources, thirty percent of whom, by their African American background, are alienated by this symbolism. These are certainly profound examples of why it is really action of its own.

It is unfortunate that we have to lean so heavily on public officials for such leadership. They have so many compromises to make to so many different constituencies. But leadership should

not be "positioning," it should be "doing the right thing." As Booker T. Washington once noted, "You can't hold a man down without staying down with him." Picking one man/woman or community up at a time is all the private sector can do.

Therefore, we must look to the public sector to find new ways of resolving conflict in human relations. Neither "the end of a billy club" nor the overcrowded judicial system can effectively serve as the public means to harmonious race relations. In the absence of any State civil rights laws or State human relations agency, we must rely on the Federal government and the Federal courts to enforce civil rights among our Alabama citizens. You would have thought that our "State's rights" mentality would have led us to a statewide human relations commission long ago.

As far back as 1982, the Federal government committed itself to increase funding for State and local agencies to enforce their own civil rights laws. Forty-six States have created human relations commissions and passed civil rights statutes. Alabama has no statutory provision concerning any civil rights laws except a weakly enforced fair housing statute and a provision which specifies that the handicapped are to be employed in the State's service on the same terms as those who are fully able. Without home rule or appropriate State legislation, local jurisdictions are without authority to pass laws establishing their own human relations commissions. Thus, we are left to the oversight of the Federal government.

While Alabama sat idle during the years of the availability of such Federal monies, several States including Kentucky, Nebraska and Tennessee created solid statutes which prohibit discrimination in employment, public accommodations and housing, while establishing a commission with the authority to receive, investigate, hear complaints, and enforce remedies, both in the private and public sectors. These commissions are also empowered to provide technical assistance, training, and education to all businesses, professions, and public or private agencies seeking preventative, nondiscriminatory policies. They are further empowered to study and report on problems of and solutions for discrimination and to work with communities to constructively deal with such problems.

At the same time, these human relations commissions receive a significant portion of their revenue from Federal agencies for assuming the responsibilities (such as EEOC and HUD). Added to this infusion of Federal funds is the reduction of costs expended in judicial controversies that could otherwise be resolved at an administrative level of a human relations commission. Finally, the ineffectiveness of the legislature or the governor to tackle these sensitive issues is avoided by these meaningful human relations commissions.

As in the cases with the State of Tennessee, the members of the commission are appointed on a non-partisan basis. By statute, they are mandated to be broadly representative of business, labor, education, religious groups, human rights

groups, and the general public. In some States, the commissioners are appointed by the governor, and in other States, each branch of government has the opportunity to appoint a designated number of commissioners. In Tennessee, the commissioners serve without pay, but they are reimbursed for expenses. The day-to-day governance of the commission is handled by an executive director and staff, whose budget pales in comparison to the sums expended in the absence of such an alternative dispute resolution institution. The present budget of the State of Tennessee is \$1.2 million, of which \$300,000.00 comes from Federal funds. We have been told that we can begin a human relations commission in Alabama with approximately \$500,000.00 of State money.

As we move toward the 21st Century, the proverbial question is asked, "Is the glass half full, or is the glass half empty?" My response is not directed to how full the glass is, but rather, how we bring it to the top. Do we simply fill it artificially with "ice cubes" so that it is perceived to be full, or do we fill it with the "pure liquid" of good faith understanding? The difference lies in the process of filling the glass. So, too, as we are moving from establishment of the right to eat together at public lunch counters to the right to eat together at private country clubs, the "battleground of confrontation" must move to a "round table of dialogue." A statewide human relations commission will help us create both the round table and the dialogue. Such a commission can be that facilitator that will

allow us to mediate our differences, while establishing and preserving the harmony among the races, religions and genders of our State's social structure. A human relations commission will allow us to better remove the "walls of separation" and form "bridges of understanding."

Yes, we can -- we must -- create these bridges that will unite our State. For no matter how many voting districts we create to achieve racial balance within our governmental bodies, we are one State, for better or for worse. Our State is perceived nationally as one, to either be an example of antiquated social mores of the past, or to be an example of the open community of tomorrow. This does not mean that we all have to be of the same political party, go to the same churches or synagogues, or maintain the same points of view.

IT DOES REQUIRES RESPECT -- RESPECT OF AND FOR EACH OTHER. Respect cannot come without understanding each other -- true understanding -- without pre-judging. Labels may be good in politics for thirty second sound bites, "racism," "Willie Horton," "quotas," "welfare families." But these same labels can and have been cancers to this State.

Simply put -- we need to find a better mechanism for getting to know one another. This is what is happening to you in this Leadership Alabama experience:

From that acquaintance comes trust  
 From that comes dealing  
 From dealing comes profit  
 From profit comes prosperity  
 From prosperity comes better housing, better education, and  
 a better culture for all of us.

That's what can happen to our fellow Alabamians with a human relations commission. Such a commission can not only unify our individual, private efforts to get to know one another, but it can also help us stop the spread of the cancer of prejudice and be the vital instrument in its cure.

The dream of the sixties can become the vision of the nineties through the timely creation of the Alabama Human Relations Commission.



# Appendix D



## HOUSE OF REPRESENTATIVES

ALABAMA STATE HOUSE  
MONTGOMERY, ALABAMA 36130

DISTRICT NO. 96  
JEFFERSON COUNTY  
  
BOBBIE G. MCDOWELL  
2322 DARTMOUTH AVE  
DESSNER, ALABAMA  
36089  
HOME 206/424-4628  
MONTGOMERY 206/242-7741

COMMITTEES  
CHAIRMAN CONSTITUTION AND ELECTIONS  
SULLS  
HEALTH  
LOCAL LEGISLATION NO. 1

June 24, 1992



Melvin L. Jenkins, Esq.  
Central Regional Division  
United States Commission on  
Civil Rights  
Old Federal Office Building  
911 Walnut Street, Room 3103  
Kansas City MO 64106-2009

Re: Alabama Advisory Committee on Civil Rights  
Hearing in Birmingham, Alabama on June 17-18, 1992

Dear Melvin:

I apologize for being unable to appear in person at the Alabama Advisory Committee on Civil Rights hearing in Birmingham last week on the need for an Alabama Commission on Human Relations. As I had previously indicated, I am extremely interested in this topic. Moreover, I feel very strongly that Alabama needs a State commission to process claims of discrimination based upon race, sex, religion, and age.

I have been advised that the record of this hearing is to remain open until July 17, 1992. Accordingly, I am herewith submitting written testimony in support of the proposition that Alabama needs a Commission on Human Relations. I would appreciate your making my written testimony a part of the record. I am also asking other interested citizens to submit under separate cover any testimony or comments they might have on the proposition directly to you prior to July 17.

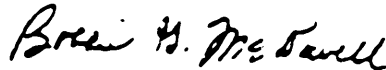
I am currently exploring the possibility of introducing legislation during the next session of the Alabama legislature to establish an Alabama Commission on Human Relations. I have reviewed the materials that were submitted by you regarding the Missouri and Nebraska Commissions on Human Relations. I have also carefully studied the Tennessee statute establishing the Tennessee Human Relations Committee. I would appreciate your providing me with any materials or insights that might be helpful in my efforts to have legislation adopted in Alabama to create a State Human Rights Commission. I am especially

Melvin L. Jenkins, Esq.  
Page 2  
June 24, 1992

interested in the extent to which contracts or deferral agreements with Federal Discrimination Agencies may serve as a source of funds to defray the operating costs of a State agency. I anticipate that one of the major objections to the establishment of a State agency will be budgetary. During the last several years, our State has suffered from severe budgetary problems that have resulted in a reduction of appropriated funds to our schools and other State agencies. Accordingly, if I can effectively address this concern we will be well on our way to getting a bill passed.

Again, I apologize for not having an opportunity to see you when you were in Alabama last week, but I hope to talk to you very soon. Thank you for your cooperation and please contact me if you have any questions regarding our proposed initiative.

Sincerely,



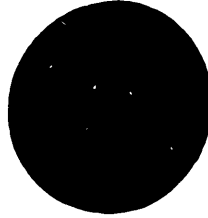
Bobbie G. McDowell  
State Representative

# Appendix E

PRESIDENT CITY COUNCIL  
**ROBERT L. IVIE JR.**  
 PRESIDENT PROTEM CITY COUNCIL

COUNCIL MEMBERS  
**FRANK H. BENTLEY**  
**LUTHER P. CANNON**  
**ELYNIA HARRIS**

## CITY OF TUSKEGEE



**JOHNNY FORD** MAYOR  
 TUSKEGEE ALABAMA 36083  
 205 727 2160

May 19, 1992

Melvin L. Jenkins, Esq.  
 Director  
 United States Commission on Civil Rights  
 Central Regional Division  
 Old Federal Office Building  
 911 Walnut Street, Room 3103  
 Kansas City, MO 64106

Dear Mr. Jenkins:

Thanks so much for your letter and the reports which were produced by the Commission on Civil Rights.

Your recommendation for a human relations commission for the state of Alabama is very timely. We are in dire need of one. As you may know, I served as state supervisor of the community relations service, U.S. Department of Justice, back in 1970. As one who has a background in community and human relations, you can count on my full support in this endeavor.

I look forward to hearing from you and possibly attending your meeting on June 17-18.

Sincerely,

  
 Johnny Ford  
 Mayor

JF:ssj

CITY CLERK TREASURER  
**CAL WILSON**  
 ASST. ASST. TO MAYOR FOR  
 COMMUNITY DEVELOPMENT

**FRED D. GRAY**  
 CITY ATTORNEY

**J. B. WALTER**  
 CHIEF POLICE DEPT.

**LUTHER CURRY**  
 CHIEF FIRE DEPT.

**HATTIE B. KING**  
 PUBLIC WORKS ASST.

**RONALD D. WILLIAMS**  
 DIRECTOR SMALL BUSINESS  
 ADMINISTRATION

**VERNON PRESLEY**  
 SUPT. LIGHT DEPT.

**LEONARD PITTS**  
 SUPT. WATER WASTE DEPT.

**WILLIE COPELAND**  
 SUPT. SEWAGE TREATMENT

**TIMMY PROGETT**  
 SUPT. WATER TREATMENT

**WILLIAM FOSTER**  
 PUBLIC WORKS DIRECTOR &  
 BUILDING INSPECTION

**CARL BASCOMB**  
 PERSONNEL DIRECTOR

**EDDIE MOORE**  
 SUPT. SANITATION DEPT.  
 4 STREET

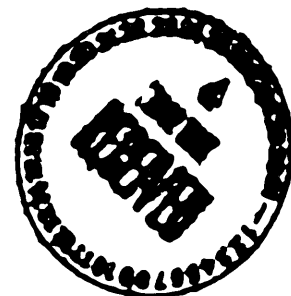
**NORMAN DAVIS**  
 RECREATION DIRECTOR

**JEANETTE ALEXANDER**  
 DIR. OF CITIZENS

**JEROME MOORE**  
 SUPT. CITY SHOP

**G. DYAMON ROBINSON**  
 DIRECTOR CULTURAL AFFAIRS

**JAMES C. B. SAMUEL**  
 CONTROLLER



# Appendix F

## PETITION

We, the undersigned citizens of the State of Alabama, do by our signatures below, support the creation of a statewide Human Relations Commission. If these names represent a single organization, it is \_\_\_\_\_.

Margaret F. Miller  
Denise D. Servant  
Marie Graves  
Charles Byrd  
Tyrone Webb  
Shelley B. Douglass  
Al Guido  
Christine Stutles  
Pechica Upton  
Federa Bahala

Robert O. Miller  
Mary Grant  
Sheri A. Lynn  
Ernest L. Lowery  
Ruby Pearson  
Susan H. Bettles  
Leonard J. Conneran  
Elizabeth Hauswirth  
Richard Upton  
Jane Sweeney

### Prigiam Congregational V.C. Church

Richard W. Sales  
Nancy B. Sales  
Renee Cochler Gysta  
Opal Taylor  
Jerry McKinney  
Nancy Lavender  
Earl Lavender  
Elint Avanc  
Virginia Graham  
Barbara Manning  
Charlotte Skell

Donna A. Cole  
Diane B. Smalley  
Eve J. Parker  
Lisa McKinney  
Kalen E. Chetelat  
Amanda Bell  
Jetta Phillips  
Mary Martin  
Stephen B. Lavender  
E. Kenneth Manning, Jr.

Philomene Davis  
Joreen B. Shoemaker  
P. F. Sedley  
Jackie Dudley  
Melinda Mahan  
Winifred Glogg  
Annie Peacock  
Robert H. Burns  
Gene Sotafski  
Katherine Bicastra  
Patricia M. Boyzann  
Leif Ambrose  
Robert B. Broaco

Eileen E. Balas  
Charles B. Babadreu  
Nancy J. Biggs  
Richard F. Ambrose  
Deborah L. Mahan  
Eileen E. Barbeau  
Beverly S. Prust  
Jerald Prust  
Kalen Hollett  
Bartha Zivite  
John Trush  
Christopher Biaco

### Concordia Lutheran Church, Pinson, AL

Marilyn Jenko  
Trudy Sias  
Marlene E. Lette

Berna Einar  
Beate Cole

Carolyn Crawford  
Erna Gibbs  
Mary C. Bragg  
Rev. Charles A. Terry  
Early C. Eberhardt  
Jacqueline Rice  
Sarna S. Clifford  
Bettie T. Lester  
Janine C. Hagen  
Bella Ruben  
Carolyn Higgins  
Merna B. Chase  
Freddie B. Sias  
Benny Sias  
Esther Bragg  
Elizabeth A. Venting  
Sara C. Goodson  
Richard Young  
W. C. Button  
Narcissus A. Pugh  
Martin A. Hicks  
Gloria Barrett

Betty Benson  
Emmanuel B. Ford  
Alma Crawford  
Catherine Billingsley  
William Benion  
Edward J. Buirden  
William B. Cayton, Jr.  
S. E. Lester  
Gracie A. Taylor  
Richard Johnson  
Thelma Fink  
Theodore Bell  
Angela Rubben  
Bernie Rubben  
Arnold Bragg  
J. S. Goodson  
Rhonda Burn  
Christopher Barab  
Rosetta F. Brown  
Thomas E. Glorious  
Samuel Rutledge  
Josephine E. Barahell

Cara Bradford  
Charlotte E. Bell  
Pat Chittat  
Libbie Owen  
Jane Phillips  
Valeria Gerald  
James C. Shelt  
Patricia H. Bennett  
Lena Ambrose  
Robert B. Desco  
Sonya C. Birchfield  
E. John A. Gert  
Cherly Ruzic  
Aerice Davis, Jr  
Jane Ethel Terry  
Polly Bond  
Florence B. Sample  
Regina J. Davis  
Bernice H. Jones  
Elizabeth P. Fox  
Pauline Morris Ekins  
R.D. Dawson, Jr  
Eunice B. Boyer

Ruth Kaye Keating  
Ethel B. Owen  
Joseph B. Phillips  
Hancee Keel  
Susan Rice  
Jeane McCallus  
James Gerald  
John French  
Christopher Desco  
John C. Keegan  
C. Evelyn B. Gambles  
Jack McCray  
Evelyn Lawrence  
Diane Fevers  
Dorine Bernaine Knight  
Dot Smith  
Elizabeth P. Davis  
Ethel D. Childress  
Walter J. Miller  
Bettye D. Jenkins  
Veda H. White  
Orlando J. Fox III

Deborah Shendelman  
Heidi Daneky  
Sissy Rubenstein  
Howard Goldberg  
Sally Friedman  
Karen Alver  
Steven Brickman  
Henry R. Sayer  
Barne H. Hess  
Lynn M. Raven  
Candy Rayerson  
Janet Green  
Jill Abrams  
Robert Wallgren  
Gary Goldman  
Esther Schuster  
Bessie Biran  
Jack Petes  
Susan Goldberg  
David Aarons

#### The Birmingham Jewish Federation

Joel Rotenstein  
Suzanne Beerman  
Martin Daneky  
Harold Abrams  
Susan Gelland  
Richard Friedman  
Cleveland Sherman  
Alan Z. El  
Phyllis J. Weinsberg  
Ellen Sobel  
Howard Beerman  
Barbara Aland  
Steven Caroskin  
Vernon Cohen  
Jackie E. Burt  
Allen Shealy  
J.B. Razer  
Sandra B. Kaplan  
Janet Aarons  
Selena C. Lubet

Annie Bess Steele  
J.V. Hernandez  
David Digo  
Walter Chesser  
Rosal T. Coley  
Adela H. Flynn  
Marylynn Griffin  
Estelle Reato  
Catherine C. Bulgare  
Bernice M. Cox  
Susan Jones  
Ray Bebaton

#### Five Mile Presbyterian Church

Callie Deigo  
Estelle Taylor  
Ed Brown  
Carietta S. Brush  
Judy Fourtee  
Paul B. Flynn  
Alice McMillan  
Berthe Babbin  
Janice Reato  
Ronald B. Cross  
David E. Cross

Janet Edward  
Josephine Osborne  
George L. Beette  
Shirley Stewart  
Roryn Nelson  
Cathy Graham  
Bandy Flynn

#### Center Point Area

Arthur L. Payne  
Roger L. Bolden  
Gayle Bel Pines  
Ronald Bigger  
Bernie Leavins  
Ronald Pile  
Bobbie Jackson

Carl B. Peihos  
Barbara Gajowski  
Barclay S. Baker  
Frederick W. Barnette, Jr.  
Elaine Fried  
Fey Lathan  
Shelba Tuggle  
Rudolph Vedel

#### Westville Hills United Methodist Church

Catrina Sanderson  
Laura Eason  
Chanel Alling  
Terri Barnette  
Bill Priel  
Cliff Barnett  
Kate Briggs  
Barbara Lee

W. Leach  
Mary Alice Thurman  
Catherine S. Buckley  
Judith M. Jone  
Michael Bowman  
Ben Smith  
William C. Raper  
Mervine Greene  
Paul Wolff  
D. Stevens  
Gerald D. Burt  
Frank Bates  
Alan D. Legg  
Jim Bates  
Sandy West  
Laird DeLoach

W. C. Poynter  
Frances A. Wells  
John Baker  
Judy R. Rans  
Gary Ancher  
W. Raper, Sr.  
W. E. Greene  
Paula J. Wolff  
J. R. Rode  
Carol Sims  
Sandy Webber  
Raymond L. Annis  
Beverly Baker  
Mike Quinn  
Carmel J. Cox  
Gary Anthesan

\*Documents submitted to the Alabama Advisory Committee at its June 16-17<sup>th</sup> 1992 factfinding meet by various groups. The originals are on file with the Central Regional Office of the U. S. Commission on Civil Rights.