

and effect of Department of Justice regulations and any violation of these guidelines shall make the employee or officer involved subject to appropriate administrative disciplinary action. However, an issue relating to the compliance, or the failure to comply, with guidelines issued pursuant to this subchapter may not be litigated, and a court may not entertain such an issue as the basis for the suppression or exclusion of evidence.

(Pub. L. 96-440, title II, §202, Oct. 13, 1980, 94 Stat. 1883.)

### CHAPTER 21B—RELIGIOUS FREEDOM RESTORATION

|           |   |
|-----------|---|
| Sec.      |   |
| 2000bb.   | Congressional findings and declaration of purposes. |
| 2000bb-1. | Free exercise of religion protected.                |
| 2000bb-2. | Definitions.  |
| 2000bb-3. | Applicability.                                      |
| 2000bb-4. | Establishment clause unaffected.                    |

#### § 2000bb. Congressional findings and declaration of purposes

##### (a) Findings

The Congress finds that—

(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) laws “neutral” toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) governments should not substantially burden religious exercise without compelling justification;

(4) in *Employment Division v. Smith*, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and

(5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

##### (b) Purposes

The purposes of this chapter are—

(1) to restore the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v. Yoder*, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened; and

(2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

(Pub. L. 103-141, §2, Nov. 16, 1993, 107 Stat. 1488.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 103-141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

#### SHORT TITLE

Section 1 of Pub. L. 103-141 provided that: “This Act [enacting this chapter and amending section 1988 of

this title and section 504 of Title 5, Government Organization and Employees] may be cited as the ‘Religious Freedom Restoration Act of 1993’.”

#### § 2000bb-1. Free exercise of religion protected

##### (a) In general

Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

##### (b) Exception

Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

##### (c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(Pub. L. 103-141, §3, Nov. 16, 1993, 107 Stat. 1488.)

#### § 2000bb-2. Definitions

As used in this chapter—

(1) the term “government” includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, or of a covered entity;

(2) the term “covered entity” means the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term “demonstrates” means meets the burdens of going forward with the evidence and of persuasion; and

(4) the term “exercise of religion” means religious exercise, as defined in section 2000cc-5 of this title.

(Pub. L. 103-141, §5, Nov. 16, 1993, 107 Stat. 1489; Pub. L. 106-274, §7(a), Sept. 22, 2000, 114 Stat. 806.)

#### AMENDMENTS

2000—Par. (1). Pub. L. 106-274, §7(a)(1), substituted “or of a covered entity” for “a State, or a subdivision of a State”.

Par. (2). Pub. L. 106-274, §7(a)(2), substituted “term ‘covered entity’ means” for “term ‘State’ includes”.

Par. (4). Pub. L. 106-274, §7(a)(3), substituted “religious exercise, as defined in section 2000cc-5 of this title” for “the exercise of religion under the First Amendment to the Constitution”.

#### § 2000bb-3. Applicability

##### (a) In general

This chapter applies to all Federal law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after November 16, 1993.

##### (b) Rule of construction

Federal statutory law adopted after November 16, 1993, is subject to this chapter unless such