

One Hundred Sixth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand*

An Act

To amend the Public Health Service Act to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Chimpanzee Health Improvement, Maintenance, and Protection Act”.

**SEC. 2. ESTABLISHMENT OF NATIONAL SANCTUARY SYSTEM FOR FED-
ERALLY OWNED OR SUPPORTED CHIMPANZEES NO
LONGER NEEDED FOR RESEARCH.**

Subpart 1 of part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by inserting after section 481B the following section:

“SEC. 481C. SANCTUARY SYSTEM FOR SURPLUS CHIMPANZEES.

“(a) IN GENERAL.—The Secretary shall provide for the establishment and operation in accordance with this section of a system to provide for the lifetime care of chimpanzees that have been used, or were bred or purchased for use, in research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other agencies of the Federal Government, and with respect to which it has been determined by the Secretary that the chimpanzees are not needed for such research (in this section referred to as ‘surplus chimpanzees’).

“(b) ADMINISTRATION OF SANCTUARY SYSTEM.—The Secretary shall carry out this section, including the establishment of regulations under subsection (d), in consultation with the board of directors of the nonprofit private entity that receives the contract under subsection (e) (relating to the operation of the sanctuary system).

“(c) ACCEPTANCE OF CHIMPANZEES INTO SYSTEM.—All surplus chimpanzees owned by the Federal Government shall be accepted into the sanctuary system. Subject to standards under subsection (d)(4), any chimpanzee that is not owned by the Federal Government can be accepted into the system if the owner transfers to the sanctuary system title to the chimpanzee.

“(d) STANDARDS FOR PERMANENT RETIREMENT OF SURPLUS CHIMPANZEES.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall by regulation establish standards for operating the sanctuary system

to provide for the permanent retirement of surplus chimpanzees. In establishing the standards, the Secretary shall consider the recommendations of the board of directors of the nonprofit private entity that receives the contract under subsection (e), and shall consider the recommendations of the National Research Council applicable to surplus chimpanzees that are made in the report published in 1997 and entitled ‘Chimpanzees in Research—Strategies for Their Ethical Care, Management, and Use’.

“(2) CHIMPANZEES ACCEPTED INTO SYSTEM.—With respect to chimpanzees that are accepted into the sanctuary system, standards under paragraph (1) shall include the following:

“(A) A prohibition that the chimpanzees may not be used for research, except as authorized under paragraph (3).

“(B) Provisions regarding the housing of the chimpanzees.

“(C) Provisions regarding the behavioral well-being of the chimpanzees.

“(D) A requirement that the chimpanzees be cared for in accordance with the Animal Welfare Act.

“(E) A requirement that the chimpanzees be prevented from breeding.

“(F) A requirement that complete histories be maintained on the health and use in research of the chimpanzees.

“(G) A requirement that the chimpanzees be monitored for the purpose of promptly detecting the presence in the chimpanzees of any condition that may be a threat to the public health or the health of other chimpanzees.

“(H) A requirement that chimpanzees posing such a threat be contained in accordance with applicable recommendations of the Director of the Centers for Disease Control and Prevention.

“(I) A prohibition that none of the chimpanzees may be subjected to euthanasia, except as in the best interests of the chimpanzee involved, as determined by the system and an attending veterinarian.

“(J) A prohibition that the chimpanzees may not be discharged from the system. If any chimpanzee is removed from a sanctuary facility for purposes of research authorized under paragraph (3)(A)(ii), the chimpanzee shall be returned immediately upon the completion of that research. All costs associated with the removal of the chimpanzee from the facility, with the care of the chimpanzee during such absence from the facility, and with the return of the chimpanzee to the facility shall be the responsibility of the entity that obtains approval under such paragraph regarding use of the chimpanzee and removes the chimpanzee from the sanctuary facility.

“(K) A provision that the Secretary may, in the discretion of the Secretary, accept into the system chimpanzees that are not surplus chimpanzees.

“(L) Such additional standards as the Secretary determines to be appropriate.

“(3) RESTRICTIONS REGARDING RESEARCH.—

“(A) IN GENERAL.—For purposes of paragraph (2)(A), standards under paragraph (1) shall provide that a chimpanzee accepted into the sanctuary system may not be used for studies or research, except as provided in clause (i) or (ii), as follows:

“(i) The chimpanzee may be used for noninvasive behavioral studies or medical studies based on information collected during the course of normal veterinary care that is provided for the benefit of the chimpanzee, provided that any such study involves minimal physical and mental harm, pain, distress, and disturbance to the chimpanzee and the social group in which the chimpanzee lives.

“(ii) The chimpanzee may be used in research if—

“(I) the Secretary finds that there are special circumstances in which there is need for that individual, specific chimpanzee (based on that chimpanzee’s prior medical history, prior research protocols, and current status), and there is no chimpanzee with a similar history and current status that is reasonably available among chimpanzees that are not in the sanctuary system;

“(II) the Secretary finds that there are technological or medical advancements that were not available at the time the chimpanzee entered the sanctuary system, and that such advancements can and will be used in the research;

“(III) the Secretary finds that the research is essential to address an important public health need; and

“(IV) the design of the research involves minimal pain and physical harm to the chimpanzee, and otherwise minimizes mental harm, distress, and disturbance to the chimpanzee and the social group in which the chimpanzee lives (including with respect to removal of the chimpanzee from the sanctuary facility involved).

“(B) APPROVAL OF RESEARCH DESIGN.—

“(i) EVALUATION BY SANCTUARY BOARD.—With respect to a proposed use in research of a chimpanzee in the sanctuary system under subparagraph (A)(ii), the board of directors of the nonprofit private entity that receives the contract under subsection (e) shall, after consultation with the head of the sanctuary facility in which the chimpanzee has been placed and with the attending veterinarian, evaluate whether the design of the research meets the conditions described in subparagraph (A)(ii)(IV) and shall submit to the Secretary the findings of the evaluation.

“(ii) ACCEPTANCE OF BOARD FINDINGS.—The Secretary shall accept the findings submitted to the Secretary under clause (i) by the board of directors referred to in such clause unless the Secretary makes a determination that the findings of the board are arbitrary or capricious.

“(iii) PUBLIC PARTICIPATION.—With respect to a proposed use in research of a chimpanzee in the sanctuary system under subparagraph (A)(ii), the proposal shall not be approved until—

“(I) the Secretary publishes in the Federal Register the proposed findings of the Secretary under such subparagraph, the findings of the evaluation by the board under clause (i) of this subparagraph, and the proposed evaluation by the Secretary under clause (ii) of this subparagraph; and

“(II) the Secretary seeks public comment for a period of not less than 60 days.

“(C) ADDITIONAL RESTRICTION.—For purposes of paragraph (2)(A), a condition for the use in studies or research of a chimpanzee accepted into the sanctuary system is (in addition to conditions under subparagraphs (A) and (B) of this paragraph) that the applicant for such use has not been fined for, or signed a consent decree for, any violation of the Animal Welfare Act.

“(4) NON-FEDERAL CHIMPANZEES OFFERED FOR ACCEPTANCE INTO SYSTEM.—With respect to a chimpanzee that is not owned by the Federal Government and is offered for acceptance into the sanctuary system, standards under paragraph (1) shall include the following:

“(A) A provision that the Secretary may authorize the imposition of a fee for accepting such chimpanzee into the system, except as follows:

“(i) Such a fee may not be imposed for accepting the chimpanzee if, on the day before the date of the enactment of this section, the chimpanzee was owned by the nonprofit private entity that receives the contract under subsection (e) or by any individual sanctuary facility receiving a subcontract or grant under subsection (e)(1).

“(ii) Such a fee may not be imposed for accepting the chimpanzee if the chimpanzee is owned by an entity that operates a primate center, and if the chimpanzee is housed in the primate center pursuant to the program for regional centers for research on primates that is carried out by the National Center for Research Resources.

Any fees collected under this subparagraph are available to the Secretary for the costs of operating the system. Any other fees received by the Secretary for the long-term care of chimpanzees (including any Federal fees that are collected for such purpose and are identified in the report under section 3 of the Chimpanzee Health Improvement, Maintenance, and Protection Act) are available for operating the system, in addition to availability for such other purposes as may be authorized for the use of the fees.

“(B) A provision that the Secretary may deny such chimpanzee acceptance into the system if the capacity of the system is not sufficient to accept the chimpanzee, taking into account the physical capacity of the system;

the financial resources of the system; the number of individuals serving as the staff of the system, including the number of professional staff; the necessity of providing for the safety of the staff and of the public; the necessity of caring for accepted chimpanzees in accordance with the standards under paragraph (1); and such other factors as may be appropriate.

“(C) A provision that the Secretary may deny such chimpanzee acceptance into the system if a complete history of the health and use in research of the chimpanzee is not available to the Secretary.

“(D) Such additional standards as the Secretary determines to be appropriate.

“(e) AWARD OF CONTRACT FOR OPERATION OF SYSTEM.—

“(1) IN GENERAL.—Subject to the availability of funds pursuant to subsection (g), the Secretary shall make an award of a contract to a nonprofit private entity under which the entity has the responsibility of operating (and establishing, as applicable) the sanctuary system and awarding subcontracts or grants to individual sanctuary facilities that meet the standards under subsection (d).

“(2) REQUIREMENTS.—The Secretary may make an award under paragraph (1) to a nonprofit private entity only if the entity meets the following requirements:

“(A) The entity has a governing board of directors that is composed and appointed in accordance with paragraph (3) and is satisfactory to the Secretary.

“(B) The terms of service for members of such board are in accordance with paragraph (3).

“(C) The members of the board serve without compensation. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the board.

“(D) The entity has an executive director meeting such requirements as the Secretary determines to be appropriate.

“(E) The entity makes the agreement described in paragraph (4) (relating to non-Federal contributions).

“(F) The entity agrees to comply with standards under subsection (d).

“(G) The entity agrees to make necropsy reports on chimpanzees in the sanctuary system available on a reasonable basis to persons who conduct biomedical or behavioral research, with priority given to such persons who are Federal employees or who receive financial support from the Federal Government for research.

“(H) Such other requirements as the Secretary determines to be appropriate.

“(3) BOARD OF DIRECTORS.—For purposes of subparagraphs (A) and (B) of paragraph (2):

“(A) The governing board of directors of the nonprofit private entity involved is composed and appointed in accordance with this paragraph if the following conditions are met:

“(i) Such board is composed of not more than 13 voting members.

“(ii) Such members include individuals with expertise and experience in the science of managing captive chimpanzees (including primate veterinary care), appointed from among individuals endorsed by organizations that represent individuals in such field.

“(iii) Such members include individuals with expertise and experience in the field of animal protection, appointed from among individuals endorsed by organizations that represent individuals in such field.

“(iv) Such members include individuals with expertise and experience in the zoological field (including behavioral primatology), appointed from among individuals endorsed by organizations that represent individuals in such field.

“(v) Such members include individuals with expertise and experience in the field of the business and management of nonprofit organizations, appointed from among individuals endorsed by organizations that represent individuals in such field.

“(vi) Such members include representatives from entities that provide accreditation in the field of laboratory animal medicine.

“(vii) Such members include individuals with expertise and experience in the field of containing biohazards.

“(viii) Such members include an additional member who serves as the chair of the board, appointed from among individuals who have been endorsed for purposes of clause (ii), (iii), (iv), or (v).

“(ix) None of the members of the board has been fined for, or signed a consent decree for, any violation of the Animal Welfare Act.

“(B) The terms of service for members of the board of directors are in accordance with this paragraph if the following conditions are met:

“(i) The term of the chair of the board is 3 years.

“(ii) The initial members of the board select, by a random method, one member from each of the six fields specified in subparagraph (A) to serve a term of 2 years and (in addition to the chair) one member from each of such fields to serve a term of 3 years.

“(iii) After the initial terms under clause (ii) expire, each member of the board (other than the chair) is appointed to serve a term of 2 years.

“(iv) An individual whose term of service expires may be reappointed to the board.

“(v) A vacancy in the membership of the board is filled in the manner in which the original appointment was made.

“(vi) If a member of the board does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy is appointed for the remainder of the term of the predecessor member.

“(4) REQUIREMENT OF MATCHING FUNDS.—The agreement required in paragraph (2)(E) for a nonprofit private entity (relating to the award of the contract under paragraph (1))

is an agreement that, with respect to the costs to be incurred by the entity in establishing and operating the sanctuary system, the entity will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs, in cash or in kind, in an amount not less than the following, as applicable:

“(A) For expenses associated with establishing the sanctuary system (as determined by the Secretary), 10 percent of such costs (\$1 for each \$9 of Federal funds provided under the contract under paragraph (1)).

“(B) For expenses associated with operating the sanctuary system (as determined by the Secretary), 25 percent of such costs (\$1 for each \$3 of Federal funds provided under such contract).

“(5) ESTABLISHMENT OF CONTRACT ENTITY.—If the Secretary determines that an entity meeting the requirements of paragraph (2) does not exist, not later than 60 days after the date of the enactment of this section, the Secretary shall, for purposes of paragraph (1), make a grant for the establishment of such an entity, including paying the cost of incorporating the entity under the law of one of the States.

“(f) DEFINITIONS.—For purposes of this section:

“(1) PERMANENT RETIREMENT.—The term ‘permanent retirement’, with respect to a chimpanzee that has been accepted into the sanctuary system, means that under subsection (a) the system provides for the lifetime care of the chimpanzee, that under subsection (d)(2) the system does not permit the chimpanzee to be used in research (except as authorized under subsection (d)(3)) or to be euthanized (except as provided in subsection (d)(2)(I)), that under subsection (d)(2) the system will not discharge the chimpanzee from the system, and that under such subsection the system otherwise cares for the chimpanzee.

“(2) SANCTUARY SYSTEM.—The term ‘sanctuary system’ means the system described in subsection (a).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(4) SURPLUS CHIMPANZEES.—The term ‘surplus chimpanzees’ has the meaning given that term in subsection (a).

“(g) FUNDING.—

“(1) IN GENERAL.—Of the amount appropriated under this Act for fiscal year 2001 and each subsequent fiscal year, the Secretary, subject to paragraph (2), shall reserve a portion for purposes of the operation (and establishment, as applicable) of the sanctuary system and for purposes of paragraph (3), except that the Secretary may not for such purposes reserve any further funds from such amount after the aggregate total of the funds so reserved for such fiscal years reaches \$30,000,000. The purposes for which funds reserved under the preceding sentence may be expended include the construction and renovation of facilities for the sanctuary system.

“(2) LIMITATION.—Funds may not be reserved for a fiscal year under paragraph (1) unless the amount appropriated under this Act for such year equals or exceeds the amount appropriated under this Act for fiscal year 1999.

“(3) USE OF FUNDS FOR OTHER COMPLIANT FACILITIES.—With respect to amounts reserved under paragraph (1) for

a fiscal year, the Secretary may use a portion of such amounts to make awards of grants or contracts to public or private entities operating facilities that, as determined by the board of directors of the nonprofit private entity that receives the contract under subsection (e), provide for the retirement of chimpanzees in accordance with the same standards that apply to the sanctuary system pursuant to regulations under subsection (d). Such an award may be expended for the expenses of operating the facilities involved.”.

SEC. 3. REPORT TO CONGRESS REGARDING NUMBER OF CHIMPANZEES AND FUNDING FOR CARE OF CHIMPANZEES.

With respect to chimpanzees that have been used, or were bred or purchased for use, in research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other agencies of the Federal Government, the Secretary of Health and Human Services shall, not later than 365 days after the date of the enactment of this Act, submit to Congress a report providing the following information:

(1) The number of such chimpanzees in the United States, whether owned or held by the Federal Government, any of the States, or private entities.

(2) An identification of any requirement imposed by the Federal Government that, as a condition of the use of such a chimpanzee in research by a non-Federal entity—

(A) fees be paid by the entity to the Federal Government for the purpose of providing for the care of the chimpanzee (including any fees for long-term care); or

(B) funds be provided by the entity to a State, unit of local government, or private entity for an endowment or other financial account whose purpose is to provide for the care of the chimpanzee (including any funds provided for long-term care).

(3) An accounting for fiscal years 1999 and 2000 of all fees paid and funds provided by non-Federal entities pursuant to requirements described in subparagraphs (A) and (B) of paragraph (2).

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(4) In the case of such fees, a specification of whether the fees were available to the Secretary (or other Federal officials) pursuant to annual appropriations Acts or pursuant to permanent appropriations.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*