

pliance with the Hague Convention on International Child Abduction.

## CHAPTER 122—NATIVE HAWAIIAN HEALTH CARE

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### Editorial Notes

#### CODIFICATION

As originally enacted, this chapter was comprised of Pub. L. 100-579 (§§1-12) and subtitle D (§§2301-2312) of title II of Pub. L. 100-690, which enacted substantially identical sections and which were both known as the Native Hawaiian Health Care Act of 1988. Pub. L. 102-396, title IX, §168, Oct. 6, 1992, 106 Stat. 1948, subsequently amended the Act generally. As so amended, the Act was renamed the Native Hawaiian Health Care Improvement Act and consists of sections 1 to 16 which enacted this chapter, repealed section 1621d of Title 25, Indians, and enacted provisions set out as a Short Title note under section 11701 of this title. For purposes of codification, sections 1 to 16 are considered to be sections of Pub. L. 100-579 only.

### § 11701. Findings

The Congress finds that:

(1) Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago whose society was organized as a Nation prior to the arrival of the first nonindigenous people in 1778.

(2) The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

(3) The constitution and statutes of the State of Hawaii:

(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language.

(4) At the time of the arrival of the first non-indigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion.

(5) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

(6) Throughout the 19th century and until 1893, the United States: (A) recognized the independence of the Hawaiian Nation; (B) extended full and complete diplomatic recognition to the Hawaiian Government; and (C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875 and 1887.

(7) In the year 1893, the United States Minister assigned to the sovereign and independent Kingdom of Hawaii, John L. Stevens, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii.

(8) In pursuance of that conspiracy, the United States Minister and the naval representative of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawaii and the United States Minister thereupon extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawaii or the lawful Government of Hawaii in violation of treaties between the two nations and of international law.

(9) In a message to Congress on December 18, 1893, then President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown, and the President concluded that a "substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair".

(10) Queen Lili'uokalani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian nation, but this petition was not acted upon.

(11) In 1898, the United States annexed Hawaii through the Newlands Resolution without the consent of or compensation to the indigenous people of Hawaii or their sovereign government who were thereby denied the mechanism for expression of their inherent sovereignty through self-government and self-determination, their lands and ocean resources.

(12) Through the Newlands Resolution and the 1900 Organic Act, the United States Congress received 1.75 million acres of lands formerly owned by the Crown and Government of the Hawaiian Kingdom and exempted the lands from then existing public land laws of the United States by mandating that the revenue and proceeds from these lands be "used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes", thereby establishing a special trust relationship between the United States and the inhabitants of Hawaii.

(13) In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 which designated 200,000 acres of the ceded public lands for ex-

clusive homesteading by Native Hawaiians, thereby affirming the trust relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane who was cited in the Committee Report of the United States House of Representatives Committee on Territories as stating, "One thing that impressed me . . . was the fact that the natives of the islands who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty."

(14) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the extension to Native Hawaiians and to permit fishing in the area "only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance".

(15) Under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under such Act.

(16) Under the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4, 6).

(17) The authority of the Congress under the United States Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawaii.

(18) In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people.

(19) This historical and unique legal relationship has been consistently recognized and affirmed by the Congress through the enactment of Federal laws which extend to the Hawaiian people the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities, including the Native American Programs Act of 1974 [42

U.S.C. 2991 et seq.]; the American Indian Religious Freedom Act [42 U.S.C. 1996, 1996a]; the National Museum of the American Indian Act [20 U.S.C. 80q et seq.]; and the Native American Graves Protection and Repatriation Act [25 U.S.C. 3001 et seq.].

(20) The United States has also recognized and reaffirmed the trust relationship to the Hawaiian people through legislation which authorizes the provision of services to Native Hawaiians, specifically, the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Veterans' Benefits and Services Act of 1988, the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the Native Hawaiian Health Care Act of 1988, the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Handicapped Programs Technical Amendments Act of 1988, the Indian Health Care Amendments of 1988, and the Disadvantaged Minority Health Improvement Act of 1990.

(21) The United States has also affirmed the historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986.

(22) Despite such services, the unmet health needs of the Native Hawaiian people are severe and the health status of Native Hawaiians continues to be far below that of the general population of the United States.

(Pub. L. 100-579, §2, Oct. 31, 1988, 102 Stat. 2916; Pub. L. 100-690, title II, §2302, Nov. 18, 1988, 102 Stat. 4223; Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Newlands Resolution, referred to in pars. (11) and (12), is act July 7, 1898, No. 55, 30 Stat. 750. For complete classification of this act to the Code, see Tables.

The 1900 Organic Act, referred to in par. (12), probably means the Hawaiian Organic Act, act Apr. 30, 1900, ch. 339, 31 Stat. 141, which was classified principally to chapter 3 (§491 et seq.) of Title 48, Territories and Insular Possessions, and was omitted from the Code. For complete classification of this Act to the Code, see Tables.

The Hawaiian Homes Commission Act, 1920, referred to in par. (13), is act July 9, 1921, ch. 42, 42 Stat. 108, which was classified generally to sections 691 to 718 of Title 48 and was omitted from the Code.

Act of June 20, 1938, referred to in par. (14), is act June 20, 1938, ch. 530, 52 Stat. 781, which is classified to sections 391b, 391b-1, 392b, 392c, 396, and 396a of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

An Act to provide for the admission of the State of Hawaii into the Union, referred to in pars. (15) and (16), is Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, popularly known as the Hawaii Statehood Admissions Act, which is set out as a note preceding former section 491 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Native American Programs Act of 1974, referred to in par. (19), is title VIII of Pub. L. 88-452, as added by Pub. L. 93-644, §11, Jan. 4, 1975, 88 Stat. 2324, which is classified generally to subchapter VIII (§2991 et seq.) of chapter 34 of this title. For complete classification

of this Act to the Code, see section 2991 of this title and Tables.

The American Indian Religious Freedom Act, referred to in par. (19), is Pub. L. 95-341, Aug. 11, 1978, 92 Stat. 469, which is classified to sections 1996 and 1996a of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of this title and Tables.

The National Museum of the American Indian Act, referred to in par. (19), is Pub. L. 101-185, Nov. 28, 1989, 103 Stat. 1336, which is classified generally to subchapter XIII (§80q et seq.) of chapter 3 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 80q of Title 20 and Tables.

The Native American Graves Protection and Repatriation Act, referred to in par. (19), is Pub. L. 101-601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

The Older Americans Act of 1965, referred to in par. (20), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, referred to in par. (20), is Pub. L. 100-146, Oct. 29, 1987, 101 Stat. 840. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 6000 of this title and Tables.

The Veterans' Benefits and Services Act of 1988, referred to in par. (20), is Pub. L. 100-322, May 20, 1988, 102 Stat. 487. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 101 of Title 38, Veterans' Benefits, and Tables.

The Rehabilitation Act of 1973, referred to in par. (20), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Native Hawaiian Health Care Act of 1988, referred to in par. (20), was Pub. L. 100-579, Oct. 31, 1988, 102 Stat. 2916, and subtitle D of title II of Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4222, which were classified generally to this chapter prior to being amended generally and renamed the Native Hawaiian Health Care Improvement Act by Pub. L. 102-396. For complete classification of this Act to the Code, see Tables.

The Health Professions Reauthorization Act of 1988, referred to in par. (20), is title VI of Pub. L. 100-607, Nov. 4, 1988, 102 Stat. 3122. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 201 of this title and Tables.

The Nursing Shortage Reduction and Education Extension Act of 1988, referred to in par. (20), is title VII of Pub. L. 100-607, Nov. 4, 1988, 102 Stat. 3153. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 201 of this title and Tables.

The Handicapped Programs Technical Amendments Act of 1988, referred to in par. (20), is Pub. L. 100-630, Nov. 7, 1988, 102 Stat. 3289. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 1400 of Title 20, Education, and Tables.

The Indian Health Care Amendments of 1988, referred to in par. (20), is Pub. L. 100-713, Nov. 23, 1988, 102 Stat. 4784. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 1601 of Title 25, Indians, and Tables.

The Disadvantaged Minority Health Improvement Act of 1990, referred to in par. (20), is Pub. L. 101-527, Nov. 6, 1990, 104 Stat. 2311. For complete classification

of this Act to the Code, see Short Title of 1990 Amendments note set out under section 201 of this title and Tables.

The Anti-Drug Abuse Act of 1986, referred to in par. (21), is Pub. L. 99-570, Oct. 27, 1986, 100 Stat. 3207. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 801 of Title 21, Food and Drugs, and Tables.

#### CODIFICATION

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on "September 12, 1992", has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Pub. L. 100-579 and Pub. L. 100-690 enacted identical sections. The text of this section is based on section 2 of Pub. L. 100-579, as subsequently amended.

#### AMENDMENTS

1992—Pub. L. 102-396 amended section generally substituting pars. (1) to (22) for former pars. (1) to (3) which set forth findings of Congress.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Pub. L. 100-579, §1, Oct. 31, 1988, 102 Stat. 2916, and Pub. L. 100-690, title II, subtitle D, §2301, Nov. 18, 1988, 102 Stat. 4222, as amended by Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948, provided that: "This Act [enacting this chapter and repealing section 1621d of Title 25, Indians] may be cited as the 'Native Hawaiian Health Care Improvement Act'."

[The note set out above is based on section 1 of Pub. L. 100-579 as amended generally by Pub. L. 102-396. See Codification note preceding this section.]

#### § 11702. Declaration of policy

##### (a) Congress

The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

- (1) to raise the health status of Native Hawaiians to the highest possible health level; and
- (2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

##### (b) Intent of Congress

It is the intent of the Congress that the Nation meet the following health objectives with respect to Native Hawaiians by the year 2000:

- (1) Reduce coronary heart disease deaths to no more than 100 per 100,000.
- (2) Reduce stroke deaths to no more than 20 per 100,000.
- (3) Increase control of high blood pressure to at least 50 percent of people with high blood pressure.
- (4) Reduce blood cholesterol to an average of no more than 200 mg/dl.
- (5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.
- (6) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.