

- (1) the inherent rights of any Indian tribe;
- (2) the rights, express or implicit, of any Indian tribe which exist under treaties, Executive orders, and laws of the United States;
- (3) the inherent right of Indians to practice their religions; and
- (4) the right of Indians to practice their religions under any Federal or State law.

(Pub. L. 95-341, §3, as added Pub. L. 103-344, §2, Oct. 6, 1994, 108 Stat. 3125.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Religious Freedom Restoration Act, referred to in subsec. (b)(6), (7), probably means the Religious Freedom Restoration Act of 1993, Pub. L. 103-141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to chapter 21B (§2000bb et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (c)(2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

#### § 1996b. Interethnic adoption

##### (1) Prohibited conduct

A person or government that is involved in adoption or foster care placements may not—

- (A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or
- (B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

##### (2) Enforcement

Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.].

##### (3) No effect on the Indian Child Welfare Act of 1978

This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.].

(Pub. L. 104-188, title I, §1808(c), Aug. 20, 1996, 110 Stat. 1904.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Indian Child Welfare Act of 1978, referred to in par. (3), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, which is classified principally to chapter 21 (§1901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 25 and Tables.

#### SUBCHAPTER I-A—INSTITUTIONALIZED PERSONS

#### § 1997. Definitions

As used in this subchapter—

(1) The term “institution” means any facility or institution—

(A) which is owned, operated, or managed by, or provides services on behalf of any State or political subdivision of a State; and

(B) which is—

(i) for persons who are mentally ill, disabled, or retarded, or chronically ill or handicapped;

(ii) a jail, prison, or other correctional facility;

(iii) a pretrial detention facility;

(iv) for juveniles—

(I) held awaiting trial;

(II) residing in such facility or institution for purposes of receiving care or treatment; or

(III) residing for any State purpose in such facility or institution (other than a residential facility providing only elementary or secondary education that is not an institution in which reside juveniles who are adjudicated delinquent, in need of supervision, neglected, placed in State custody, mentally ill or disabled, mentally retarded, or chronically ill or handicapped); or

(v) providing skilled nursing, intermediate or long-term care, or custodial or residential care.

(2) Privately owned and operated facilities shall not be deemed “institutions” under this subchapter if—

(A) the licensing of such facility by the State constitutes the sole nexus between such facility and such State;

(B) the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII [42 U.S.C. 1381 et seq., 1395 et seq.], or under a State plan approved under title XIX [42 U.S.C. 1396 et seq.], of the Social Security Act, constitutes the sole nexus between such facility and such State; or

(C) the licensing of such facility by the State, and the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII [42 U.S.C. 1381 et seq., 1395 et seq.], or under a State plan approved under title XIX [42 U.S.C. 1396 et seq.], of the Social Security Act, constitutes the sole nexus between such facility and such State;

(3) The term “person” means an individual, a trust or estate, a partnership, an association, or a corporation;

(4) The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States;

(5) The term “legislative days” means any calendar day on which either House of Congress is in session.

(Pub. L. 96-247, §2, May 23, 1980, 94 Stat. 349.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Social Security Act, referred to in par. (2)(B), (C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVI,

XVIII, and XIX of the Social Security Act are classified generally to subchapters XVI (§1381 et seq.), XVIII (§1395 et seq.), and XIX (§1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

#### Statutory Notes and Related Subsidiaries

##### SHORT TITLE

Pub. L. 96-247, §1, May 23, 1980, 94 Stat. 349, provided: “That this Act [enacting this subchapter] may be cited as the ‘Civil Rights of Institutionalized Persons Act’.”

#### § 1997a. Initiation of civil actions

##### (a) Discretionary authority of Attorney General; preconditions

Whenever the Attorney General has reasonable cause to believe that any State or political subdivision of a State, official, employee, or agent thereof, or other person acting on behalf of a State or political subdivision of a State is subjecting persons residing in or confined to an institution, as defined in section 1997 of this title, to egregious or flagrant conditions which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing such persons to suffer grievous harm, and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may institute a civil action in any appropriate United States district court against such party for such equitable relief as may be appropriate to insure the minimum corrective measures necessary to insure the full enjoyment of such rights, privileges, or immunities, except that such equitable relief shall be available under this subchapter to persons residing in or confined to an institution as defined in section 1997(1)(B)(ii) of this title only insofar as such persons are subjected to conditions which deprive them of rights, privileges, or immunities secured or protected by the Constitution of the United States.

##### (b) Discretionary award of attorney fees

In any action commenced under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney’s fee against the United States as part of the costs.

##### (c) Attorney General to personally sign complaint

The Attorney General shall personally sign any complaint filed pursuant to this section.

(Pub. L. 96-247, §3, May 23, 1980, 94 Stat. 350; Pub. L. 104-134, title I, §101[(a)] [title VIII, §803(a)], Apr. 26, 1996, 110 Stat. 1321, 1321-70; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.)

#### Editorial Notes

##### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-134 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Any complaint filed by the Attorney General pursuant to this section shall be personally signed by him.”

#### § 1997a-1. Subpoena authority

##### (a) Authority

The Attorney General, or at the direction of the Attorney General, any officer or employee of the Department of Justice may require by subpoena access to any institution that is the subject of an investigation under this subchapter and to any document, record, material, file, report, memorandum, policy, procedure, investigation, video or audio recording, or quality assurance report relating to any institution that is the subject of an investigation under this subchapter to determine whether there are conditions which deprive persons residing in or confined to the institution of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

##### (b) Issuance and enforcement of subpoenas

###### (1) Issuance

Subpoenas issued under this section—

(A) shall bear the signature of the Attorney General or any officer or employee of the Department of Justice as designated by the Attorney General; and

(B) shall be served by any person or class of persons designated by the Attorney General or a designated officer or employee for that purpose.

###### (2) Enforcement

In the case of contumacy or failure to obey a subpoena issued under this section, the United States district court for the judicial district in which the institution is located may issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt that<sup>1</sup> court.

##### (c) Protection of subpoenaed records and information

Any document, record, material, file, report, memorandum, policy, procedure, investigation, video or audio recording, or quality assurance report or other information obtained under a subpoena issued under this section—

(1) may not be used for any purpose other than to protect the rights, privileges, or immunities secured or protected by the Constitution or laws of the United States of persons who reside, have resided, or will reside in an institution;

(2) may not be transmitted by or within the Department of Justice for any purpose other than to protect the rights, privileges, or immunities secured or protected by the Constitution or laws of the United States of persons who reside, have resided, or will reside in an institution; and

(3) shall be redacted, obscured, or otherwise altered if used in any publicly available manner so as to prevent the disclosure of any personally identifiable information.

(Pub. L. 96-247, §3A, as added Pub. L. 111-148, title X, §10606(d)(2), Mar. 23, 2010, 124 Stat. 1008.)

<sup>1</sup> So in original. Probably should be preceded by “of”.