

§ 1997b. Certification requirements; Attorney General to personally sign certification

(a) At the time of the commencement of an action under section 1997a of this title the Attorney General shall certify to the court—

(1) that at least 49 calendar days previously the Attorney General has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of—

(A) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities;

(B) the supporting facts giving rise to the alleged conditions and the alleged pattern or practice, including the dates or time period during which the alleged conditions and pattern or practice of resistance occurred; and when feasible, the identity of all persons reasonably suspected of being involved in causing the alleged conditions and pattern or practice at the time of the certification, and the date on which the alleged conditions and pattern or practice were first brought to the attention of the Attorney General; and

(C) the minimum measures which the Attorney General believes may remedy the alleged conditions and the alleged pattern or practice of resistance;

(2) that the Attorney General has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of the Attorney General's intention to commence an investigation of such institution, that such notice was delivered at least seven days prior to the commencement of such investigation and that between the time of such notice and the commencement of an action under section 1997a of this title—

(A) the Attorney General has made a reasonable good faith effort to consult with the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution, or their designees, regarding financial, technical, or other assistance which may be available from the United States and which the Attorney General believes may assist in the correction of such conditions and pattern or practice of resistance;

(B) the Attorney General has encouraged the appropriate officials to correct the alleged conditions and pattern or practice of resistance through informal methods of conference, conciliation and persuasion, including, to the extent feasible, discussion of the possible costs and fiscal impacts of alternative minimum corrective measures, and it is the Attorney General's opinion that reasonable efforts at voluntary correction have not succeeded; and

(C) the Attorney General is satisfied that the appropriate officials have had a reason-

able time to take appropriate action to correct such conditions and pattern or practice, taking into consideration the time required to remodel or make necessary changes in physical facilities or relocate residents, reasonable legal or procedural requirements, the urgency of the need to correct such conditions, and other circumstances involved in correcting such conditions; and

(3) that the Attorney General believes that such an action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) The Attorney General shall personally sign any certification made pursuant to this section.

(Pub. L. 96-247, § 4, May 23, 1980, 94 Stat. 350; Pub. L. 97-256, title II, § 201(a), Sept. 8, 1982, 96 Stat. 816; Pub. L. 104-134, title I, § 101[(a)] [title VIII, § 803(b)], Apr. 26, 1996, 110 Stat. 1321, 1321-71; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-134, § 101[(a)] [title VIII, § 803(b)(1)(A)], substituted “the Attorney General” for “he” in introductory provisions and in subpar. (C).

Subsec. (a)(2). Pub. L. 104-134, § 101[(a)] [title VIII, § 803(b)(1)(A)], substituted “the Attorney General” for “he” wherever appearing in introductory provisions and in subpars. (A) to (C).

Pub. L. 104-134, § 101[(a)] [title VIII, § 803(b)(1)(B)], substituted “the Attorney General's” for “his” in introductory provisions and in subpar. (B).

Subsec. (a)(3). Pub. L. 104-134, § 101[(a)] [title VIII, § 803(b)(1)(A)], substituted “the Attorney General” for “he”.

Subsec. (b). Pub. L. 104-134, § 101[(a)] [title VIII, § 803(b)(2)], amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Any certification made by the Attorney General pursuant to this section shall be personally signed by him.”

1982—Subsec. (a). Pub. L. 97-256 substituted “section 1997a of this title” for “section 1997 of this title” in provisions preceding par. (1).

§ 1997c. Intervention in actions

(a) Discretionary authority of Attorney General; preconditions; time period

(1) Whenever an action has been commenced in any court of the United States seeking relief from egregious or flagrant conditions which deprive persons residing in institutions of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm and the Attorney General has reasonable cause to believe 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 intervene in such action upon motion by the Attorney General.

(2) The Attorney General shall not file a motion to intervene under paragraph (1) before 90 days after the commencement of the action, except that if the court determines it would be in the interests of justice, the court may shorten or waive the time period.