

ter under subsection (a)(1), may not assert as a defense to a claim arising under this chapter the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

**(d) Exclusive nature of remedy**

The remedy provided by subsection (a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this chapter, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

**(e) Admissibility of evidence**

Evidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of this chapter.

**(f) Damages; costs and attorneys' fees**

A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of \$1,000, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: *Provided, however,* That the United States, a State, or any other governmental unit shall not be liable for interest prior to judgment.

**(g) Attorney General; claims settlement; regulations**

The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this chapter by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee, if warranted.

**(h) Jurisdiction**

The district courts shall have original jurisdiction of all civil actions arising under this section.

(Pub. L. 96-440, title I, § 106, Oct. 13, 1980, 94 Stat. 1880.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Jan. 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the section is effective one year from Oct. 13, 1980, see section 108 of Pub. L. 96-440, set out as a note under section 2000aa of this title.

**§ 2000aa-7. Definitions**

(a) "Documentary materials", as used in this chapter, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magnetically<sup>1</sup> or electronically recorded cards,

tapes, or discs, but does not include contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used as, the means of committing a criminal offense.

(b) "Work product materials", as used in this chapter, means materials, other than contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used, as the means of committing a criminal offense, and—

(1) in anticipation of communicating such materials to the public, are prepared, produced, authored, or created, whether by the person in possession of the materials or by any other person;

(2) are possessed for the purposes of communicating such materials to the public; and

(3) include mental impressions, conclusions, opinions, or theories of the person who prepared, produced, authored, or created such material.

(c) "Any other governmental unit", as used in this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

(Pub. L. 96-440, title I, § 107, Oct. 13, 1980, 94 Stat. 1881.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective Jan. 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the section is effective one year from Oct. 13, 1980, see section 108 of Pub. L. 96-440, set out as a note under section 2000aa of this title.

**SUBCHAPTER II—ATTORNEY GENERAL GUIDELINES**

**§ 2000aa-11. Guidelines for Federal officers and employees**

**(a) Procedures to obtain documentary evidence; protection of certain privacy interests**

The Attorney General shall, within six months of October 13, 1980, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of an offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained;

<sup>1</sup> So in original. Probably should be "magnetically".

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship such as that which may exist between clergyman and parishioner; lawyer and client; or doctor and patient; and

(4) a requirement that an application for a warrant to conduct a search governed by this subchapter be approved by an attorney for the government, except that in an emergency situation the application may be approved by another appropriate supervisory official if within 24 hours of such emergency the appropriate United States Attorney is notified.

**(b) Use of search warrants; reports to Congress**

The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on the use of search warrants by Federal officers and employees for documentary materials described in subsection (a)(3).

(Pub. L. 96-440, title II, § 201, Oct. 13, 1980, 94 Stat. 1882.)

**§ 2000aa-12. Binding nature of guidelines; disciplinary actions for violations; legal proceedings for non-compliance prohibited**

Guidelines issued by the Attorney General under this subchapter shall have the full force 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.)

**Editorial Notes**

**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.

**CONSTITUTIONALITY**

For information regarding the constitutionality of this section, see the Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court on the Constitution Annotated website, constitution.congress.gov.

**Statutory Notes and Related Subsidiaries**

**SHORT TITLE**

Pub. L. 103-141, § 1, Nov. 16, 1993, 107 Stat. 1488, 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.’”

**Executive Documents**

**Ex. ORD. NO. 13798. PROMOTING FREE SPEECH AND RELIGIOUS LIBERTY**

Ex. Ord. No. 13798, May 4, 2017, 82 F.R. 21675, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to guide the executive branch in formulating and implementing policies with implications for the religious liberty of persons and organizations in America, and to further compliance with the Constitution and with applicable statutes and Presidential Directives, it is hereby ordered as follows:

**SECTION 1. Policy.** It shall be the policy of the executive branch to vigorously enforce Federal law’s robust protections for religious freedom. The Founders envisioned a Nation in which religious voices and views were integral to a vibrant public square, and in which religious people and institutions were free to practice their faith without fear of discrimination or retaliation by the Federal Government. For that reason, the United States Constitution enshrines and protects the fundamental right to religious liberty as Americans’ first freedom. Federal law protects the freedom of Americans and their organizations to exercise religion and participate fully in civic life without undue interference by the Federal Government. The executive branch will honor and enforce those protections.