

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, as amended, 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.)

REFERENCES IN TEXT

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

SHORT TITLE

Section 1 of Pub. L. 96-247 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)],