

the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties.

(Pub. L. 101-630, title IV, §404, Nov. 28, 1990, 104 Stat. 4547.)

REFERENCES IN TEXT

Section 3202(3) of this title, referred to in subsec. (c)(2)(A), was in the original "section 503(3)" meaning section 503(3) of Pub. L. 101-630, and was translated as reading section 403(3), which defines child abuse, to reflect the probable intent of Congress.

CODIFICATION

Section is comprised of section 404 of Pub. L. 101-630. Subsec. (a) of section 404 enacted section 1169 of Title 18, Crimes and Criminal Procedure.

§ 3204. Central registry

(a) Preparation of study

The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of children in Indian country.

(b) Content of study

The study conducted pursuant to subsection (a) of this section shall include, but shall not be limited to—

- (1) the need for, and purpose of, a Central Register;
- (2) the examination of due process implications of the maintenance of such a register;
- (3) the extension of access to information contained in the register;
- (4) the need and process for expunging information from the register;
- (5) the types, and duration of maintenance, of information in the register; and
- (6) the classes of persons who should be covered by such register.

(c) Submission to Congress

The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after November 28, 1990.

(Pub. L. 101-630, title IV, §405, Nov. 28, 1990, 104 Stat. 4549.)

§ 3205. Confidentiality

Pursuant to section 552a of title 5, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

(Pub. L. 101-630, title IV, §406, Nov. 28, 1990, 104 Stat. 4550.)

REFERENCES IN TEXT

The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), referred to in text, is section 513 of title V of Pub. L. 93-380, Aug. 21, 1974, 88 Stat. 571, which enacted section 1232g of Title 20, Education, and provisions set out as notes under sections 1221 and 1232g of Title 20. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 1221 of Title 20 and Tables.

§ 3206. Waiver of parental consent

(a) Examinations and interviews

Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) Interviews by law enforcement and child protective services officials

In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) Protection of child

Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise,¹ or under the guidance, of a local multidisciplinary team established pursuant to section 3210 of this title or, in the absence of a local team, a multidisciplinary team established pursuant to section 3209 of this title.

(d) Court orders

Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate judge or United States District Court may issue an order enforcing any provision of this section.

(Pub. L. 101-630, title IV, §407, Nov. 28, 1990, 104 Stat. 4550; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

"Federal magistrate judge" substituted for "Federal magistrate" in subsec. (d) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 3207. Character investigations

(a) By Secretary of the Interior and Secretary of Health and Human Services

The Secretary and the Secretary of Health and Human Services shall—

¹ So in original. Probably should be "advice".

(1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and

(3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

(b) Criminal records

The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) of this section have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children.

(c) Investigations by Indian tribes and tribal organizations

Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] or the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.] shall—

(1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a) of this section, as the Indian tribe or tribal organization shall establish.

(Pub. L. 101-630, title IV, §408, Nov. 28, 1990, 104 Stat. 4551; Pub. L. 106-568, title VIII, §814, Dec. 27, 2000, 114 Stat. 2918.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (c), is part B (§§5201-5212) of title V of Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 385, which is classified generally to chapter 27 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-568 substituted “any felonious offense, or any of two or more misdemeanor offenses,” for “any offense” and “crimes against persons; or offenses committed against children” for “or crimes against persons”.

§ 3208. Indian Child Abuse Treatment Grant Program

(a) Establishment

The Secretary of Health and Human Services, acting through the Service and in cooperation with the Bureau, shall establish an Indian Child Abuse Treatment Grant Program that provides grants to any Indian tribe or intertribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b) Grant applications

(1) Any Indian tribe or intertribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a) of this section.

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe;

(B) shall be submitted to such Secretary on or before the date designated by such Secretary; and

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) Maximum grant amount

The maximum amount of any grant awarded under subsection (a) of this section shall not exceed \$500,000.

(d) Grant administration and final report

Each recipient of a grant awarded under subsection (a) of this section shall—

(1) furnish the Secretary of Health and Human Services with such information as such Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to such Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

(e) Authorization of appropriations

there¹ is hereby authorized to be appropriated to carry out the provisions of this section \$10,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.

(Pub. L. 101-630, title IV, §409, Nov. 28, 1990, 104 Stat. 4551; Pub. L. 104-16, §1, June 21, 1995, 109 Stat. 190.)

AMENDMENTS

1995—Subsec. (e). Pub. L. 104-16 substituted “1995, 1996, and 1997” for “and 1995”.

¹ So in original. Probably should be capitalized.