

ployees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of service for the Commission.

**(2) Detail of Federal employees**

With the affirmative vote of  $\frac{2}{3}$  of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

**(3) Procurement of temporary and intermittent services**

Upon the request of the Commission, the Attorney General shall provide reasonable and appropriate office space, supplies, and administrative assistance.

**(j) Contracts for research**

**(1) National Institute of Justice**

With a  $\frac{2}{3}$  affirmative vote, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties under this chapter. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

**(2) Other organizations**

Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

**(k) Subpoenas**

**(1) Issuance**

The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter.

**(2) Enforcement**

In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

**(3) Confidentiality of documentary evidence**

Documents provided to the Commission pursuant to a subpoena issued under this subsection shall not be released publicly without the affirmative vote of  $\frac{2}{3}$  of the Commission.

**(l) Authorization of appropriations**

There are authorized to be appropriated such sums as may be necessary to carry out this section.

**(m) Termination**

The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the reports required by this section.

**(n) Exemption**

The Commission shall be exempt from the Federal Advisory Committee Act.

(Pub. L. 108-79, §7, Sept. 4, 2003, 117 Stat. 980; Pub. L. 108-447, div. B, title I, §123(1), Dec. 8,

2004, 118 Stat. 2871; Pub. L. 109-108, title I, §113(b), Nov. 22, 2005, 119 Stat. 2305; Pub. L. 109-162, title XI, §1181, Jan. 5, 2006, 119 Stat. 3126; Pub. L. 110-199, title II, §261, Apr. 9, 2008, 122 Stat. 694.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (n), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (d)(3)(A). Pub. L. 110-199 substituted “5 years” for “3 years” in introductory provisions.

2006—Subsec. (d)(3)(A). Pub. L. 109-162 made amendment identical to that made by Pub. L. 109-108. See 2005 Amendment note below.

2005—Subsec. (d)(3)(A). Pub. L. 109-108 substituted “3 years” for “2 years”.

2004—Pub. L. 108-447 substituted “Elimination” for “Reduction” in section catchline and in text of subsec. (a).

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110-199 and requirements for grants made under such amendments, see section 17504 of this title.

**§ 15607. Adoption and effect of national standards**

**(a) Publication of proposed standards**

**(1) Final rule**

Not later than 1 year after receiving the report specified in section 15606(d)(3) of this title, the Attorney General shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape.

**(2) Independent judgment**

The standards referred to in paragraph (1) shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission under section 15606(e) of this title, and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.

**(3) Limitation**

The Attorney General shall not establish a national standard under this section that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities. The Attorney General may, however, provide a list of improvements for consideration by correctional facilities.

**(4) Transmission to States**

Within 90 days of publishing the final rule under paragraph (1), the Attorney General shall transmit the national standards adopted under such paragraph to the chief executive of each State, the head of the department of corrections of each State, and to the appropriate authorities in those units of local government who oversee operations in one or more prisons.

**(b) Applicability to Federal Bureau of Prisons**

The national standards referred to in subsection (a) shall apply to the Federal Bureau of

Prisons immediately upon adoption of the final rule under subsection (a)(4).

**(c) Applicability to detention facilities operated by the Department of Homeland Security**

**(1) In general**

Not later than 180 days after March 7, 2013, the Secretary of Homeland Security shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of aliens detained for a violation of the immigrations laws of the United States.

**(2) Applicability**

The standards adopted under paragraph (1) shall apply to detention facilities operated by the Department of Homeland Security and to detention facilities operated under contract with the Department.

**(3) Compliance**

The Secretary of Homeland Security shall—

(A) assess compliance with the standards adopted under paragraph (1) on a regular basis; and

(B) include the results of the assessments in performance evaluations of facilities completed by the Department of Homeland Security.

**(4) Considerations**

In adopting standards under paragraph (1), the Secretary of Homeland Security shall give due consideration to the recommended national standards provided by the Commission under section 15606(e) of this title.

**(5) Definition**

As used in this section, the term “detention facilities operated under contract with the Department” includes, but is not limited to contract detention facilities and detention facilities operated through an intergovernmental service agreement with the Department of Homeland Security.

**(d) Applicability to custodial facilities operated by the Department of Health and Human Services**

**(1) In general**

Not later than 180 days after March 7, 2013, the Secretary of Health and Human Services shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of unaccompanied alien children (as defined in section 279(g) of title 6).

**(2) Applicability**

The standards adopted under paragraph (1) shall apply to facilities operated by the Department of Health and Human Services and to facilities operated under contract with the Department.

**(3) Compliance**

The Secretary of Health and Human Services shall—

(A) assess compliance with the standards adopted under paragraph (1) on a regular basis; and

(B) include the results of the assessments in performance evaluations of facilities completed by the Department of Health and Human Services.

**(4) Considerations**

In adopting standards under paragraph (1), the Secretary of Health and Human Services shall give due consideration to the recommended national standards provided by the Commission under section 15606(e) of this title.

**(e) Eligibility for Federal funds**

**(1) Covered programs**

**(A) In general**

For purposes of this subsection, a grant program is covered by this subsection if, and only if—

(i) the program is carried out by or under the authority of the Attorney General; and

(ii) the program may provide amounts to States for prison purposes.

**(B) List**

For each fiscal year, the Attorney General shall prepare a list identifying each program that meets the criteria of subparagraph (A) and provide that list to each State.

**(2) Adoption of national standards**

For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive of the State submits to the Attorney General—

(A) a certification that the State has adopted, and is in full compliance with, the national standards described in subsection (a); or

(B) an assurance that not less than 5 percent of such amount shall be used only for the purpose of enabling the State to adopt, and achieve full compliance with, those national standards, so as to ensure that a certification under subparagraph (A) may be submitted in future years.

**(3) Report on noncompliance**

Not later than September 30 of each year, the Attorney General shall publish a report listing each grantee that is not in compliance with the national standards adopted pursuant to subsection (a).

**(4) Cooperation with survey**

For each fiscal year, any amount that a State receives for that fiscal year under a grant program covered by this subsection shall not be used for prison purposes (and shall be returned to the grant program if no other authorized use is available), unless the chief executive of the State submits to the Attorney General a certification that neither the State, nor any political subdivision or unit of local government within the State, is listed in a report issued by the Attorney General pursuant to section 15603(c)(2)(C) of this title.

**(5) Redistribution of amounts**

Amounts under a grant program not granted by reason of a reduction under paragraph (2),

or returned by reason of the prohibition in paragraph (4), shall be granted to one or more entities not subject to such reduction or such prohibition, subject to the other laws governing that program.

**(6) Implementation**

The Attorney General shall establish procedures to implement this subsection, including procedures for effectively applying this subsection to discretionary grant programs.

**(7) Effective date**

**(A) Requirement of adoption of standards**

The first grants to which paragraph (2) applies are grants for the second fiscal year beginning after the date on which the national standards under subsection (a) are finalized.

**(B) Requirement for cooperation**

The first grants to which paragraph (4) applies are grants for the fiscal year beginning after September 4, 2003.

(Pub. L. 108-79, §8, Sept. 4, 2003, 117 Stat. 985; Pub. L. 113-4, title XI, §1101(c), Mar. 7, 2013, 127 Stat. 134.)

AMENDMENTS

2013—Subsecs. (c) to (e). Pub. L. 113-4 added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

**§ 15608. Requirement that accreditation organizations adopt accreditation standards**

**(a) Eligibility for Federal grants**

Notwithstanding any other provision of law, an organization responsible for the accreditation of Federal, State, local, or private prisons, jails, or other penal facilities may not receive any new Federal grants during any period in which such organization fails to meet any of the requirements of subsection (b).

**(b) Requirements**

To be eligible to receive Federal grants, an accreditation organization referred to in subsection (a) must meet the following requirements:

(1) At all times after 90 days after September 4, 2003, the organization shall have in effect, for each facility that it is responsible for accrediting, accreditation standards for the detection, prevention, reduction, and punishment of prison rape.

(2) At all times after 1 year after the date of the adoption of the final rule under section 15607(a)(4) of this title, the organization shall, in addition to any other such standards that it may promulgate relevant to the detection, prevention, reduction, and punishment of prison rape, adopt accreditation standards consistent with the national standards adopted pursuant to such final rule.

(Pub. L. 108-79, §9, Sept. 4, 2003, 117 Stat. 987.)

**§ 15609. Definitions**

In this chapter, the following definitions shall apply:

**(1) Carnal knowledge**

The term “carnal knowledge” means contact between the penis and the vulva or the

penis and the anus, including penetration of any sort, however slight.

**(2) Inmate**

The term “inmate” means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

**(3) Jail**

The term “jail” means a confinement facility of a Federal, State, or local law enforcement agency to hold—

(A) persons pending adjudication of criminal charges; or

(B) persons committed to confinement after adjudication of criminal charges for sentences of 1 year or less.

**(4) HIV**

The term “HIV” means the human immunodeficiency virus.

**(5) Oral sodomy**

The term “oral sodomy” means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

**(6) Police lockup**

The term “police lockup” means a temporary holding facility of a Federal, State, or local law enforcement agency to hold—

(A) inmates pending bail or transport to jail;

(B) inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

**(7) Prison**

The term “prison” means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes—

(A) any local jail or police lockup; and

(B) any juvenile facility used for the custody or care of juvenile inmates.

**(8) Prison rape**

The term “prison rape” includes the rape of an inmate in the actual or constructive control of prison officials.

**(9) Rape**

The term “rape” means—

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person’s will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person’s will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.