

§ 7961. Gun-free requirements**(a) Short title**

This subpart may be cited as the “Gun-Free Schools Act”.

(b) Requirements**(1) In general**

Each State receiving Federal funds under any subchapter of this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

(2) Construction

Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student’s regular school setting from providing educational services to such student in an alternative setting.

(3) Definition

For the purpose of this section, the term “firearm” has the same meaning given such term in section 921(a) of title 18.

(c) Special rule

The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(d) Report to State

Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any subchapter of this chapter shall provide to the State, in the application requesting such assistance—

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

- (A) the name of the school concerned;
- (B) the number of students expelled from such school; and
- (C) the type of firearms concerned.

(e) Reporting

Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

(f) Definition

For the purpose of subsection (d), the term “school” means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

(g) Exception

Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

(h) Policy regarding criminal justice system referral**(1) In general**

No funds shall be made available under any subchapter of this chapter to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

(2) Definition

For the purpose of this subsection, the term “school” has the same meaning given to such term by section 921(a) of title 18.

(Pub. L. 89–10, title VIII, § 8561, formerly title IV, § 4141, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1762; renumbered title IX, § 9551, renumbered title VIII, § 8561, Pub. L. 114–95, title IV, § 4001(a)(2)(A), (B), (D), title VIII, § 8001(a)(8), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was classified to section 7151 of this title prior to renumbering by Pub. L. 114–95.

SUBPART 5—ENVIRONMENTAL TOBACCO SMOKE

CODIFICATION

Pub. L. 114–95, title IV, § 4001(a)(4)(A)–(C)(i), title VIII, § 8001(a), (b)(1), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089, redesignated part C (§ 7181 et seq.) of subchapter IV of this chapter as subpart 5 of part F of this subchapter.

Similar provisions relating to environmental tobacco smoke are contained in part B (§ 6081 et seq.) of subchapter X of chapter 68 of this title.

§ 7971. Short title

This subpart¹ may be cited as the “Pro-Children Act of 2001”.

(Pub. L. 89–10, title VIII, § 8571, formerly title IV, § 4301, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773; renumbered title IX, § 9561, renumbered title VIII, § 8571, Pub. L. 114–95, title IV, § 4001(a)(4)(A), (B), (C)(ii), title VIII, § 8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

This subpart, referred to in text, was in the original “this part”, and was translated as reading “this subpart”, to reflect the probable intent of Congress. Pub. L. 114–95 redesignated part C of title IV of Pub. L. 89–10

¹ See References in Text note below.

as subpart 5 of part F of title VIII of Pub. L. 89-10, which is classified to this subpart.

CODIFICATION

Section was classified to section 7181 of this title prior to renumbering by Pub. L. 114-95.

§ 7972. Definitions

As used in this subpart:¹

(1) Children

The term “children” means individuals who have not attained the age of 18.

(2) Children’s services

The term “children’s services” means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after January 8, 2002, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in part 246.2 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling)) under section 17(b)(6) of the Child Nutrition Act of 1966 [42 U.S.C. 1786(b)(6)]; or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate head of a Federal agency in any enforcement action carried out under this subpart,¹

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(3) Indoor facility

The term “indoor facility” means a building that is enclosed.

(4) Person

The term “person” means any State or local subdivision of a State, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children’s services or any individual who owns or operates or otherwise controls and provides such services.

(5) Secretary

The term “Secretary” means the Secretary of Health and Human Services.

(Pub. L. 89-10, title VIII, § 8572, formerly title IV, § 4302, as added Pub. L. 107-110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773; renumbered title IX, § 9562, renumbered title VIII, § 8572, Pub. L.

114-95, title IV, § 4001(a)(4)(A), (B), (C)(ii), title VIII, § 8001(a)(9), Dec. 10, 2015, 129 Stat. 1966, 2088, 2089.)

REFERENCES IN TEXT

This subpart, referred to in text, was in the original “this part”, and was translated as reading “this subpart”, to reflect the probable intent of Congress. Pub. L. 114-95 redesignated part C of title IV of Pub. L. 89-10 as subpart 5 of part F of title VIII of Pub. L. 89-10, which is classified to this subpart.

The Child Nutrition Act of 1966, referred to in par. (2), is Pub. L. 89-642, Oct. 11, 1966, 80 Stat. 885, which is classified generally to chapter 13A (§ 1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in par. (2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Section was classified to section 7182 of this title prior to renumbering by Pub. L. 114-95.

§ 7973. Nonsmoking policy for children’s services

(a) Prohibition

After January 8, 2002, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) Additional prohibition

(1) In general

After January 8, 2002, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood education programs.

(2) Exception

Paragraph (1) shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(c) Federal agencies

(1) Kindergarten, elementary, or secondary education or library services

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) Health or day care or early childhood education programs

(A) In general

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated

¹ See References in Text note below.