

Editorial Notes

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 202(a) of title II of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

Section enacted by section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, which was enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on "September 12, 1992", has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 11709, Pub. L. 100-579, §11, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, §2311, Nov. 18, 1988, 102 Stat. 4229, which related to compliance with Budget Act, was amended generally by Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948, and transferred to section 11710 of this title.

A prior section 10 of Pub. L. 100-579 repealed former section 1621d of Title 25, Indians.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-148, which directed the amendment of section 10(c) of the Native Hawaiian Health Care Act of 1988 by substituting "2019" for "2001", was executed by making the amendment to this section, which is section 10 of the Native Hawaiian Health Care Improvement Act, to reflect the probable intent of Congress.

2002—Subsec. (a). Pub. L. 107-116, §514(a)(1), substituted "Papa Ola Lokahi" for "Kamehameha School/Bishop Estate" in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 107-116, §514(a)(2), which directed the substitution of "Papa Ola Lokahi" for "Kamehameha School/Bishop Estate", was executed by making the substitution for "Kamehameha Schools/Bishop Estate" to reflect the probable intent of Congress.

1998—Subsec. (a)(1). Pub. L. 105-256, §12(a), which directed amendment of subsec. (a)(1) by substituting "meet the requirements of paragraphs (1), (3), and (4) of section 254(b) of this title" for "meet the requirements of section 254 of this title", was executed by making the substitution for "meet the requirements of section 254b of this title", to reflect the probable intent of Congress.

Subsec. (b)(1)(A). Pub. L. 105-256, §12(b)(1), inserted "identified in the Native Hawaiian comprehensive health care master plan implemented under section 11703 of this title" after "health care professional".

Subsec. (b)(1)(B). Pub. L. 105-256, §12(b)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (b)(1)(C). Pub. L. 105-256, §12(b)(2), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 105-256, §12(b)(4), added subpar. (D) and struck out former subpar. (D) which read as follows: "the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in (i) any one of the five Native Hawaiian health care systems, or (ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii; and"

Pub. L. 105-256, §12(b)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Subsec. (b)(1)(E). Pub. L. 105-256, §12(b)(2), redesignated subpar. (D) as (E).

Subsec. (b)(1)(F), (G). Pub. L. 105-256, §12(b)(5), (6), added subpars. (F) and (G).

§ 11710. Report

The President shall, at the time the budget is submitted under section 1105 of title 31, for each

fiscal year transmit to the Congress a report on the progress made in meeting the objectives of this chapter, including a review of programs established or assisted pursuant to this chapter and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Native Hawaiians, and ensure a health status for Native Hawaiians, which are at a parity with the health services available to, and the health status of, the general population.

(Pub. L. 100-579, §11, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, §2311, Nov. 18, 1988, 102 Stat. 4229; Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948.)

Editorial Notes

CODIFICATION

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on "September 12, 1992", has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Section was formerly classified to section 11709 of this title prior to the general amendment of this chapter by Pub. L. 102-396.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 11 of Pub. L. 100-579, as subsequently amended.

PRIOR PROVISIONS

A prior section 11710, Pub. L. 100-579, §12, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, §2312, Nov. 18, 1988, 102 Stat. 4230, which related to severability, was amended generally by Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948, and transferred to section 11711 of this title.

AMENDMENTS

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section related to compliance with Budget Act.

§ 11711. Definitions

For purposes of this chapter:

(1) Disease prevention

The term "disease prevention" includes—

- (A) immunizations,
- (B) control of high blood pressure,
- (C) control of sexually transmittable diseases,
- (D) prevention and control of diabetes,
- (E) control of toxic agents,
- (F) occupational safety and health,
- (G) accident prevention,
- (H) fluoridation of water,
- (I) control of infectious agents, and
- (J) provision of mental health care.

(2) Health promotion

The term "health promotion" includes—

- (A) pregnancy and infant care, including prevention of fetal alcohol syndrome,
- (B) cessation of tobacco smoking,
- (C) reduction in the misuse of alcohol and drugs,
- (D) improvement of nutrition,
- (E) improvement in physical fitness,

- (F) family planning,
- (G) control of stress, and
- (H) educational programs with the mission of improving the health, capability, and well-being of Native Hawaiians.

(3) Native Hawaiian

The term “Native Hawaiian” means any individual who is—

- (A) a citizen of the United States, and
- (B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—
 - (i) genealogical records,
 - (ii) Kupuna (elders) or Kama’aina (long-term community residents) verification, or
 - (iii) birth records of the State of Hawaii.

(4) Native Hawaiian health center

The term “Native Hawaiian health center” means an entity—

- (A) which is organized under the laws of the State of Hawaii,
- (B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
- (C) which is a public or nonprofit private entity, and
- (D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) Native Hawaiian organization

The term “Native Hawaiian organization” means any organization—

- (A) which serves the interests of Native Hawaiians,
- (B) which is—
 - (i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this chapter for the benefit of Native Hawaiians, and
 - (ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this chapter,
- (C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and
- (D) which is a public or nonprofit private entity.

(6) Native Hawaiian health care system

The term “Native Hawaiian health care system” means an entity—

- (A) which is organized under the laws of the State of Hawaii,
- (B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
- (C) which is a public or nonprofit private entity,
- (D) in which Native Hawaiian health practitioners significantly participate in the

planning, management, monitoring, and evaluation of health care services,

(E) which may be composed of as many Native Hawaiian health centers as necessary to meet the health care needs of each island’s Native Hawaiians, and

(F) which is—

- (i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this chapter for the benefit of Native Hawaiians, and
- (ii) certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements under the contract the Native Hawaiian health care system enters into with the Secretary or the grant the Native Hawaiian health care system receives from the Secretary pursuant to this chapter.

(7) Papa Ola Lokahi

(A) The term “Papa Ola Lokahi” means an organization composed of—

- (i) E Ola Mau;
- (ii) the Office of Hawaiian Affairs of the State of Hawaii;
- (iii) Alu Like Inc.;
- (iv) the University of Hawaii;
- (v) the Office of Hawaiian Health of the Hawaii State Department of Health;
- (vi) Ho’ola Lahui Hawaii, or a health care system serving the islands of Kaua’i and Ni’ihau, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;
- (vii) Ke Ola Mamo, or a health care system serving the island of O’ahu, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;
- (viii) Na Pu’uwai or a health care system serving the islands of Moloka’i and Lana’i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;
- (ix) Hui No Ke Ola Pono, or a health care system serving the island of Maui, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;
- (x) Hui Malama Ola Ha’Oiwai or a health care system serving the island of Hawaii, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island; and
- (xi) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians, and upon satisfactory development of a mission statement in relation to this chapter, including clearly defined goals and objectives, a 5-year action plan outlining the contributions that each organization will make in carrying out the policy of this chapter, and an estimated budget.

(B) Such term does not include any such organization identified in subparagraph (A) if the Secretary determines that such organization has not developed a mission statement with clearly defined goals and objectives for the contributions the organization will make to the Native Hawaiian health care systems, and an action plan for carrying out those goals and objectives.

(8) Primary health services

The term “primary health services” means—

(A) services of physicians, physicians’ assistants, nurse practitioners, and other health professionals;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children’s eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care;

(F) preventive dental services; and

(G) pharmaceutical services, as may be appropriate for particular health centers.

(9) Secretary

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

(10) Traditional Native Hawaiian healer

The term “traditional Native Hawaiian healer” means a practitioner—

(A) who—

(i) is of Hawaiian ancestry, and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

(B) whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders, and

(ii) oral traditions transmitted from generation to generation.

(Pub. L. 100-579, § 12, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, § 2312, Nov. 18, 1988, 102 Stat. 4230; Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948; Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 202(c) of title II of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Section was formerly classified to section 11710 of this title prior to the general amendment of this chapter by Pub. L. 102-396.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 12 of Pub. L. 100-579, as subsequently amended.

AMENDMENTS

2010—Par. (2)(H). Pub. L. 111-148, which directed the amendment of section 12(2) of the Native Hawaiian Health Care Act of 1988 by adding subpar. (H), was executed by making the amendment to this section, which is section 12 of the Native Hawaiian Health Care Improvement Act, to reflect the probable intent of Congress.

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section related to severability.

§ 11712. Rule of construction

Nothing in this chapter shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

(Pub. L. 100-579, § 13, as added Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948.)

Editorial Notes

CODIFICATION

Section enacted by section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, which was enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

§ 11713. Compliance with Budget Act

Any new spending authority (described in subsection (c)(2)(A) or (B) of section 651¹ of title 2) which is provided under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 100-579, § 15, as added Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948.)

Editorial Notes

REFERENCES IN TEXT

Section 651 of title 2, referred to in text, was amended by Pub. L. 105-33, title X, § 10116(a)(3), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

CODIFICATION

Section enacted by section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, which was enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

§ 11714. Severability

If any provision of this chapter, or the application of any such provision to any person or circumstance is held to be invalid, the remainder of this chapter, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

¹ See References in Text note below.