

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 42 - THE PUBLIC HEALTH AND WELFARE CHAPTER 21B—RELIGIOUS FREEDOM RESTORATION

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TITLE 42 - THE PUBLIC HEALTH AND WELFARE	1
CHAPTER 21B - RELIGIOUS FREEDOM RESTORATION	5
§ 2000bb. Congressional findings and declaration of purposes	5
§ 2000bb-1. Free exercise of religion protected	5
§ 2000bb-2. Definitions	6
§ 2000bb-3. Applicability	6
§ 2000bb-4. Establishment clause unaffected	7

TITLE 42 THE PUBLIC HEALTH AND WELFARE

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TITLE 42—THE PUBLIC HEALTH AND WELFARE

Chap. ...Sec.

1. The Public Health Service [Mostly Repealed or Omitted, See Chapter 6A] ...1
- 1A. The Public Health Service; Supplemental Provisions [Transferred or Omitted] ...71
2. Sanitation and Quarantine ...81
3. Leprosy [Repealed] ...121
- 3A. Cancer [Repealed] ...137
4. Viruses, Serums, Toxins, Antitoxins, etc. [Repealed] ...141
5. Maternity and Infancy Welfare and Hygiene [Repealed] ...161
6. The Children's Bureau ...191
- 6A. Public Health Service ...201
7. Social Security ...301
- 7A. Temporary Unemployment Compensation Program [Omitted] ...1400
8. Low-Income Housing ...1401
- 8A. Slum Clearance, Urban Renewal, and Farm Housing ...1441
- 8B. Public Works or Facilities [Omitted] ...1491
- 8C. Open-Space Land [Omitted or Repealed] ...1500
9. Housing of Persons Engaged in National Defense ...1501
10. Federal Security Agency [Transferred or Omitted] ...1601
11. Compensation for Disability or Death to Persons Employed at Military, Air, and Naval Bases Outside United States ...1651
12. Compensation for Injury, Death, or Detention of Employees of Contractors with United States Outside United States ...1701
13. School Lunch Programs ...1751
- 13A. Child Nutrition ...1771
14. Development and Control of Atomic Energy [Transferred to Chapter 23] ...1801
15. Disaster Relief [Repealed] ...1851
- 15A. Reciprocal Fire Protection Agreements ...1856
- 15B. Air Pollution Control [Transferred or Repealed] ...1857
16. National Science Foundation ...1861
- 16A. Grants for Support of Scientific Research [Repealed] ...1891
- 16B. Contracts for Scientific and Technological Research ...1900
17. Federal Employment Service [Transferred] ...1901
18. Youth Medals ...1921
19. Saline and Salt Waters [Repealed, Omitted, or Transferred] ...1951
- 19A. Water Resources Research Program [Repealed] ...1961
- 19B. Water Resources Planning ...1962
20. Elective Franchise ...1971
- 20A. Civil Rights Commission ...1975
21. Civil Rights ...1981
- 21A. Privacy Protection ...2000aa
- 21B. Religious Freedom Restoration ...2000bb
- 21C. Protection of Religious Exercise in Land Use and by Institutionalized Persons ...2000cc
- 21D. Detainee Treatment ...2000dd
- 21E. Privacy and Civil Liberties Protection and Oversight ...2000ee
- 21F. Prohibiting Employment Discrimination on the Basis of Genetic Information ...2000ff
22. Indian Hospitals and Health Facilities ...2001
23. Development and Control of Atomic Energy ...2011
24. Disposal of Atomic Energy Communities ...2301
25. Federal Flood Insurance ...2401
26. National Space Program [Repealed, Omitted, or Transferred] ...2451
- 26A. National Space Grant College and Fellowship Program [Repealed or Transferred] ...2486
- 26B. Biomedical Research in Space [Repealed or Transferred] ...2487
27. Loan Service of Captioned Films and Educational Media for Handicapped ...2491
28. Area Redevelopment Program [Omitted or Repealed] ...2501
29. Juvenile Delinquency and Youth Offenses Control [Omitted] ...2541
30. Manpower Development and Training Program [Repealed] ...2571
31. Public Works Acceleration Program ...2641
32. Third Party Liability for Hospital and Medical Care ...2651
33. Community Mental Health Centers [Omitted, Transferred, or Repealed] ...2661
34. Economic Opportunity Program ...2701

TITLE 42 THE PUBLIC HEALTH AND WELFARE

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

- 35. Programs for Older Americans ...3001
- 35A. Community Service Employment for Older Americans [Repealed] ...3061
- 36. Compensation of Condemnees in Development Programs [Repealed] ...3071
- 37. Community Facilities and Advance Land Acquisition ...3101
- 38. Public Works and Economic Development ...3121
- 39. Solid Waste Disposal [Omitted or Repealed, See Chapter 82] ...3251
- 40. Soil Information Assistance for Community Planning and Resource Development ...3271
- 41. Demonstration Cities and Metropolitan Development Program ...3301
- 42. Narcotic Addict Rehabilitation ...3401
- 43. Department of Health and Human Services ...3501
- 44. Department of Housing and Urban Development ...3531
- 45. Fair Housing ...3601
- 46. Justice System Improvement ...3701
- 47. Juvenile Delinquency Prevention and Control [Omitted or Repealed] ...3801
- 48. Guarantees for Financing New Community Land Development [Repealed or Omitted] ...3901
- 49. National Housing Partnerships ...3931
- 50. National Flood Insurance ...4001
- 51. Design and Construction of Public Buildings To Accommodate Physically Handicapped ...4151
- 52. Intergovernmental Cooperation [Repealed, See Chapter 65 of Title 31] ...4201
- 52A. Joint Funding Simplification [Repealed] ...4251
- 53. Advisory Commission on Intergovernmental Relations ...4271
- 54. Cabinet Committee on Opportunities for Spanish-Speaking People [Omitted] ...4301
- 55. National Environmental Policy ...4321
- 56. Environmental Quality Improvement ...4371
- 57. Environmental Pollution Study ...4391
- 58. Disaster Relief [Repealed or Transferred] ...4401
- 59. National Urban Policy and New Community Development ...4501
- 60. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Program ...4541
- 61. Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs ...4601
- 62. Intergovernmental Personnel Program ...4701
- 63. Lead-Based Paint Poisoning Prevention ...4801
- 63A. Residential Lead-Based Paint Hazard Reduction ...4851
- 64. Public Service Employment Programs [Omitted] ...4871
- 65. Noise Control ...4901
- 66. Domestic Volunteer Services ...4950
- 67. Child Abuse Prevention and Treatment and Adoption Reform ...5101
- 68. Disaster Relief ...5121
- 69. Community Development ...5301
- 70. Manufactured Home Construction and Safety Standards ...5401
- 71. Solar Energy ...5501
- 72. Juvenile Justice and Delinquency Prevention ...5601
- 73. Development of Energy Sources ...5801
- 74. Nonnuclear Energy Research and Development ...5901
- 75. Programs for Individuals With Developmental Disabilities [Repealed] ...6000
- 76. Age Discrimination in Federally Assisted Programs ...6101
- 77. Energy Conservation ...6201
- 78. National Petroleum Reserve in Alaska ...6501
- 79. Science and Technology Policy, Organization and Priorities ...6601
- 80. Public Works Employment ...6701
- 81. Energy Conservation and Resource Renewal ...6801
- 82. Solid Waste Disposal ...6901
- 83. Energy Extension Service ...7001
- 84. Department of Energy ...7101
- 85. Air Pollution Prevention and Control ...7401
- 86. Earthquake Hazards Reduction ...7701
- 87. Water Research and Development [Repealed or Transferred] ...7801
- 88. Uranium Mill Tailings Radiation Control ...7901
- 89. Congregate Housing Services ...8001
- 90. Neighborhood and City Reinvestment, Self-Help and Revitalization ...8101
- 91. National Energy Conservation Policy ...8201
- 92. Powerplant and Industrial Fuel Use ...8301

TITLE 42 THE PUBLIC HEALTH AND WELFARE

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscode.html>).

- 93. Emergency Energy Conservation ...8501
- 94. Low-Income Energy Assistance ...8601
- 95. United States Synthetic Fuels Corporation [Omitted] ...8701
- 96. Biomass Energy and Alcohol Fuels ...8801
- 97. Acid Precipitation Program and Carbon Dioxide Study ...8901
- 98. Ocean Thermal Energy Conversion Research and Development ...9001
- 99. Ocean Thermal Energy Conversion ...9101
- 100. Wind Energy Systems ...9201
- 101. Magnetic Fusion Energy Engineering ...9301
- 102. Mental Health Systems ...9401
- 103. Comprehensive Environmental Response, Compensation, and Liability ...9601
- 104. Nuclear Safety Research, Development, and Demonstration ...9701
- 105. Community Services Programs ...9801
- 106. Community Services Block Grant Program ...9901
- 107. Consumer-Patient Radiation Health and Safety ...10001
- 108. Nuclear Waste Policy ...10101
- 109. Water Resources Research ...10301
- 109A. Membrane Processes Research ...10341
- 109B. Secure Water ...10361
- 110. Family Violence Prevention and Services ...10401
- 111. Emergency Federal Law Enforcement Assistance ...10501
- 112. Victim Compensation and Assistance ...10601
- 113. State Justice Institute ...10701
- 114. Protection and Advocacy for Individuals With Mental Illness ...10801
- 115. Child Development Associate Scholarship Assistance Program ...10901
- 116. Emergency Planning and Community Right-To-Know ...11001
- 117. Encouraging Good Faith Professional Review Activities ...11101
- 118. Alzheimer's Disease and Related Dementias Research ...11201
- 119. Homeless Assistance ...11301
- 120. Enterprise Zone Development ...11501
- 121. International Child Abduction Remedies ...11601
- 122. Native Hawaiian Health Care ...11701
- 123. Drug Abuse Education and Prevention ...11801
- 124. Public Housing Drug Elimination ...11901
- 125. Renewable Energy and Energy Efficiency Technology Competitiveness ...12001
- 126. Equal Opportunity for Individuals With Disabilities ...12101
- 127. Coordinated Services for Children, Youth, and Families ...12301
- 128. Hydrogen Research, Development, and Demonstration Program ...12401
- 129. National and Community Service ...12501
- 130. National Affordable Housing ...12701
- 131. Housing Opportunities for Persons With AIDS ...12901
- 132. Victims of Child Abuse ...13001
- 133. Pollution Prevention ...13101
- 134. Energy Policy ...13201
- 135. Residency and Service Requirements in Federally Assisted Housing ...13601
- 136. Violent Crime Control and Law Enforcement ...13701
- 137. Management of Rechargeable Batteries and Batteries Containing Mercury ...14301
- 138. Assisted Suicide Funding Restriction ...14401
- 139. Volunteer Protection ...14501
- 140. Criminal Justice Identification, Information, and Communication ...14601
- 140A. Jennifer's Law ...14661
- 141. Commercial Space Opportunities and Transportation Services [Repealed or Transferred] ...14701
- 142. Poison Control Center Enhancement and Awareness [Repealed] ...14801
- 143. Intercountry Adoptions ...14901
- 144. Developmental Disabilities Assistance and Bill of Rights ...15001
- 145. Public Safety Officer Medal of Valor and Tributes ...15201
- 145A. Law Enforcement Congressional Badge of Bravery ...15231
- 146. Election Administration Improvement ...15301
- 147. Prison Rape Elimination ...15601
- 148. Windstorm Impact Reduction ...15701
- 149. National Energy Policy and Programs ...15801
- 150. National Aeronautics and Space Programs, 2005 [Repealed, Omitted, or Transferred] ...16601

TITLE 42 - CHAPTER 21B RELIGIOUS FREEDOM RESTORATION

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

- 151. Child Protection and Safety ...16901
- 152. Energy Independence and Security ...17001
- 153. Community Safety Through Recidivism Prevention ...17501
- 154. Combating Child Exploitation ...17601
- 155. Aeronautics and Space Activities [Repealed, Omitted, or Transferred] ...17701
- 156. Health Information Technology ...17901
- 157. Quality, Affordable Health Care for All Americans ...18001
- 158. Support for Pregnant and Parenting Teens and Women ...18201
- 159. Space Exploration, Technology, and Science ...18301

CHAPTER 21B—RELIGIOUS FREEDOM RESTORATION

Sec.

2000bb. Congressional findings and declaration of purposes.

2000bb–1. Free exercise of religion protected.

2000bb–2. Definitions.

2000bb–3. Applicability.

2000bb–4. Establishment clause unaffected.

.....

§ 2000bb. Congressional findings and declaration of purposes

(a) Findings

The Congress finds that—

- (1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;
- (2) laws “neutral” toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;
- (3) governments should not substantially burden religious exercise without compelling justification;
- (4) in *Employment Division v. Smith*, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and
- (5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(b) Purposes

The purposes of this chapter are—

- (1) to restore the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v. Yoder*, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened; and
- (2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

(Pub. L. 103–141, § 2, Nov. 16, 1993, 107 Stat. 1488.)

References in Text

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

Short Title

Section 1 of Pub. L. 103–141 provided that: “This Act [enacting this chapter and amending section 1988 of this title and section 504 of Title 5, Government Organization and Employees] may be cited as the ‘Religious Freedom Restoration Act of 1993’.”

.....

§ 2000bb–1. Free exercise of religion protected

(a) In general

Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

(b) Exception

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Government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(Pub. L. 103–141, § 3, Nov. 16, 1993, 107 Stat. 1488.)

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§ 2000bb–2. Definitions

As used in this chapter—

- (1) the term “government” includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, or of a covered entity;
- (2) the term “covered entity” means the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;
- (3) the term “demonstrates” means meets the burdens of going forward with the evidence and of persuasion; and
- (4) the term “exercise of religion” means religious exercise, as defined in section 2000cc–5 of this title.

(Pub. L. 103–141, § 5, Nov. 16, 1993, 107 Stat. 1489; Pub. L. 106–274, § 7(a), Sept. 22, 2000, 114 Stat. 806.)

References in Text

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.

Amendments

2000—Par. (1). Pub. L. 106–274, § 7(a)(1), substituted “or of a covered entity” for “a State, or a subdivision of a State”.

Par. (2). Pub. L. 106–274, § 7(a)(2), substituted “term ‘covered entity’ means” for “term ‘State’ includes”.

Par. (4). Pub. L. 106–274, § 7(a)(3), substituted “religious exercise, as defined in section 2000cc–5 of this title” for “the exercise of religion under the First Amendment to the Constitution”.

.....

§ 2000bb–3. Applicability

(a) In general

This chapter applies to all Federal law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after November 16, 1993.

(b) Rule of construction

Federal statutory law adopted after November 16, 1993, is subject to this chapter unless such law explicitly excludes such application by reference to this chapter.

(c) Religious belief unaffected

Nothing in this chapter shall be construed to authorize any government to burden any religious belief.

(Pub. L. 103–141, § 6, Nov. 16, 1993, 107 Stat. 1489; Pub. L. 106–274, § 7(b), Sept. 22, 2000, 114 Stat. 806.)

References in Text

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.

Amendments

2000—Subsec. (a). Pub. L. 106–274 struck out “and State” after “Federal”.

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§ 2000bb–4. Establishment clause unaffected

Nothing in this chapter shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion (referred to in this section as the “Establishment Clause”). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this chapter. As used in this section, the term “granting”, used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

(Pub. L. 103–141, § 7, Nov. 16, 1993, 107 Stat. 1489.)

References in Text

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 103–141, Nov. 16, 1993, 107 Stat. 1488, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2000bb of this title and Tables.