

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 42 - THE PUBLIC HEALTH AND WELFARE CHAPTER 138—ASSISTED SUICIDE FUNDING RESTRICTION

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TITLE 42 - THE PUBLIC HEALTH AND WELFARE	1
CHAPTER 138 - ASSISTED SUICIDE FUNDING RESTRICTION	5
§ 14401. Findings and purpose	5
§ 14402. Restriction on use of Federal funds under health care programs	6
§ 14403. Restriction on use of Federal funds under certain grant programs	8
§ 14404. Restriction on use of Federal funds by advocacy programs	8
§ 14405. Restriction on use of other Federal funds	9
§ 14406. Clarification with respect to advance directives	10
§ 14407. Application to District of Columbia	10
§ 14408. Relation to other laws	11

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 The Public Health Service [Mostly Repealed or Omitted, See Chapter 6A] ...1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 Leprosy [Repealed] ...121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 Cancer [Repealed] ...137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 [Repealed] ...141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 Maternity and Infancy Welfare and Hygiene [Repealed] ...161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 Open-Space Land [Omitted or Repealed] ...1500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 Disaster Relief [Repealed] ...1851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 Air Pollution Control [Transferred or Repealed] ...1857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 Grants for Support of Scientific Research [Repealed] ...1891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 ...2451
- 26A. National Space Grant College and Fellowship Program ...2486
- 26B. Biomedical Research in Space ...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 Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.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 Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscript.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 ...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 ...16601

TITLE 42 - CHAPTER 138 ASSISTED SUICIDE FUNDING RESTRICTION

NB: This unofficial compilation of the U.S. Code is current as of Feb.1, 2010 (see <http://www.law.cornell.edu/uscode/uscpint.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 ...17701
- 156. Health Information Technology ...17901

CHAPTER 138—ASSISTED SUICIDE FUNDING RESTRICTION

Sec.

- 14401. Findings and purpose.
- 14402. Restriction on use of Federal funds under health care programs.
- 14403. Restriction on use of Federal funds under certain grant programs.
- 14404. Restriction on use of Federal funds by advocacy programs.
- 14405. Restriction on use of other Federal funds.
- 14406. Clarification with respect to advance directives.
- 14407. Application to District of Columbia.
- 14408. Relation to other laws.

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§ 14401. Findings and purpose

(a) Findings

Congress finds the following:

- (1) The Federal Government provides financial support for the provision of and payment for health care services, as well as for advocacy activities to protect the rights of individuals.
- (2) Assisted suicide, euthanasia, and mercy killing have been criminal offenses throughout the United States and, under current law, it would be unlawful to provide services in support of such illegal activities.
- (3) Because of recent legal developments, it may become lawful in areas of the United States to furnish services in support of such activities.
- (4) Congress is not providing Federal financial assistance in support of assisted suicide, euthanasia, and mercy killing and intends that Federal funds not be used to promote such activities.

(b) Purpose

It is the principal purpose of this chapter to continue current Federal policy by providing explicitly that Federal funds may not be used to pay for items and services (including assistance) the purpose of which is to cause (or assist in causing) the suicide, euthanasia, or mercy killing of any individual.

(Pub. L. 105–12, § 2, Apr. 30, 1997, 111 Stat. 23.)

References in Text

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, known as the Assisted Suicide Funding Restriction Act of 1997. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

Effective Date

Section 11 of Pub. L. 105–12 provided that:

“(a) In General.—The provisions of this Act [see Short Title note below] (and the amendments made by this Act) take effect upon its enactment [Apr. 30, 1997] and apply, subject to subsection (b), to Federal payments made pursuant to obligations incurred after the date of the enactment of this Act for items and services provided on or after such date.

“(b) Application to Contracts.—Such provisions shall apply with respect to contracts entered into, renewed, or extended after the date of the enactment of this Act [Apr. 30, 1997] and shall also apply to a contract entered into before such date to the extent permitted under such contract.”

Short Title

Section 1(a) of Pub. L. 105–12 provided that: “This Act [enacting this chapter, section 238o of this title, section 1621x of Title 25, Indians, and section 1707 of Title 38, Veterans’ Benefits, amending sections 295, 701, 1395y, 1395cc, 1396a, 1396b, 1397d, 2996f, 6022, 6042, 6062, 6082, and 10805 of this title, section 8902 of Title 5, Government Organization and Employees, section 1073 of Title 10, Armed Forces, section 4005 of Title 18, Crimes and Criminal

Procedure, section 2504 of Title 22, Foreign Relations and Intercourse, and section 794e of Title 29, Labor, and enacting provisions set out as notes under this section and section 295 of this title] may be cited as the ‘Assisted Suicide Funding Restriction Act of 1997’.”

Construction of Conforming Amendments

Section 9(p) of Pub. L. 105–12 provided that: “The fact that a law is not amended under this section [enacting section 2380 of this title, section 1621x of Title 25, Indians, and section 1707 of Title 38, Veterans’ Benefits, amending sections 701, 1395y, 1395cc, 1396a, 1396b, 1397d, 2996f, 6022, 6042, 6062, 6082, and 10805 of this title, section 8902 of Title 5, Government Organization and Employees, section 1073 of Title 10, Armed Forces, section 4005 of Title 18, Crimes and Criminal Procedure, section 2504 of Title 22, Foreign Relations and Intercourse, and section 794e of Title 29, Labor] shall not be construed as indicating that the provisions of this Act [see Short Title note above] do not apply to such a law.”

.....

§ 14402. Restriction on use of Federal funds under health care programs

(a) Restriction on Federal funding of health care services

Subject to subsection (b) of this section, no funds appropriated by Congress for the purpose of paying (directly or indirectly) for the provision of health care services may be used—

- (1) to provide any health care item or service furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;
- (2) to pay (directly, through payment of Federal financial participation or other matching payment, or otherwise) for such an item or service, including payment of expenses relating to such an item or service; or
- (3) to pay (in whole or in part) for health benefit coverage that includes any coverage of such an item or service or of any expenses relating to such an item or service.

(b) Construction and treatment of certain services

Nothing in subsection (a) of this section, or in any other provision of this chapter (or in any amendment made by this chapter), shall be construed to apply to or to affect any limitation relating to—

- (1) the withholding or withdrawing of medical treatment or medical care;
- (2) the withholding or withdrawing of nutrition or hydration;
- (3) abortion; or
- (4) the use of an item, good, benefit, or service furnished for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as such item, good, benefit, or service is not also furnished for the purpose of causing, or the purpose of assisting in causing, death, for any reason.

(c) Limitation on Federal facilities and employees

Subject to subsection (b) of this section, with respect to health care items and services furnished—

- (1) by or in a health care facility owned or operated by the Federal government, or
- (2) by any physician or other individual employed by the Federal government to provide health care services within the scope of the physician’s or individual’s employment,

no such item or service may be furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(d) List of programs to which restrictions apply

(1) Federal health care funding programs

Subsection (a) of this section applies to funds appropriated under or to carry out the following:

(A) Medicare program

Title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].

(B) Medicaid program

Title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(C) Title XX social services block grant

Title XX of the Social Security Act [42 U.S.C. 1397 et seq.].

(D) Maternal and child health block grant program

Title V of the Social Security Act [42 U.S.C. 701 et seq.].

(E) Public Health Service Act

The Public Health Service Act [42 U.S.C. 201 et seq.].

(F) Indian Health Care Improvement Act

The Indian Health Care Improvement Act [25 U.S.C. 1601 et seq.].

(G) Federal employees health benefits program

Chapter 89 of title 5.

(H) Military health care system (including Tricare and CHAMPUS programs)

Chapter 55 of title 10.

(I) Veterans medical care

Chapter 17 of title 38.

(J) Health services for Peace Corps volunteers

Section 2504 (e) of title 22.

(K) Medical services for Federal prisoners

Section 4005 (a) of title 18.

(2) Federal facilities and personnel

The provisions of subsection (c) of this section apply to facilities and personnel of the following:

(A) Military health care system

The Department of Defense operating under chapter 55 of title 10.

(B) Veterans medical care

The Veterans Health Administration of the Department of Veterans Affairs.

(C) Public Health Service

The Public Health Service.

(3) Nonexclusive list

Nothing in this subsection shall be construed as limiting the application of subsection (a) of this section to the programs specified in paragraph (1) or the application of subsection (c) of this section to the facilities and personnel specified in paragraph (2).

(Pub. L. 105–12, § 3, Apr. 30, 1997, 111 Stat. 23.)

References in Text

The Social Security Act, referred to in subsec. (d)(1)(A)–(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V, XVIII, XIX, and XX of the Act are classified generally to subchapters V (§ 701 et seq.), XVIII (§ 1395 et seq.), XIX (§ 1396 et seq.), and XX (§ 1397 et seq.), respectively, of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Public Health Service Act, referred to in subsec. (d)(1)(E), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

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The Indian Health Care Improvement Act, referred to in subsec. (d)(1)(F), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§ 1601 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

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§ 14403. Restriction on use of Federal funds under certain grant programs

Subject to section 14402 (b) of this title (relating to construction and treatment of certain services), no funds appropriated by Congress to carry out subtitle B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15021 et seq., 15061 et seq., 15081 et seq.] may be used to support or fund any program or service which has a purpose of assisting in procuring any item, benefit, or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(Pub. L. 105-12, § 4, Apr. 30, 1997, 111 Stat. 25; Pub. L. 106-402, title IV, § 401(b)(15)(A), Oct. 30, 2000, 114 Stat. 1740.)

References in Text

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in text, is Pub. L. 106-402, Oct. 30, 2000, 114 Stat. 1677. Subtitles B, D, and E of the Act probably mean subtitles B, D, and E of title I of the Act, which are classified generally to parts B [§ 15021 et seq.], D [§ 15061 et seq.], and E [§ 15081 et seq.], respectively, of subchapter I of chapter 144 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

Amendments

2000—Pub. L. 106-402, § 401(b)(15)(A)(i), substituted “Restriction on use of Federal funds under certain grant programs” for “Restriction on use of Federal funds under certain grant programs under the Developmental Disabilities Assistance and Bill of Rights Act” in section catchline.

Pub. L. 106-402, § 401(b)(15)(A)(ii), substituted “subtitle B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act of 2000” for “part B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act”.

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§ 14404. Restriction on use of Federal funds by advocacy programs

(a) In general

Subject to section 14402 (b) of this title (relating to construction and treatment of certain services), no funds appropriated by Congress may be used to assist in, to support, or to fund any activity or service which has a purpose of assisting in, or to bring suit or provide any other form of legal assistance for the purpose of—

- (1) securing or funding any item, benefit, program, or service furnished for the purpose of causing, or the purpose of assisting in causing, the suicide, euthanasia, or mercy killing of any individual;
- (2) compelling any person, institution, governmental entity¹ to provide or fund any item, benefit, program, or service for such purpose; or
- (3) asserting or advocating a legal right to cause, or to assist in causing, the suicide, euthanasia, or mercy killing of any individual.

(b) List of programs to which restrictions apply

(1) In general

Subsection (a) of this section applies to funds appropriated under or to carry out the following:

- (A) Protection and advocacy systems under the Developmental Disabilities Assistance and Bill of Rights Act of 2000**

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Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.].

(B) Protection and advocacy systems under the Protection and Advocacy for Mentally Ill Individuals Act

The Protection and Advocacy for Mentally Ill Individuals Act of 1986² [42 U.S.C. 10801 et seq.].

(C) Protection and advocacy systems under the Rehabilitation Act of 1973

Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e).

(D) Ombudsman programs under the Older Americans Act of 1965

Ombudsman programs under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.].

(E) Legal assistance

Legal assistance programs under the Legal Services Corporation Act [42 U.S.C. 2996 et seq.].

(2) Nonexclusive list

Nothing in this subsection shall be construed as limiting the application of subsection (a) of this section to the programs specified in paragraph (1).

Footnotes

¹ So in original. Probably should be “or governmental entity”.

² See References in Text note below.

(Pub. L. 105–12, § 5, Apr. 30, 1997, 111 Stat. 25; Pub. L. 106–402, title IV, § 401(b)(15)(B), Oct. 30, 2000, 114 Stat. 1740.)

References in Text

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (b)(1)(A), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of the Act probably means subtitle C of title I of the Act, which is classified generally to part C (§ 15041 et seq.) of subchapter I of chapter 144 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsec. (b)(1)(B), was Pub. L. 99–319, May 23, 1986, 100 Stat. 478, as amended. Pub. L. 99–319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106–310, div. B, title XXXII, § 3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§ 10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

The Older Americans Act of 1965, referred to in subsec. (b)(1)(D), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Legal Services Corporation Act, referred to in subsec. (b)(1)(E), is title X of Pub. L. 88–452, as added by Pub. L. 93–355, § 2, July 25, 1974, 88 Stat. 378, as amended, which is classified generally to subchapter X (§ 2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Amendments

2000—Subsec. (b)(1)(A). Pub. L. 106–402 added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “Part C of the Developmental Disabilities Assistance and Bill of Rights Act.”

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§ 14405. Restriction on use of other Federal funds

(a) In general

Subject to section 14402 (b) of this title (relating to construction and treatment of certain services) and subsection (b) of this section, no funds appropriated by the Congress shall be used to provide, procure, furnish, or fund any item, good, benefit, activity, or service, furnished or performed for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

(b) Nonduplication

Subsection (a) of this section shall not apply to funds to which section 14402, 14403, or 14404 of this title applies, except that subsection (a) of this section, rather than section 14402 of this title, shall apply to funds appropriated to carry out title 10 (other than chapter 55), title 18 (other than section 4005 (a)), and chapter 37 of title 28.

(Pub. L. 105–12, § 6, Apr. 30, 1997, 111 Stat. 25.)

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§ 14406. Clarification with respect to advance directives

Subject to section 14402 (b) of this title (relating to construction and treatment of certain services), sections 1395cc (f) and 1396a (w) of this title shall not be construed—

- (1) to require any provider or organization, or any employee of such a provider or organization, to inform or counsel any individual regarding any right to obtain an item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of the individual, such as by assisted suicide, euthanasia, or mercy killing; or
- (2) to apply to or to affect any requirement with respect to a portion of an advance directive that directs the purposeful causing of, or the purposeful assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(Pub. L. 105–12, § 7, Apr. 30, 1997, 111 Stat. 26.)

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§ 14407. Application to District of Columbia

For purposes of this chapter, the term “funds appropriated by Congress” includes funds appropriated to the District of Columbia pursuant to an authorization of appropriations under title V of the District of Columbia Home Rule Act and the term “Federal government” includes the government of the District of Columbia.

(Pub. L. 105–12, § 8, Apr. 30, 1997, 111 Stat. 26; Pub. L. 105–33, title XI, § 11717(b), Aug. 5, 1997, 111 Stat. 786.)

References in Text

The District of Columbia Home Rule Act, referred to in text, is Pub. L. 93–198, Dec. 24, 1973, 87 Stat. 774, as amended. Title V of the Act was classified to the District of Columbia Code prior to repeal by Pub. L. 105–33, title XI, § 11601, Aug. 5, 1997, 111 Stat. 777.

Amendments

1997—Pub. L. 105–33 substituted “District of Columbia Home Rule Act” for “District of Columbia Self-Government and Governmental Reorganization Act”.

Effective Date of 1997 Amendment

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

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§ 14408. Relation to other laws

The provisions of this chapter supersede other Federal laws (including laws enacted after April 30, 1997) except to the extent such laws specifically supersede the provisions of this chapter.

(Pub. L. 105–12, § 10, Apr. 30, 1997, 111 Stat. 29.)