EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–16 effective Dec. 1, 2009, see section 7 of Pub. L. 111–16, set out as a note under section 109 of Title 11, Bankruptcy.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–405, title I, § 101, Oct. 30, 2004, 118 Stat. 2261, provided that: ''This title [enacting this chapter and sections 10603d and 10603e of Title 42, The Public Health and Welfare, repealing section 10606 of Title 42, and enacting provisions set out as a note under this section] may be cited as the 'Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act'.''

REPORTS ON ASSERTION OF CRIME VICTIMS' RIGHTS IN CRIMINAL CASES

Pub. L. 108–405, title I, § 104(a), Oct. 30, 2004, 118 Stat. 2265, provided that: ''Not later than 1 year after the date of enactment of this Act [Oct. 30, 2004] and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.''

CHAPTER 238—SEXUAL ASSAULT SURVIVORS' RIGHTS

§ 3772. Sexual assault survivors' rights

(a) RIGHTS OF SEXUAL ASSAULT SURVIVORS.—In addition to those rights provided in section 3771, a sexual assault survivor has the following rights:

(1) The right not to be prevented from, or charged for, receiving a medical forensic examination.

(2) The right to—

(A) subject to paragraph (3), have a sexual assault evidence collection kit or its probative contents preserved, without charge, for the duration of the maximum applicable statute of limitations or 20 years, whichever is shorter;

(B) be informed of any result of a sexual assault evidence collection kit, including a DNA profile match, toxicology report, or other information collected as part of a medical forensic examination, if such disclosure would not impede or compromise an ongoing investigation;

(C) be informed in writing of policies governing the collection and preservation of a sexual assault evidence collection kit; and

(D) be informed of the status and location of a sexual assault evidence collection kit.

(3) The right to—

(A) upon written request, receive written notification from the appropriate official with custody not later than 60 days before the date of the intended destruction or disposal; and

(B) upon written request, be granted further preservation of the kit or its probative contents.

(4) The right to be informed of the rights under this subsection.

(b) APPLICABILITY.—Subsections (b) through (f) of section 3771 shall apply to sexual assault survivors.

(c) DEFINITION OF SEXUAL ASSAULT.—In this section, the term ''sexual assault'' means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

(d) FUNDING.—This section, other than paragraphs (2)(A) and (3)(B) of subsection (a), shall be carried out using funds made available under section 1402(d)(3)(A)(i) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)(A)(i)).[1] No additional funds are authorized to be appropriated to carry out this section.

(Added Pub. L. 114–236, § 2(a), Oct. 7, 2016, 130 Stat. 966; amended Pub. L. 117–103, div. W, title XV, § 1505, Mar. 15, 2022, 136 Stat. 956.)

Editorial Notes

REFERENCES IN TEXT

Section 1402(d)(3)(A)(i) of the Victims of Crime Act of 1984, referred to in subsec. (d), is section 1402(d)(3)(A)(i) of chapter XIV of title II of Pub. L. 98–473, which was classified to section 10601(d)(3)(A)(i) of Title 42, The Public Health and Welfare, prior to editorial reclassification as section 20101(d)(3)(A)(i) of Title 34, Crime Control and Law Enforcement.

PRIOR PROVISIONS

A prior section 3772, acts June 25, 1948, ch. 645, 62 Stat. 846; May 24, 1949, ch. 139, § 60, 63 Stat. 98; July 7, 1958, Pub. L. 85–508, § 12(*l*), 72 Stat. 348; Mar. 18, 1959, Pub. L. 86–3, § 14(h), 73 Stat. 11; Oct. 12, 1984, Pub. L. 98–473, title II, § 206, 98 Stat. 1986, related to procedure after verdict, prior to repeal by Pub. L. 100–702, title IV, §§ 404(a), 407, Nov. 19, 1988, 102 Stat. 4651, 4652, effective Dec. 1, 1988.

AMENDMENTS

2022—Subsec. (a)(2)(D). Pub. L. 117–103 added subpar. (D).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–103 not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117–103, set out as an Effective Date note under section 6851 of Title 15, Commerce and Trade.

PART III—PRISONS AND PRISONERS

[1] See References in Text note below.

Editorial Notes

AMENDMENTS

1990—Pub. L. 101–647, title XXXV, §3597, Nov. 29, 1990, 104 Stat. 4931, added items 306 and 319.

1984—Pub. L. 98–473, title II, §218(d), Oct. 12, 1984, 98 Stat. 2027, in items 309, 311, and 314 substituted ''Repealed'' for ''Good time allowances'', ''Parole'', and ''Narcotic addicts'', respectively.

Pub. L. 98–473, title II, §403(b), Oct. 12, 1984, 98 Stat. 2067, substituted ''Offenders with mental disease or defect'' for ''Mental defectives'' in item 313.

1966—Pub. L. 89–793, title VI, §603, Nov. 8, 1966, 80 Stat. 1450, added item 314.

CHAPTER 301—GENERAL PROVISIONS

Editorial Notes

AMENDMENTS

1998—Pub. L. 105–370, §2(b), Nov. 12, 1998, 112 Stat. 3375, added item 4014.

1988—Pub. L. 100–690, title VII, §7608(d)(2), Nov. 18, 1988, 102 Stat. 4517, added item 4013.

1984—Pub. L. 98–473, title II, §1109(e), Oct. 12, 1984, 98 Stat. 2148, added item 4012.

1971—Pub. L. 92–128, §1(c), Sept. 25, 1971, 85 Stat. 347, substituted ''Limitation on detention; control of prisons'' for ''Control by Attorney General'' in item 4001.

1966—Pub. L. 89–554, §3(e), Sept. 6, 1966, 80 Stat. 610, added items 4010 and 4011.

§ 4001. Limitation on detention; control of prisons

(a) No citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.

(b)(1) The control and management of Federal penal and correctional institutions, except military or naval institutions, shall be vested in the Attorney General, who shall promulgate rules for the government thereof, and appoint all necessary officers and employees in accordance with the civil-service laws, the Classification Act, as amended, and the applicable regulations.

(2) The Attorney General may establish and conduct industries, farms, and other activities and classify the inmates; and provide for their proper government, discipline, treatment, care, rehabilitation, and reformation.

(June 25, 1948, ch. 645, 62 Stat. 847; Pub. L. 92–128, §1(a), (b), Sept. 25, 1971, 85 Stat. 347.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1934 ed., §§741 and 753e (Mar. 3, 1891, ch. 529, §§1, 4, 26 Stat. 839; May 14, 1930, ch. 274, §6, 46 Stat. 326).

This section consolidates said sections 741 and 753e with such changes of language as were necessary to effect consolidation.

''The Classification Act, as amended,'' was inserted more clearly to express the existing procedure for appointment of officers and employees as noted in letter of the Director of Bureau of Prisons, June 19, 1944.

Editorial Notes

REFERENCES IN TEXT

The Classification Act, as amended, referred to in subsec. (b)(1), originally was the Classification Act of 1923, Mar. 4, 1923, ch. 265, 42 Stat. 1488, which was repealed by section 1202 of the Classification Act of 1949, Oct. 28, 1949, ch. 782, 63 Stat. 972. Section 1106(a) of the 1949 Act provided that references in other laws to the Classification Act of 1923 shall be held and considered to mean the Classification Act of 1949. The Classification Act of 1949 was in turn repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as chapter 51 and subchapter III of chapter 53 of Title 5.

AMENDMENTS

1971—Pub. L. 92–128, §1(b), substituted ''Limitation on detention; control of prisons'' for ''Control by Attorney General'' in section catchline.

Subsec. (a). Pub. L. 92–128, §1(a), added subsec. (a).

Subsec. (b). Pub. L. 92–128, §1(a), designated existing first and second pars. as pars. (1) and (2) of subsec. (b).

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–294, §1, Oct. 12, 2000, 114 Stat. 1038, provided that: ''This Act [enacting section 4048 of this title and amending section 4013 of this title] may be cited as the 'Federal Prisoner Health Care Copayment Act of 2000'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–370, §1, Nov. 12, 1998, 112 Stat. 3374, provided that: ''This Act [enacting section 4014 of this title and provisions set out as a note under section 4042 of this title] may be cited as the 'Correction Officers Health and Safety Act of 1998'.''

RESEARCH AND REPORT ON WOMEN IN FEDERAL INCARCERATION

Pub. L. 117–103, div. W, title X, §1003, Mar. 15, 2022, 136 Stat. 917, provided that: ''Not later than 18 months after the date of enactment of this Act [Mar. 15, 2022], and thereafter, every other year, the National Institute of Justice, in consultation with the Bureau of Justice Statistics and the Bureau of Prisons (including the Women and Special Population Branch) shall prepare a report on the status of women in Federal incarceration. Depending on the topic to be addressed, and the facility, data shall be collected from Bureau of Prisons personnel and a sample that is representative of the population of incarcerated women. The report shall include—

''(1) with regard to Federal facilities wherein women are incarcerated—

''(A) responses by such women to questions from the Adverse Childhood Experience (ACES) questionnaire;

''(B) demographic data of such women;

''(C) data on the number of women who are incarcerated and placed in Federal and private facilities more than 200 miles from their place of residence;

''(D) responses by such women to questions about the extent of exposure to sexual victimization, sexual violence and domestic violence (both inside and outside of incarceration);

''(E) the number of such women pregnant at the time that they entered incarceration;

''(F) the number of such women who have children age 18 or under, and if so, how many; and

''(G) the crimes for which such women are incarcerated and the length of their sentence and to the extent practicable, any information on the connection between the crime of which they were convicted and their experience of domestic violence, dating violence, sexual assault, or stalking; and

''(2) with regard to all Federal facilities where persons are incarcerated—

''(A) a list of best practices with respect to women's incarceration and transition, including staff led programs, services, and management practices (including making sanitary products readily available and easily accessible, and access to and provision of healthcare);

''(B) the availability of trauma treatment at each facility (including number of beds, and number of trained staff);

''(C) rates of serious mental illness broken down by gender and security level and a list of residential programs available by site; and

''(D) the availability of vocational education and a list of vocational programs provided by each facility.''

[For definitions of terms used in section 1003 of div. W of Pub. L. 117–103, set out above, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of Title 34.]

FEDERAL LAW ENFORCEMENT DEATH IN CUSTODY REPORTING REQUIREMENT

Pub. L. 113–242, §3, Dec. 18, 2014, 128 Stat. 2861, provided that:

''(a) IN GENERAL.—For each fiscal year (beginning after the date that is 120 days after the date of the enactment of this Act [Dec. 18, 2014]), the head of each Federal law enforcement agency shall submit to the Attorney General a report (in such form and manner specified by the Attorney General) that contains information regarding the death of any person who is—

''(1) detained, under arrest, or is in the process of being arrested by any officer of such Federal law enforcement agency (or by any State or local law enforcement officer while participating in and for purposes of a Federal law enforcement operation, task force, or any other Federal law enforcement capacity carried out by such Federal law enforcement agency); or

''(2) en route to be incarcerated or detained, or is incarcerated or detained at—

''(A) any facility (including any immigration or juvenile facility) pursuant to a contract with such Federal law enforcement agency;

''(B) any State or local government facility used by such Federal law enforcement agency; or

''(C) any Federal correctional facility or Federal pre-trial detention facility located within the United States.

''(b) INFORMATION REQUIRED.—Each report required by this section shall include, at a minimum, the information required by section 2(b) [34 U.S.C. 60105(b)].

''(c) STUDY AND REPORT.—Information reported under subsection (a) shall be analyzed and included in the study and report required by section 2(f) [34 U.S.C. 60105(f)].''

PLACEMENT OF CERTAIN PERSONS IN PRIVATELY OPERATED PRISONS

Pub. L. 106–553, §1(a)(2) [title I, §114, formerly §115], Dec. 21, 2000, 114 Stat. 2762, 2762A–68; renumbered §114, Pub. L. 106–554, §1(a)(4) [div. A, §213(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–179, provided that: ''Beginning in fiscal year 2001 and thereafter, funds appropriated to the Federal Prison System may be used to place in privately operated prisons only such persons sentenced to incarceration under the District of Columbia Code as the Director, Bureau of Prisons, may determine to be appropriate for such placement consistent with Federal classification standards, after consideration of all relevant factors, including the threat of danger to public safety.''

FEE TO RECOVER COST OF INCARCERATION

Pub. L. 102–395, title I, §111(a), Oct. 6, 1992, 106 Stat. 1842, provided that:

''(1) For fiscal year 1993 and thereafter the Attorney General shall establish and collect a fee to cover the costs of confinement from any person convicted in a United States District Court and committed to the Attorney General's custody.

''(2) Such fee shall be equivalent to the average cost of one year of incarceration, and the Attorney General shall credit or rebate a prorated portion of the fee with respect to any such person incarcerated for 334 days or fewer in a given fiscal year.

''(3) The calculation of the number of days of incarceration in a given fiscal year for the purpose of such fee shall include time served prior to conviction.

''(4) The Attorney General shall not collect such fee from any person with respect to whom a fine was imposed or waived by a judge of a United States District Court pursuant to section 5E1.2(f) and (i) of the United States Sentencing Guidelines, or any successor provisions.

''(5) In cases in which the Attorney General has authority to collect the fee, the Attorney General shall have discretion to waive the fee or impose a lesser fee if the person under confinement establishes that (1) he or she is not able and, even with the use of a reasonable installment schedule, is not likely to become able to pay all or part of the fee, or (2) imposition of a fine would unduly burden the defendant's dependents.

''(6) For fiscal year 1993 only, fees collected in accordance with this section shall be deposited as offsetting receipts to the Treasury.

''(7) For fiscal year 1994 and thereafter, fees collected in accordance with this section shall be deposited as offsetting collections to the appropriation Federal Prison System, 'Salaries and expenses', and shall be available, inter alia, to enhance alcohol and drug abuse prevention programs.''

USE OF INACTIVE DEPARTMENT OF DEFENSE FACILITIES AS PRISONS

Pub. L. 95–624, §9, Nov. 9, 1978, 92 Stat. 3463, provided that: ''The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of United States prisoners. Such plan shall provide for the return to the management of the Department of Defense of any such facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.''

§ 4002. Federal prisoners in State institutions; employment

For the purpose of providing suitable quarters for the safekeeping, care, and subsistence of all persons held under authority of any enactment of Congress, the Attorney General may contract, for a period not exceeding three years, with the proper authorities of any State, Territory, or political subdivision thereof, for the imprisonment, subsistence, care, and proper employment of such persons.

Such Federal prisoners shall be employed only in the manufacture of articles for, the production of supplies for, the construction of public works for, and the maintenance and care of the institutions of, the State or political subdivision in which they are imprisoned.

The rates to be paid for the care and custody of said persons shall take into consideration the character of the quarters furnished, sanitary conditions, and quality of subsistence and may be such as will permit and encourage the proper authorities to provide reasonably decent, sanitary, and healthful quarters and subsistence for such persons.

(June 25, 1948, ch. 645, 62 Stat. 847; Pub. L. 95–624, § 8, Nov. 9, 1978, 92 Stat. 3463.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 753b, (May 14, 1930, ch. 274, § 3, 46 Stat. 325).

Changes were made in phraseology. The first sentence was incorporated in section 4042 of this title.

Editorial Notes

AMENDMENTS

1978—Pub. L. 95–624 substituted ''Attorney General'' for ''Director of the Bureau of Prisons''.

§ 4003. Federal institutions in States without appropriate facilities

If by reason of the refusal or inability of the authorities having control of any jail, workhouse, penal, correctional, or other suitable institution of any State or Territory, or political subdivision thereof, to enter into a contract for the imprisonment, subsistence, care, or proper employment of United States prisoners, or if there are no suitable or sufficient facilities available at reasonable cost, the Attorney General may select a site either within or convenient to the State, Territory, or judicial district concerned and cause to be erected thereon a house of detention, workhouse, jail, prison-industries project, or camp, or other place of confinement, which shall be used for the detention of persons held under authority of any Act of Congress, and of such other persons as in the opinion of the Attorney General are proper subjects for confinement in such institutions.

(June 25, 1948, ch. 645, 62 Stat. 848.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 753c (May 14, 1930, ch. 274, § 4, 46 Stat. 326).

Words ''with or without hard labor'' were omitted as unnecessary in view of omission of ''hard labor'' as part of the punishment. (See reviser's note under section 1 of this title.)

The phrase ''held under authority of any Act of Congress,'' was substituted for the following ''held as material witnesses, persons awaiting trial, persons sentenced to imprisonment and awaiting transfer to other institutions, persons held for violation of the immigration laws or awaiting deportation, and for the confinement of persons convicted of offenses against the United States and sentenced to imprisonment''.

Minor changes in arrangement and phraseology were made.

§ 4004. Oaths and acknowledgments

The wardens and superintendents, associate wardens and superintendents, chief clerks, and record clerks, of Federal penal or correctional institutions, may administer oaths to and take acknowledgments of officers, employees, and inmates of such institutions, but shall not demand or accept any fee or compensation therefor.

(June 25, 1948, ch. 645, 62 Stat. 848; July 7, 1955, ch. 282, 69 Stat. 282; Pub. L. 98–473, title II, § 223(*l*), Oct. 12, 1984, 98 Stat. 2029.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 754 (Feb. 11, 1938, ch. 24, §§ 1, 2, 52 Stat. 28).

Section was extended to include superintendents and associate superintendents.

Minor changes were made in phraseology. Words ''the authority conferred by'' were omitted as surplusage.

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473 substituted ''and record clerks'' for ''record clerks, and parole officers''.

1955—Act July 7, 1955, permitted chief clerks, record clerks, and parole officers to administer oaths and take acknowledgments.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4005. Medical relief; expenses

(a) Upon request of the Attorney General and to the extent consistent with the Assisted Suicide Funding Restriction Act of 1997, the Federal Security Administrator shall detail regular and reserve commissioned officers of the Public Health Service, pharmacists, acting assistant surgeons, and other employees of the Public Health Service to the Department of Justice for the purpose of supervising and furnishing medical, psychiatric, and other technical and scientific services to the Federal penal and correctional institutions.

(b) The compensation, allowances, and expenses of the personnel detailed under this section may be paid from applicable appropriations of the Public Health Service in accordance with the law and regulations governing the personnel of the Public Health Service, such appropriations to be reimbursed from applicable appropriations of the Department of Justice; or the Attorney General may make allotments of funds and transfer of credit to the Public Health Service in such amounts as are available and necessary, for payment of compensation, allowances, and expenses of personnel so detailed, in accordance with the law and regulations governing the personnel of the Public Health Service.

(June 25, 1948, ch. 645, 62 Stat. 848; Pub. L. 105–12, § 9(k), Apr. 30, 1997, 111 Stat. 28.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 751, 752 (May 13, 1930, ch. 256, §§ 1, 2, 46 Stat. 273; Reorg. Plan No. I, §§ 201, 205, 4 F.R. 2728, 2729, 53 Stat. 1424, 1425).

Section consolidates sections 751 and 752 of title 18, U.S.C., 1940 ed., as subsections (a) and (b), respectively.

''Federal Security Administrator'' was substituted for ''Federal Security Agency.''

Functions of the Secretary of the Treasury were transferred to the Federal Security Administrator by Reorg. Plan No. I, § 205, 4 F.R. 2729, 53 Stat. 1425. (See

note under section 133t of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees.)

The first part of said section 751, which read ''Authorized medical relief under the Department of Justice in Federal penal and correctional institutions shall be supervised and furnished by personnel of the Public Health Service, and'' was omitted as surplusage, considering the remainder of the text.

Minor changes of phraseology were made.

Editorial Notes

REFERENCES IN TEXT

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (a), is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§14401 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 14401 of Title 42 and Tables.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–12 inserted ''and to the extent consistent with the Assisted Suicide Funding Restriction Act of 1997'' after ''Upon request of the Attorney General''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.

Executive Documents

TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare, and office of Federal Security Administrator abolished by sections 5 and 8 of Reorg. Plan No. 1 of 1953, as amended, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare (see Change of Name note above) by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5.

§ 4006. Subsistence for prisoners

(a) IN GENERAL.—The Attorney General or the Secretary of Homeland Security, as applicable, shall allow and pay only the reasonable and actual cost of the subsistence of prisoners in the custody of any marshal of the United States, and shall prescribe such regulations for the government of the marshals as will enable him to determine the actual and reasonable expenses incurred.

(b) HEALTH CARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Payment for costs incurred for the provision of health care items and services for individuals in the custody of the United States Marshals Service, the Federal Bureau of Investigation and the Department of Homeland Security shall be the amount billed, not to exceed the amount that would be paid for the provision of similar health care items and services under the Medicare program under title XVIII of the Social Security Act.

(2) FULL AND FINAL PAYMENT.—Any payment for a health care item or service made pursuant to this subsection, shall be deemed to be full and final payment.

(June 25, 1948, ch. 645, 62 Stat. 848; Pub. L. 106–113, div. B, §1000(a)(1) [title I, §114], Nov. 29, 1999, 113 Stat. 1535, 1501A–20; Pub. L. 106–553, §1(a)(2) [title VI, §626], Dec. 21, 2000, 114 Stat. 2762, 2762A–108; Pub. L. 109–162, title XI, §1157, Jan. 5, 2006, 119 Stat. 3114.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §703 (R.S. §5545; Mar. 2, 1911, ch. 192, 36 Stat. 1003).

The provisions relating to the Washington Asylum and Jail are now included in the District of Columbia Code. (See D.C. Code, 1940 ed., §24–421.)

Changes of phraseology were made.

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) 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.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–162, §1157(1), inserted ''or the Secretary of Homeland Security, as applicable,'' after ''The Attorney General''.

Subsec. (b)(1). Pub. L. 109–162, §1157(2), substituted ''the Department of Homeland Security'' for ''the Immigration and Naturalization Service'', ''shall be the amount billed, not to exceed the amount'' for ''shall not exceed the lesser of the amount'', and ''items and services under the Medicare program'' for ''items and services under—

''(A) the Medicare program''

and struck out subpar. (B) which read as follows: ''the Medicaid program under title XIX of such Act of the State in which the services were provided.''

2000—Subsec. (b)(1). Pub. L. 106–553 inserted '', the Federal Bureau of Investigation'' after ''United States Marshals Service''.

1999—Pub. L. 106–113 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 4007. Expenses of prisoners

The expenses attendant upon the confinement of persons arrested or committed under the laws of the United States, as well as upon the execution of any sentence of a court thereof respecting them, shall be paid out of the Treasury of the United States in the manner provided by law.

(June 25, 1948, ch. 645, 62 Stat. 848.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §701 (R.S. §5536).

Provision authorizing expenses for transportation was omitted as covered by similar provision in section 4008 of this title.

Minor changes of phraseology were made.

Statutory Notes and Related Subsidiaries

PAYMENT OF COSTS OF INCARCERATION BY FEDERAL PRISONERS

Pub. L. 100–690, title VII, §7301, Nov. 18, 1988, 102 Stat. 4463, provided that not later than 1 year after Nov. 18, 1988, the United States Sentencing Commission would study the feasibility of requiring prisoners incarcerated in Federal correctional institutions to pay some or all of the costs incident to the prisoner's confinement, including, but not limited to, the costs of food, housing, and shelter.

§ 4008. Transportation expenses

Prisoners shall be transported by agents designated by the Attorney General or his authorized representative.

The reasonable expense of transportation, necessary subsistence, and hire and transportation of guards and agents shall be paid by the Attorney General from such appropriation for the Department of Justice as he shall direct.

Upon conviction by a consular court or court martial the prisoner shall be transported from the court to the place of confinement by agents of the Department of State, the Army, Navy, or Air Force, as the case may be, the expense to be paid out of the Treasury of the United States in the manner provided by law.

(June 25, 1948, ch. 645, 62 Stat. 849; May 24, 1949, ch. 139, §61, 63 Stat. 98.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §753g (May 14, 1930, ch. 274, §8, 46 Stat. 327).

The second paragraph was originally a proviso.

Minor changes of phraseology were made.

1949 ACT

This section [section 61] corrects the third paragraph of section 4008 of title 18, U.S.C., by redesignating the ''War Department'' as the ''Department of the Army'', to conform to such redesignation by act of July 26, 1947 (ch. 343, title II, §205(a), 61 Stat. 501), and by inserting a reference to the Department of the Air Force, in view of the creation of such Department by the same act.

Editorial Notes

AMENDMENTS

1949—Act May 24, 1949, substituted ''the Army, Navy, or Air Force'' for ''War, or the Navy''.

§ 4009. Appropriations for sites and buildings

The Attorney General may authorize the use of a sum not to exceed $100,000 in each instance, payable from any unexpended balance of the appropriation ''Support of United States prisoners'' for the purpose of leasing or acquiring a site, preparation of plans, and erection of necessary buildings under section 4003 of this title.

If in any instance it shall be impossible or impracticable to secure a proper site and erect the necessary buildings within the above limitation the Attorney General may authorize the use of a sum not to exceed $10,000 in each instance, payable from any unexpended balance of the appropriation ''Support of United States prisoners'' for the purpose of securing options and making preliminary surveys or sketches.

Upon selection of an appropriate site the Attorney General shall submit to Congress an estimate of the cost of purchasing same and of remodeling, constructing, and equipping the necessary buildings thereon.

(June 25, 1948, ch. 645, 62 Stat. 849.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §753d (May 14, 1930, ch. 274, §5, 46 Stat. 326).

Minor changes of phraseology were made.

§ 4010. Acquisition of additional land

The Attorney General may, when authorized by law, acquire land adjacent to or in the vicinity of a Federal penal or correctional institution if he considers the additional land essential to the protection of the health or safety of the inmates of the institution.

(Added Pub. L. 89–554, §3(f), Sept. 6, 1966, 80 Stat. 610.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 341f.	July 28, 1950, ch. 503, §7, 64 Stat. 381. Sept. 16, 1959, Pub. L. 86–286, 73 Stat. 567.

The reference to an appropriation law is omitted as covered by the words ''when authorized by law''.

§ 4011. Disposition of cash collections for meals, laundry, etc.

Collections in cash for meals, laundry, barber service, uniform equipment, and other items for which payment is made originally from appropriations for the maintenance and operation of Federal penal and correctional institutions, may be deposited in the Treasury to the credit of the appropriation currently available for those items when the collection is made.

(Added Pub. L. 89–554, §3(f), Sept. 6, 1966, 80 Stat. 610.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 341g.	July 28, 1950, ch. 503, §8, 64 Stat. 381.

§ 4012. Summary seizure and forfeiture of prison contraband

An officer or employee of the Bureau of Prisons may, pursuant to rules and regulations of the Director of the Bureau of Prisons, summarily seize any object introduced into a Federal penal or correctional facility or possessed by an inmate of such a facility in violation of a rule, regulation or order promulgated by the Director, and such object shall be forfeited to the United States.

(Added Pub. L. 98–473, title II, §1109(d), Oct. 12, 1984, 98 Stat. 2148.)

§ 4013. Support of United States prisoners in non-Federal institutions

(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated for Federal prisoner detention for—

(1) necessary clothing;

(2) medical care and necessary guard hire; and

(3) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities.

(b) The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

(1) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

(2) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

(3) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.

(c)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

(A) the number of Federal detainees in the district; and

(B) the availability of appropriate Federal, State, and local government detention facilities.

(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshals pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

(B) meet the standards of the American Correctional Association;

(C) comply with all applicable State and local laws and regulations;

(D) have approved fire, security, escape, and riot plans; and

(E) comply with any other regulations that the Marshals Service deems appropriate.

(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).

(d) HEALTH CARE FEES FOR FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.—

(1) IN GENERAL.—Notwithstanding amounts paid under subsection (a)(3), a State or local government may assess and collect a reasonable fee from the trust fund account (or institutional equivalent) of a Federal prisoner for health care services, if—

(A) the prisoner is confined in a non-Federal institution pursuant to an agreement between the Federal Government and the State or local government;

(B) the fee—

(i) is authorized under State law; and

(ii) does not exceed the amount collected from State or local prisoners for the same services; and

(C) the services—

(i) are provided within or outside of the institution by a person who is licensed or certified under State law to provide health care services and who is operating within the scope of such license;

(ii) constitute a health care visit within the meaning of section 4048(a)(4) of this title; and

(iii) are not preventative health care services, emergency services, prenatal care, diagnosis or treatment of chronic infectious diseases, mental health care, or substance abuse treatment.

(2) NO REFUSAL OF TREATMENT FOR FINANCIAL REASONS.—Nothing in this subsection may be construed to permit any refusal of treatment to a prisoner on the basis that—

(A) the account of the prisoner is insolvent; or

(B) the prisoner is otherwise unable to pay a fee assessed under this subsection.

(3) NOTICE TO PRISONERS OF LAW.—Each person who is or becomes a prisoner shall be provided with written and oral notices of the provisions of this subsection and the applicability of this subsection to the prisoner. Notwithstanding any other provision of this subsection, a fee under this section may not be assessed against, or collected from, such person—

(A) until the expiration of the 30-day period beginning on the date on which each prisoner in the prison system is provided with such notices; and

(B) for services provided before the expiration of such period.

(4) NOTICE TO PRISONERS OF STATE OR LOCAL IMPLEMENTATION.—The implementation of this subsection by the State or local government, and any amendment to that implementation, shall not take effect until the expiration of the 30-day period beginning on the date on which each prisoner in the prison system is provided with written and oral notices of the provisions of that implementation (or amendment, as the case may be). A fee under this subsection may not be assessed against, or collected from, a prisoner pursuant to such im-

plementation (or amendments, as the case may be) for services provided before the expiration of such period.

(5) NOTICE BEFORE PUBLIC COMMENT PERIOD.—Before the beginning of any period a proposed implementation under this subsection is open to public comment, written and oral notice of the provisions of that proposed implementation shall be provided to groups that advocate on behalf of Federal prisoners and to each prisoner subject to such proposed implementation.

(6) COMPREHENSIVE HIV/AIDS SERVICES REQUIRED.—Any State or local government assessing or collecting a fee under this subsection shall provide comprehensive coverage for services relating to human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) to each Federal prisoner in the custody of such State or local government when medically appropriate. The State or local government may not assess or collect a fee under this subsection for providing such coverage.

(Added Pub. L. 100–690, title VII, §7608(d)(1), Nov. 18, 1988, 102 Stat. 4516; amended Pub. L. 101–647, title XVII, §1701, title XXXV, §3599, Nov. 29, 1990, 104 Stat. 4843, 4931; Pub. L. 103–322, title XXXIII, §330011(*o*), Sept. 13, 1994, 108 Stat. 2145; Pub. L. 106–294, §3, Oct. 12, 2000, 114 Stat. 1040; Pub. L. 107–273, div. A, title III, §302(2), Nov. 2, 2002, 116 Stat. 1781.)

Editorial Notes

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–273, §302(2)(A), in introductory provisions, substituted ''Federal prisoner detention'' for ''the support of United States prisoners'', inserted ''and'' at end of par. (2), substituted period for ''; and'' at end of par. (3), and in introductory provisions of par. (4), inserted ''The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for'' before ''entering''.

Subsecs. (a)(4), (b). Pub. L. 107–273, §302(2)(B)(ii), redesignated par. (4) of subsec. (a) as subsec. (b) and subpars. (A) to (C) as pars. (1) to (3), respectively. Former subsec. (b) redesignated (c).

Subsecs. (c), (d). Pub. L. 107–273, §302(2)(B)(i), redesignated subsecs. (b) and (c) as (c) and (d), respectively.

2000—Subsec. (c). Pub. L. 106–294 added subsec. (c).

1994—Pub. L. 103–322, §330011(*o*), repealed Pub. L. 101–647, §3599. See 1990 Amendment note below.

1990—Subsec. (a). Pub. L. 101–647, §3599, which struck out ''(a)'' at beginning of text, was repealed by Pub. L. 103–322, §330011(*o*).

Subsec. (b). Pub. L. 101–647, §1701, added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–322, title XXXIII, §330011(*o*), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by section 330011(*o*) is effective Nov. 29, 1990.

CONTRACTS FOR SPACE OR FACILITIES

Pub. L. 106–553, §1(a)(2) [title I, §118, formerly §119], Dec. 21, 2000, 114 Stat. 2762, 2762A–69; renumbered §118, Pub. L. 106–554, §1(a)(4) [div. A, §213(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–179, provided that: ''Notwithstanding any other provision of law, including section 4(d) of the Service Contract Act of 1965 ([former] 41 U.S.C. 353(d)) [now 41 U.S.C. 6707(d)], the Attorney General hereafter may enter into contracts and other agreements, of any reasonable duration, for detention or incarceration space or facilities, including related services, on any reasonable basis.''

JUSTICE PRISONER AND ALIEN TRANSPORTATION SYSTEM FUND, UNITED STATES MARSHALS SERVICE

Pub. L. 106–553, §1(a)(2) [title I], Dec. 21, 2000, 114 Stat. 2762, 2762A–55, provided in part that: ''Beginning in fiscal year 2000 and thereafter, payment shall be made from the Justice Prisoner and Alien Transportation System Fund for necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities: *Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund aircraft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed 10 years.''

Similar provisions were contained in the following prior appropriations act:

Pub. L. 106–113, div. B, §1000(a)(1) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–7.

Pub. L. 105–277, div. A, §101(b) [title I], Oct. 21, 1998, 112 Stat. 2681–50, 2681–54, provided that: ''There is hereby established a Justice Prisoner and Alien Transportation System Fund for the payment of necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities: *Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund aircraft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed 5 years.''

Executive Documents

EX. ORD. NO. 14006. REFORMING OUR INCARCERATION SYSTEM TO ELIMINATE THE USE OF PRIVATELY OPERATED CRIMINAL DETENTION FACILITIES

Ex. Ord. No. 14006, Jan. 26, 2021, 86 F.R. 7483, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. More than two million people are currently incarcerated in the United States, including a disproportionate number of people of color. There is broad consensus that our current system of mass incarceration imposes significant costs and hardships on our society and communities and does not make us safer. To decrease incarceration levels, we must reduce profit-based incentives to incarcerate by phasing out the Federal Government's reliance on privately operated criminal detention facilities.

We must ensure that our Nation's incarceration and correctional systems are prioritizing rehabilitation and

redemption. Incarcerated individuals should be given a fair chance to fully reintegrate into their communities, including by participating in programming tailored to earning a good living, securing affordable housing, and participating in our democracy as our fellow citizens. However, privately operated criminal detention facilities consistently underperform Federal facilities with respect to correctional services, programs, and resources. We should ensure that time in prison prepares individuals for the next chapter of their lives.

The Federal Government also has a responsibility to ensure the safe and humane treatment of those in the Federal criminal justice system. However, as the Department of Justice's Office of Inspector General found in 2016, privately operated criminal detention facilities do not maintain the same levels of safety and security for people in the Federal criminal justice system or for correctional staff. We have a duty to provide these individuals with safe working and living conditions.

SEC. 2. *Contracts with Privately Operated Criminal Detention Facilities*. The Attorney General shall not renew Department of Justice contracts with privately operated criminal detention facilities, as consistent with applicable law.

SEC. 3. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

§ 4014. Testing for human immunodeficiency virus

(a) The Attorney General shall cause each individual convicted of a Federal offense who is sentenced to incarceration for a period of 6 months or more to be tested for the presence of the human immunodeficiency virus, as appropriate, after the commencement of that incarceration, if such individual is determined to be at risk for infection with such virus in accordance with the guidelines issued by the Bureau of Prisons relating to infectious disease management.

(b) If the Attorney General has a well-founded reason to believe that a person sentenced to a term of imprisonment for a Federal offense, or ordered detained before trial under section 3142(e), may have intentionally or unintentionally transmitted the human immunodeficiency virus to any officer or employee of the United States, or to any person lawfully present in a correctional facility who is not incarcerated there, the Attorney General shall—

(1) cause the person who may have transmitted the virus to be tested promptly for the presence of such virus and communicate the test results to the person tested; and

(2) consistent with the guidelines issued by the Bureau of Prisons relating to infectious disease management, inform any person (in, as appropriate, confidential consultation with the person's physician) who may have been exposed to such virus, of the potential risk involved and, if warranted by the circumstances, that prophylactic or other treatment should be considered.

(c) If the results of a test under subsection (a) or (b) indicate the presence of the human immunodeficiency virus, the Attorney General shall provide appropriate access for counselling, health care, and support services to the affected officer, employee, or other person, and to the person tested.

(d) The results of a test under this section are inadmissible against the person tested in any Federal or State civil or criminal case or proceeding.

(e) Not later than 1 year after the date of the enactment of this section, the Attorney General shall issue rules to implement this section. Such rules shall require that the results of any test are communicated only to the person tested, and, if the results of the test indicate the presence of the virus, to correctional facility personnel consistent with guidelines issued by the Bureau of Prisons. Such rules shall also provide for procedures designed to protect the privacy of a person requesting that the test be performed and the privacy of the person tested.

(Added Pub. L. 105–370, § 2(a), Nov. 12, 1998, 112 Stat. 3374.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 105–370, which was approved Nov. 12, 1998.

CHAPTER 303—BUREAU OF PRISONS

Editorial Notes

AMENDMENTS

2022—Pub. L. 117–103, div. W, title X, § 1001(e), Mar. 15, 2022, 136 Stat. 914, added item 4051.

2018—Pub. L. 115–391, title II, § 202(b), Dec. 21, 2018, 132 Stat. 5217, added item 4050.

2016—Pub. L. 114–133, § 2(b), Mar. 9, 2016, 130 Stat. 297, added item 4049.

2000—Pub. L. 106–294, § 2(b), Oct. 12, 2000, 114 Stat. 1040, added item 4048.

1994—Pub. L. 103–322, title II, § 20402(b), Sept. 13, 1994, 108 Stat. 1825, added item 4047.

1990—Pub. L. 101–647, title XXX, § 3001(b), Nov. 29, 1990, 104 Stat. 4915, added item 4046.

1986—Pub. L. 99–646, § 67(b), Nov. 10, 1986, 100 Stat. 3616, added items 4044 and 4045.

1982—Pub. L. 97–258, § 2(d)(4)(A), Sept. 13, 1982, 96 Stat. 1059, added item 4043.

§ 4041. Bureau of Prisons; director and employees

The Bureau of Prisons shall be in charge of a director appointed by and serving directly under the Attorney General. The Attorney General may appoint such additional officers and employees as he deems necessary.

(June 25, 1948, ch. 645, 62 Stat. 849; Pub. L. 107–273, div. A, title III, § 302(1), Nov. 2, 2002, 116 Stat. 1781.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 753 (May 14, 1930, ch. 274, § 1, 46 Stat. 325).

The entire second sentence was omitted as executed. All powers and authority originally vested in the former Superintendent of Prisons are now possessed by the Bureau of Prisons.

Minor changes of phraseology were made.

Editorial Notes

AMENDMENTS

2002—Pub. L. 107–273 struck out ''at a salary of $10,000 a year'' after ''under the Attorney General''.

Statutory Notes and Related Subsidiaries

COMPENSATION OF DIRECTOR

Compensation of Director, see section 5315 of Title 5, Government Organization and Employees.

§ 4042. Duties of Bureau of Prisons

(a) IN GENERAL.—The Bureau of Prisons, under the direction of the Attorney General, shall—

(1) have charge of the management and regulation of all Federal penal and correctional institutions;

(2) provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise;

(3) provide for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States;

(4) provide technical assistance to State, tribal, and local governments in the improvement of their correctional systems;

(5) provide notice of release of prisoners in accordance with subsections (b) and (c);

(6) establish prerelease planning procedures that help prisoners—

(A) apply for Federal and State benefits upon release (including Social Security benefits, and veterans' benefits);

(B) obtain identification, including a social security card, driver's license or other official photo identification, and a birth certificate; and

(C) secure such identification and benefits prior to release from a sentence to a term of imprisonment in a Federal prison or if the individual was not sentenced to a term of imprisonment in a Federal prison, prior to release from a sentence to a term of community confinement, subject to any limitations in law; and

(7) establish reentry planning procedures that include providing Federal prisoners with information in the following areas:

(A) Health and nutrition.
(B) Employment.
(C) Literacy and education.
(D) Personal finance and consumer skills.
(E) Community resources.
(F) Personal growth and development.
(G) Release requirements and procedures.

(b) NOTICE OF RELEASE OF PRISONERS.—(1) At least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, written notice of the release or change of residence shall be provided to the chief law enforcement officers of each State, tribal, and local jurisdiction in which the prisoner will reside. Notice prior to release shall be provided by the Director of the Bureau of Prisons. Notice concerning a change of residence following release shall be provided by the probation officer responsible for the supervision of the released prisoner, or in a manner specified by the Director of the Administrative Office of the United States Courts. The notice requirements under this subsection do not apply in relation to a prisoner being protected under chapter 224.

(2) A notice under paragraph (1) shall disclose—

(A) the prisoner's name;

(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

(3) A prisoner is described in this paragraph if the prisoner was convicted of—

(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

(B) a crime of violence (as defined in section 924(c)(3)).

(c) NOTICE OF SEX OFFENDER RELEASE.—(1) In the case of a person described in paragraph (3), or any other person in a category specified by the Attorney General, who is released from prison or sentenced to probation, notice shall be provided to—

(A) the chief law enforcement officer of each State, tribal, and local jurisdiction in which the person will reside; and

(B) a State, tribal, or local agency responsible for the receipt or maintenance of sex offender registration information in the State, tribal, or local jurisdiction in which the person will reside.

The notice requirements under this subsection do not apply in relation to a person being protected under chapter 224.

(2) Notice provided under paragraph (1) shall include the information described in subsection (b)(2), the place where the person will reside, and the information that the person shall register as required by the Sex Offender Registration and Notification Act. For a person who is released from the custody of the Bureau of Prisons whose

expected place of residence following release is known to the Bureau of Prisons, notice shall be provided at least 5 days prior to release by the Director of the Bureau of Prisons. For a person who is sentenced to probation, notice shall be provided promptly by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts. Notice concerning a subsequent change of residence by a person described in paragraph (3) during any period of probation, supervised release, or parole shall also be provided to the agencies and officers specified in paragraph (1) by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts.

(3) The Director of the Bureau of Prisons shall inform a person who is released from prison and required to register under the Sex Offender Registration and Notification Act of the requirements of that Act as they apply to that person and the same information shall be provided to a person sentenced to probation by the probation officer responsible for supervision of that person.

[(4) Repealed. Pub. L. 109–248, title I, § 141(h), July 27, 2006, 120 Stat. 604.]

(5) The United States and its agencies, officers, and employees shall be immune from liability based on good faith conduct in carrying out this subsection and subsection (b).

(d) APPLICATION OF SECTION.—This section shall not apply to military or naval penal or correctional institutions or the persons confined therein.

(June 25, 1948, ch. 645, 62 Stat. 849; Pub. L. 90–371, July 1, 1968, 82 Stat. 280; Pub. L. 103–322, title II, § 20417, Sept. 13, 1994, 108 Stat. 1834; Pub. L. 105–119, title I, § 115(a)(8)(A), Nov. 26, 1997, 111 Stat. 2464; Pub. L. 109–248, title I, § 141(f)–(h), July 27, 2006, 120 Stat. 603, 604; Pub. L. 110–199, title II, § 231(d)(1), Apr. 9, 2008, 122 Stat. 685; Pub. L. 111–211, title II, § 261(a), July 29, 2010, 124 Stat. 2299; Pub. L. 115–391, title VI, § 604(b), Dec. 21, 2018, 132 Stat. 5241.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 753a, 753b, (May 14, 1930, ch. 274, §§ 2, 3, 46 Stat. 325).

Because of similarity in the provisions, the first sentence of section 753b of title 18, U.S.C., 1940 ed., was consolidated with section 753a of title 18, U.S.C., 1940 ed., to form this section.

Minor changes were made in phraseology.

The remainder of said section 753b of title 18, U.S.C., 1940 ed., is incorporated in section 4002 of this title.

Editorial Notes

REFERENCES IN TEXT

The Sex Offender Registration and Notification Act, referred to in subsec. (c)(2), (3), is title I of Pub. L. 109–248, July 27, 2006, 120 Stat. 590, which was classified principally to subchapter I (§ 16901 et seq.) of chapter 151 of Title 42, The Public Health and Welfare, prior to editorial reclassification as chapter 209 (§ 20901 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 2006 Act note set out under section 10101 of Title 34 and Tables.

AMENDMENTS

2018—Subsec. (a)(D), (E). Pub. L. 115–391, § 604(b)(1), redesignated pars. (D) and (E) as (6) and (7), respectively.

Subsec. (a)(6). Pub. L. 115–391, § 604(b)(1), (2)(E), redesignated par. (D) as (6) and cls. (i) to (iii) as subpars. (A) to (C), respectively.

Subsec. (a)(6)(i). Pub. L. 115–391, § 604(b)(2)(A), struck out ''Social Security Cards,'' before ''Social Security benefits'' and ''and'' after ''benefits);''.

Subsec. (a)(6)(ii). Pub. L. 115–391, § 604(b)(2)(C), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (a)(6)(iii). Pub. L. 115–391, § 604(b)(2)(B), (D), redesignated cl. (ii) as (iii) and inserted ''from a sentence to a term of imprisonment in a Federal prison or if the individual was not sentenced to a term of imprisonment in a Federal prison, prior to release from a sentence to a term of community confinement'' after ''prior to release''.

Subsec. (a)(7). Pub. L. 115–391, § 604(b)(1), (3), redesignated par. (E) as (7) and cls. (i) to (vii) as subpars. (A) to (G), respectively.

2010—Subsec. (a)(4). Pub. L. 111–211, § 261(a)(1), inserted '', tribal,'' after ''State''.

Subsec. (b)(1). Pub. L. 111–211, § 261(a)(2), substituted ''officers of each State, tribal, and local jurisdiction'' for ''officer of the State and of the local jurisdiction''.

Subsec. (c)(1)(A). Pub. L. 111–211, § 261(a)(3)(A), substituted ''officer of each State, tribal, and local jurisdiction'' for ''officer of the State and of the local jurisdiction''.

Subsec. (c)(1)(B). Pub. L. 111–211, § 261(a)(3)(B), inserted '', tribal,'' after ''State'' in two places.

2008—Subsec. (a)(D), (E). Pub. L. 110–199 added pars. (D) and (E).

2006—Subsec. (c)(1). Pub. L. 109–248, § 141(g)(1), substituted ''paragraph (3), or any other person in a category specified by the Attorney General,'' for ''paragraph (4)'' in introductory provisions.

Subsec. (c)(2). Pub. L. 109–248, § 141(g)(2), substituted ''shall register as required by the Sex Offender Registration and Notification Act'' for ''shall be subject to a registration requirement as a sex offender'' in first sentence and ''paragraph (3)'' for ''paragraph (4)'' in fourth sentence.

Subsec. (c)(3). Pub. L. 109–248, § 141(f), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The Director of the Bureau of Prisons shall inform a person described in paragraph (4) who is released from prison that the person shall be subject to a registration requirement as a sex offender in any State in which the person resides, is employed, carries on a vocation, or is a student (as such terms are defined for purposes of section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994), and the same information shall be provided to a person described in paragraph (4) who is sentenced to probation by the probation officer responsible for supervision of the person or in a manner specified by the Director of the Administrative Office of the United States Courts.''

Subsec. (c)(4). Pub. L. 109–248, § 141(h), struck out par. (4) which read as follows: ''A person is described in this paragraph if the person was convicted of any of the following offenses (including such an offense prosecuted pursuant to section 1152 or 1153):

''(A) An offense under section 1201 involving a minor victim.

''(B) An offense under chapter 109A.

''(C) An offense under chapter 110.

''(D) An offense under chapter 117.

''(E) Any other offense designated by the Attorney General as a sexual offense for purposes of this subsection.''

1997—Subsec. (a)(5). Pub. L. 105–119, § 115(a)(8)(A)(i), substituted ''subsections (b) and (c)'' for ''subsection (b)''.

Subsec. (b)(4). Pub. L. 105–119, § 115(a)(8)(A)(ii), struck out par. (4) which read as follows: ''The notice provided under this section shall be used solely for law enforcement purposes.''

Subsecs. (c), (d). Pub. L. 105–119, §115(a)(8)(A)(iv), added subsec. (c) and redesignated former subsec. (c) as (d).

1994—Pub. L. 103–322 designated first par. of existing provisions as subsec. (a) and inserted heading, substituted ''provide'' for ''Provide'' and ''; and'' for period at end of par. (4), added par. (5) and subsec. (b), and designated second sentence of existing provisions as subsec. (c) and inserted heading.

1968—Pub. L. 90–371 added cl. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–119 effective 1 year after Nov. 26, 1997, see section 115(c)(1) of Pub. L. 105–119, set out as a note under section 3521 of this title.

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendments by Pub. L. 110–199 and requirements for grants made under such amendments, see section 60504 of Title 34, Crime Control and Law Enforcement.

PRISON CAMERA REFORM

Pub. L. 117–321, Dec. 27, 2022, 136 Stat. 4430, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Prison Camera Reform Act of 2021'.

''SEC. 2. FINDINGS.

''Congress finds the following:

''(1) The Bureau of Prisons has 122 institutions located throughout the United States. The Bureau of Prisons employs nearly 38,000 employees and is responsible for more than 150,000 Federal inmates.

''(2) Video footage from security camera systems and reliable communication over radio systems within Bureau of Prisons institutions are essential to protecting the health and safety of Bureau of Prisons employees and Federal inmates.

''(3) Based on the experience of Bureau of Prisons correctional staff, the noticeable presence of functioning security cameras serves as an effective deterrent to criminal behavior and misconduct.

''(4) Well-documented deficiencies of camera systems at Bureau of Prisons' facilities have hindered investigators' ability to substantiate allegations of serious misconduct by staff and inmates, including sexual and physical assaults, medical neglect, and introduction of contraband.

''(5) In a 2016 report, the Office of the Inspector General for the Department of Justice determined that 'deficiencies within the BOP's security camera system have affected the OIG's ability to secure prosecutions of staff and inmates in BOP contraband introduction cases, and these same problems adversely impact the availability of critical evidence to support administrative or disciplinary action against staff and inmates'.

''(6) Shortcomings in the land-mobile radio systems at Bureau of Prison facilities institutions impede the communication abilities of staff, slowing or preventing the response of correctional officers during an emergency or threat of attack, and jeopardizing the safety of both staff and Federal inmates.

''SEC. 3. REQUIRED PLAN FOR REFORM OF BOP SECURITY CAMERA AND RADIO COVERAGE AND CAPABILITIES.

''(a) PLAN.—Not later than 90 days after the date of enactment of this Act [Dec. 27, 2022], the Director of the Bureau of Prisons shall—

''(1) evaluate the security camera, land-mobile radio (referred to in this Act as 'LMR'), and public address (referred to in this Act as 'PA') systems in use by the Bureau of Prisons as of the date of enactment of this Act; and

''(2) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a plan for ensuring that all Bureau of Prisons correctional facilities have the security camera, LMR, and PA system coverage and capabilities necessary to—

''(A) ensure the health and safety of staff and Federal inmates; and

''(B) ensure the documentation and accessibility of video evidence that may pertain to misconduct by staff or inmates, negligent or abusive treatment of inmates, or criminal activity within correctional facilities.

''(b) CONTENTS.—The plan required under subsection (a) shall—

''(1) identify and include plans to address any deficiencies in the security camera system in use at Bureau of Prisons correctional facilities, including those related to—

''(A) an insufficient number of cameras;

''(B) inoperable or malfunctioning cameras;

''(C) blind spots;

''(D) poor quality video; and

''(E) any other deficits in the security camera system;

''(2) identify and include plans to adopt and maintain any security camera system upgrades needed to achieve the purposes described in subsection (a), including—

''(A) conversion of all analog cameras to digital surveillance systems, with corresponding infrastructure and equipment upgrade requirements;

''(B) upgrades to ensure the secure storage, logging, preservation, and accessibility of recordings such that the recordings are available to investigators or Courts at such time as may be reasonably required; and

''(C) additional enterprise-wide camera system capabilities needed to enhance the safety and security of inmates and staff;

''(3) identify and include plans to address any deficiencies in the LMR and PA systems in use at Bureau of Prisons correctional facilities, including those related to—

''(A) an inadequate number of radios;

''(B) inoperable, outdated, or malfunctioning LMR or PA systems;

''(C) areas of Bureau of Prisons correctional facilities that lack adequate reception for radio operation;

''(D) radios that lack an emergency notification feature (also known as a 'man down' function), which automatically sends an alert and transmits the location of that radio in the event the wearer is in a prone position; and

''(E) any other deficits in the LMR or PA systems;

''(4) include an assessment of operational and logistical considerations in implementing the plan required under subsection (a), including—

''(A) a prioritization of facilities for needed upgrades, beginning with high security institutions;

''(B) the personnel and training necessary to implement the changes; and

''(C) ongoing repair and maintenance requirements; and

''(5) include a 3-year strategic plan and cost projection for implementing the changes and upgrades to the security camera, LMR, and PA systems identified under paragraphs (1) through (4).

''(c) IMPLEMENTATION DEADLINE.—Not later than 3 years after the date on which the plan is submitted under subsection (a)(2), and subject to appropriations, the Director of the Bureau of Prisons shall complete implementation of the submitted plan.

''(d) ANNUAL PROGRESS REPORTS.—Beginning 1 year after the date on which the plan is submitted under subsection (a)(2), and each year thereafter until the end of the 3-year period described in subsection (c), the Director of the Bureau of Prisons shall submit to the

Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the implementation of the submitted plan.''

HEALTH AND SAFETY OF PREGNANT WOMEN AND MOTHERS

Pub. L. 117–103, div. W, title X, § 1002, Mar. 15, 2022, 136 Stat. 914, provided that:

''(a) SHORT TITLE.—This section may be cited as the 'Stop Infant Mortality and Recidivism Reduction Act' or the 'SIMARRA Act'.

''(b) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act [Mar. 15, 2022], the Director of the Bureau of Prisons (in this section referred to as the 'Director') shall establish a pilot program (in this section referred to as the 'Program') in accordance with this section to permit women incarcerated in Federal prisons and the children born to such women during incarceration to reside together while the inmate serves a term of imprisonment.

''(c) PURPOSES.—The purposes of this section are to—

''(1) prevent infant mortality among infants born to incarcerated mothers and greatly reduce the trauma and stress experienced by pregnant inmates;

''(2) reduce the recidivism rates of federally incarcerated women and mothers, and enhance public safety by improving the effectiveness of the Federal prison system for women as a population with special needs;

''(3) utilize a female offender risk and needs assessment to encourage a more effective and efficient Federal prison system;

''(4) utilize a validated post-sentencing risk and needs assessment system that relies on dynamic factors to provide Federal prison officials with information regarding needs of Federal pregnant offenders and enhance public safety;

''(5) perform regular outcome evaluations of the effectiveness of programs and interventions for federally incarcerated pregnant women and mothers to assure that such programs and interventions are evidence-based and to suggest changes, deletions, and expansions based on the results of such evaluations; and

''(6) assist the Department of Justice to address the underlying cost structure of the Federal prison system and ensure that the Department can continue to run parenting programming safely and securely without compromising the scope or quality of the Department's critical health, safety and law enforcement missions.

''(d) DUTIES OF THE DIRECTOR OF BUREAU OF PRISONS.—

''(1) IN GENERAL.—The Director shall carry out this section in consultation with—

''(A) the Director of the Administrative Office of the United States Courts;

''(B) the Director of the Office of Probation and Pretrial Services; and

''(C) the Director of the National Institute of Justice.

''(2) DUTIES.—The Director shall, in accordance with paragraph (3), and in addition to the mandates under section 3631 of title 18, United States Code—

''(A) evaluate the female offender risk and needs assessment for its ability to address the particular health and sensitivities of federally incarcerated pregnant women and mothers in accordance with this subsection;

''(B) develop recommendations regarding recidivism reduction programs and productive activities in accordance with subsection (c);

''(C) conduct ongoing research and data analysis on—

''(i) the best practices relating to the use of offender risk and needs assessment tools for female offenders with a particular emphasis on how those tools address the health and sensitivities of federally incarcerated pregnant women and mothers;

''(ii) potential improvements to risk and needs assessment tools for female offenders to address the health and sensitivities of federally incarcerated pregnant women and mothers; and

''(iii) which recidivism reduction programs are the most effective—

''(I) for federally incarcerated pregnant women and mothers classified at different recidivism risk levels; and

''(II) for addressing the specific needs of federally incarcerated pregnant women and mothers;

''(D) on a biennial basis, review any findings related to evaluations conducted under subparagraph (A) and the recommendations developed under subparagraph (B), using the research conducted under subparagraph (C), to determine whether any revisions or updates should be made to female offender risk and needs assessment systems, and if so, make such revisions or updates;

''(E) hold periodic meetings with the individuals listed in paragraph (1) at intervals to be determined by the Director;

''(F) develop tools to communicate parenting program availability and eligibility criteria to each employee of the Bureau of Prisons and each pregnant inmate to ensure that each pregnant inmate in the custody of a Bureau of Prisons facility understands the resources available to such inmate; and

''(G) report to Congress in accordance with subsection (h).

''(3) METHODS.—In carrying out the duties under paragraph (2), the Director shall—

''(A) consult relevant stakeholders; and

''(B) make decisions using data that is based on available statistical and empirical evidence.

''(e) ELIGIBILITY.—An inmate may apply to participate in the Program if the inmate—

''(1) is pregnant at the beginning of or during the term of imprisonment; and

''(2) is in the custody or control of the Bureau of Prisons.

''(f) PROGRAM TERMS.—

''(1) TERM OF PARTICIPATION.—To correspond with the purposes and goals of the Program to promote bonding during the critical stages of child development, an eligible inmate selected for the Program may participate in the Program, subject to subsection (g), until the earliest of—

''(A) the date that the inmate's term of imprisonment terminates; or

''(B) the date the infant fails to meet any medical criteria established by the Director.

''(2) INMATE REQUIREMENTS.—For the duration of an inmate's participation in the Program, the inmate shall agree to—

''(A) take substantive steps towards acting in the role of a parent or guardian to any child of that inmate;

''(B) participate in any recommended educational or counseling opportunities, including topics such as child development, parenting skills, domestic violence, vocational training, or substance abuse, as appropriate;

''(C) abide by any court decision regarding the legal or physical custody of the child; and

''(D) specify a person who has agreed to take at least temporary custody of the child if the inmate's participation in the Program terminates before the inmate's release.

''(g) CONTINUITY OF CARE.—The Director shall take appropriate actions to prevent detachment or disruption of either an inmate's or infant's health and bonding-based well-being due to termination of the Program.

''(h) REPORTING.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Mar. 15, 2022], and once each year thereafter for 5 years, the Director shall submit a progress report to the Congress with regards to implementing the Program.

''(2) FINAL REPORT.—Not later than 6 months after the termination of the Program, the Director shall issue a final report to the Congress that contains a detailed statement of the Director's findings and conclusions, including recommendations for legislation, administrative actions, and regulations the Director considers appropriate.''

[For definitions of terms used in section 1002 of div. W of Pub. L. 117–103, set out above, see section 12291 of Title 34, Crime Control and Law Enforcement, as made applicable by section 2(b) of div. W of Pub. L. 117–103, which is set out as a note under section 12291 of Title 34.]

DE-ESCALATION TRAINING

Pub. L. 115–391, title VI, §606, Dec. 21, 2018, 132 Stat. 5244, provided that: ''Beginning not later than 1 year after the date of enactment of this Act [Dec. 21, 2018], the Director of the Bureau of Prisons shall incorporate into training programs provided to officers and employees of the Bureau of Prisons (including officers and employees of an organization with which the Bureau of Prisons has a contract to provide services relating to imprisonment) specialized and comprehensive training in procedures to—

''(1) de-escalate encounters between a law enforcement officer or an officer or employee of the Bureau of Prisons, and a civilian or a prisoner (as such term is defined in section 3635 of title 18, United States Code, as added by section 101(a) of this Act); and

''(2) identify and appropriately respond to incidents that involve the unique needs of individuals who have a mental illness or cognitive deficit.''

PILOT PROGRAMS

Pub. L. 115–391, title VI, §608, Dec. 21, 2018, 132 Stat. 5245, provided that:

''(a) IN GENERAL.—The Bureau of Prisons shall establish each of the following pilot programs for 5 years, in at least 20 facilities:

''(1) MENTORSHIP FOR YOUTH.—A program to pair youth with volunteers from faith-based or community organizations, which may include formerly incarcerated offenders, that have relevant experience or expertise in mentoring, and a willingness to serve as a mentor in such a capacity.

''(2) SERVICE TO ABANDONED, RESCUED, OR OTHERWISE VULNERABLE ANIMALS.—A program to equip prisoners with the skills to provide training and therapy to animals seized by Federal law enforcement under asset forfeiture authority and to organizations that provide shelter and similar services to abandoned, rescued, or otherwise vulnerable animals.

''(b) REPORTING REQUIREMENT.—Not later than 1 year after the conclusion of the pilot programs, the Attorney General shall report to Congress on the results of the pilot programs under this section. Such report shall include cost savings, numbers of participants, and information about recidivism rates among participants.

''(c) DEFINITION.—In this title, the term 'youth' means a prisoner (as such term is defined in section 3635 of title 18, United States Code, as added by section 101(a) of this Act) who was 21 years of age or younger at the time of the commission or alleged commission of the criminal offense for which the individual is being prosecuted or serving a term of imprisonment, as the case may be.''

HEALTHCARE PRODUCTS

Pub. L. 115–391, title VI, §611, Dec. 21, 2018, 132 Stat. 5247, provided that:

''(a) AVAILABILITY.—The Director of the Bureau of Prisons shall make the healthcare products described in subsection (c) available to prisoners for free, in a quantity that is appropriate to the healthcare needs of each prisoner.

''(b) QUALITY PRODUCTS.—The Director shall ensure that the healthcare products provided under this section conform with applicable industry standards.

''(c) PRODUCTS.—The healthcare products described in this subsection are tampons and sanitary napkins.''

AMENITIES OR PERSONAL COMFORTS

Pub. L. 107–77, title VI, §611, Nov. 28, 2001, 115 Stat. 800, provided that: ''Hereafter, none of the funds appropriated or otherwise made available to the Bureau of Prisons shall be used to provide the following amenities or personal comforts in the Federal prison system—

''(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

''(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

''(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

''(4) possession of in-cell coffee pots, hot plates or heating elements; or

''(5) the use or possession of any electric or electronic musical instrument.''

Similar provisions were contained in the following appropriation acts:

Pub. L. 106–553, §1(a)(2) [title VI, §611], Dec. 21, 2000, 114 Stat. 2762, 2762A–105.

Pub. L. 106–113, div. B, §1000(a)(1) [title VI, §612], Nov. 29, 1999, 113 Stat. 1535, 1501A–54.

Pub. L. 105–277, div. A, §101(b) [title VI, §611], Oct. 21, 1998, 112 Stat. 2681–50, 2681–113.

Pub. L. 105–119, title VI, §611, Nov. 26, 1997, 111 Stat. 2517.

Pub. L. 104–208, div. A, title I, §101(a) [title VI, §611], Sept. 30, 1996, 110 Stat. 3009, 3009–66.

Pub. L. 104–134, title I, §101[(a)] [title VI, §611], Apr. 26, 1996, 110 Stat. 1321, 1321–64; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

SEXUALLY EXPLICIT COMMERCIALLY PUBLISHED MATERIAL

Pub. L. 107–77, title VI, §614, Nov. 28, 2001, 115 Stat. 801, provided that: ''Hereafter, none of the funds appropriated or otherwise made available to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.''

Similar provisions were contained in the following appropriation acts:

Pub. L. 106–553, §1(a)(2) [title VI, §614], Dec. 21, 2000, 114 Stat. 2762, 2762A–106.

Pub. L. 106–113, div. B, §1000(a)(1) [title VI, §615], Nov. 29, 1999, 113 Stat. 1535, 1501A–54.

Pub. L. 105–277, div. A, §101(b) [title VI, §614], Oct. 21, 1998, 112 Stat. 2681–50, 2681–113.

Pub. L. 105–119, title VI, §614, Nov. 26, 1997, 111 Stat. 2518.

Pub. L. 104–208, div. A, title I, §101(a) [title VI, §614], Sept. 30, 1996, 110 Stat. 3009, 3009–66.

REIMBURSEMENT FOR CERTAIN EXPENSES OUTSIDE OF FEDERAL INSTITUTIONS

Pub. L. 106–553, §1(a)(2) [title I], Dec. 21, 2000, 114 Stat. 2762, 2762A–55, provided in part: ''That hereafter amounts appropriated for Federal Prisoner Detention shall be available to reimburse the Federal Bureau of Prisons for salaries and expenses of transporting, guarding and providing medical care outside of Federal penal and correctional institutions to prisoners awaiting trial or sentencing.''

GUIDELINES FOR STATES REGARDING INFECTIOUS DISEASES IN CORRECTIONAL INSTITUTIONS

Pub. L. 105–370, §2(c), Nov. 12, 1998, 112 Stat. 3375, which required the Attorney General to provide to States proposed guidelines related to infectious dis-

eases in correctional institutions, was editorially reclassified as a note under section 60101 of Title 34, Crime Control and Law Enforcement.

PRISONER ACCESS

Pub. L. 105–314, title VIII, § 801, Oct. 30, 1998, 112 Stat. 2990, provided that: ''Notwithstanding any other provision of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any electronic communication service or remote computing service without the supervision of an official of the Federal Government.''

APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES

Pub. L. 103–322, title II, § 20404, Sept. 13, 1994, 108 Stat. 1825, provided that: ''In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.''

COST SAVINGS MEASURES

Pub. L. 101–647, title XXIX, § 2907, Nov. 29, 1990, 104 Stat. 4915, provided that: ''The Director of the Federal Bureau of Prisons (referred to as the 'Director') shall, to the extent practicable, take such measures as are appropriate to cut costs of construction. Such measures may include reducing expenditures for amenities including, for example, color television or pool tables.''

ADMINISTRATION OF CONFINEMENT FACILITIES LOCATED ON MILITARY INSTALLATIONS BY BUREAU OF PRISONS

Pub. L. 100–690, title VII, § 7302, Nov. 18, 1988, 102 Stat. 4463, provided that: ''In conjunction with the Department of Defense and the Commission on Alternative Utilization of Military Facilities as established in the National Defense Authorization Act of Fiscal Year 1989 [see section 2819 of Pub. L. 100–456, 104 Stat. 1820, formerly set out as a note under section 2391 of Title 10, Armed Forces], the Bureau of Prisons shall be responsible for—

''(1) administering Bureau of Prisons confinement facilities for civilian nonviolent prisoners located on military installations in cooperation with the Secretary of Defense, with an emphasis on placing women inmates in such facilities, or in similar minimum security confinement facilities not located on military installations, so that the percentage of eligible women equals the percentage of eligible men housed in such or similar minimum security confinement facilities (i.e., prison camps);

''(2) establishing and regulating drug treatment programs for inmates held in such facilities in coordination and cooperation with the National Institute on Drug Abuse; and

''(3) establishing and managing work programs in accordance with guidelines under the Bureau of Prisons for persons held in such facilities and in cooperation with the installation commander.''

Executive Documents

LIMITING THE USE OF RESTRICTIVE HOUSING BY THE FEDERAL GOVERNMENT

Memorandum of President of the United States, Mar. 1, 2016, 81 F.R. 11997, provided:

Memorandum for the Heads of Executive Departments and Agencies

A growing body of evidence suggests that the overuse of solitary confinement and other forms of restrictive housing in U.S. correctional systems undermines public safety and is contrary to our Nation's values.

In July 2015, as part of my Administration's ongoing efforts to pursue reforms that make the criminal justice system more fair and effective, I directed the Attorney General to undertake a comprehensive review of the overuse of solitary confinement across American prisons. Since that time, senior officials at the Department of Justice (DOJ) have met regularly to study the issue and develop strategies for reducing the use of this practice nationwide.

Those efforts gave rise to a final report transmitted to me on January 25, 2016 (DOJ Report and Recommendations Concerning the Use of Restrictive Housing) (the ''DOJ Report''), that sets forth specific policy recommendations for DOJ with respect to the Federal Bureau of Prisons and other DOJ entities as well as more general guiding principles for all correctional systems.

As the DOJ Report makes clear, although occasions exist when correctional officials have no choice but to segregate inmates from the general population, this action has the potential to cause serious, long-lasting harm. The DOJ Report accordingly emphasizes the responsibility of Government to ensure that this practice is limited, applied with constraints, and used only as a measure of last resort.

Given the urgency and importance of this issue, it is critical that DOJ accelerate efforts to reduce the number of Federal inmates and detainees held in restrictive housing and that Federal correctional and detention systems be models for facilities across the United States. Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and to address the overuse of solitary confinement in correctional and detention systems throughout the United States, I hereby direct as follows:

SECTION 1. *Implementation of the DOJ Report*. (a) DOJ shall promptly undertake to revise its regulations and policies, consistent with the direction of the Attorney General, to implement the policy recommendations in the DOJ Report concerning the use of restrictive housing. DOJ shall provide me with an update on the status of these efforts not later than 180 days after the date of this memorandum.

(b) Other executive departments and agencies (agencies) that impose restrictive housing shall review the DOJ Report to determine whether corresponding changes at their facilities should be made in light of the policy recommendations and guiding principles in the DOJ Report.

These other agencies shall report back to me not later than 180 days after the date of this memorandum on how they plan to address their use of restrictive housing.

SEC. 2. *General Provisions*. (a) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 3. *Publication*. The Attorney General is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons

The Attorney General may accept gifts or bequests of money for credit to the ''Commissary Funds, Federal Prisons''. A gift or bequest under this section is a gift or bequest to or for the use

of the United States under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(Added Pub. L. 97–258, §2(d)(4)(B), Sept. 13, 1982, 96 Stat. 1059; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
4043	31:725s–4.	May 15, 1952, ch. 289, §2, 66 Stat. 72; July 9, 1952, ch. 600, 66 Stat. 479.

Editorial Notes

AMENDMENTS

1986—Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Statutory Notes and Related Subsidiaries

EXPENDITURES; INMATE TELEPHONE SYSTEM

Pub. L. 105–277, div. A, §101(b) [title I, §108], Oct. 21, 1998, 112 Stat. 2681–50, 2681–67, provided that: ''For fiscal year 1999 and thereafter, the Director of the Bureau of Prisons may make expenditures out of the Commissary Fund of the Federal Prison System, regardless of whether any such expenditure is security-related, for programs, goods, and services for the benefit of inmates (to the extent the provision of those programs, goods, or services to inmates is not otherwise prohibited by law), including—

''(1) the installation, operation, and maintenance of the Inmate Telephone System;

''(2) the payment of all the equipment purchased or leased in connection with the Inmate Telephone System; and

''(3) the salaries, benefits, and other expenses of personnel who install, operate, and maintain the Inmate Telephone System.''

DEPOSIT OR INVESTMENT OF EXCESS AMOUNTS IN FEDERAL PRISON COMMISSARY FUND

Section 108 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104–91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104–99, title II, §211, Jan. 26, 1996, 110 Stat. 37, provided that: ''For fiscal year 1996 and each fiscal year thereafter, amounts in the Federal Prison System's Commissary Fund, Federal Prisons, which are not currently needed for operations, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investment shall be deposited in the Commissary Fund.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 103–317, title I, §107, Aug. 26, 1994, 108 Stat. 1735.

§ 4044. Donations on behalf of the Bureau of Prisons

The Attorney General may, in accordance with rules prescribed by the Attorney General, accept in the name of the Department of Justice any form of devise, bequest, gift or donation of money or property for use by the Bureau of Prisons or Federal Prison Industries. The Attorney General may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey such property other than money.

(Added Pub. L. 99–646, §67(a), Nov. 10, 1986, 100 Stat. 3616.)

§ 4045. Authority to conduct autopsies

A chief executive officer of a Federal penal or correctional facility may, pursuant to rules prescribed by the Director, order an autopsy and related scientific or medical tests to be performed on the body of a deceased inmate of the facility in the event of homicide, suicide, fatal illness or accident, or unexplained death, when it is determined that such autopsy or test is necessary to detect a crime, maintain discipline, protect the health or safety of other inmates, remedy official misconduct, or defend the United States or its employees from civil liability arising from the administration of the facility. To the extent consistent with the needs of the autopsy or of specific scientific or medical tests, provisions of State and local law protecting religious beliefs with respect to such autopsies shall be observed. Such officer may also order an autopsy or post-mortem operation, including removal of tissue for transplanting, to be performed on the body of a deceased inmate of the facility, with the written consent of a person authorized to permit such an autopsy or post-mortem operation under the law of the State in which the facility is located.

(Added Pub. L. 99–646, §67(a), Nov. 10, 1986, 100 Stat. 3616.)

§ 4046. Shock incarceration program

(a) The Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of imprisonment of more than 12, but not more than 30, months, if such person consents to that placement.

(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to—

(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureau for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate.

(Added Pub. L. 101–647, title XXX, §3001(a), Nov. 29, 1990, 104 Stat. 4915.)

Statutory Notes and Related Subsidiaries

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 101–647, title XXX, §3002, Nov. 29, 1990, 104 Stat. 4915, provided that: ''There are authorized to be appropriated for fiscal year 1990 and each fiscal year thereafter such sums as may be necessary to carry out the shock incarceration program established under the amendments made by this Act [see Tables for classification]''.

§ 4047. Prison impact assessments

(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated in Federal penal institutions shall be accompanied by a prison impact statement (as defined in subsection (b)).

(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 21 days of any request. A prison impact assessment shall include—

(1) projections of the impact on prison, probation, and post prison supervision populations;

(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construction and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.

(Added Pub. L. 103–322, title II, § 20402(a), Sept. 13, 1994, 108 Stat. 1824.)

§ 4048. Fees for health care services for prisoners

(a) DEFINITIONS.—In this section—

(1) the term ''account'' means the trust fund account (or institutional equivalent) of a prisoner;

(2) the term ''Director'' means the Director of the Bureau of Prisons;

(3) the term ''health care provider'' means any person who is—

(A) authorized by the Director to provide health care services; and

(B) operating within the scope of such authorization;

(4) the term ''health care visit''—

(A) means a visit, as determined by the Director, by a prisoner to an institutional or noninstitutional health care provider; and

(B) does not include a visit initiated by a prisoner—

(i) pursuant to a staff referral; or

(ii) to obtain staff-approved follow-up treatment for a chronic condition; and

(5) the term ''prisoner'' means—

(A) any individual who is incarcerated in an institution under the jurisdiction of the Bureau of Prisons; or

(B) any other individual, as designated by the Director, who has been charged with or convicted of an offense against the United States.

(b) FEES FOR HEALTH CARE SERVICES.—

(1) IN GENERAL.—The Director, in accordance with this section and with such regulations as the Director shall promulgate to carry out this section, may assess and collect a fee for health care services provided in connection with each health care visit requested by a prisoner.

(2) EXCLUSION.—The Director may not assess or collect a fee under this section for preventative health care services, emergency services, prenatal care, diagnosis or treatment of chronic infectious diseases, mental health care, or substance abuse treatment, as determined by the Director.

(c) PERSONS SUBJECT TO FEE.—Each fee assessed under this section shall be collected by the Director from the account of—

(1) the prisoner receiving health care services in connection with a health care visit described in subsection (b)(1); or

(2) in the case of health care services provided in connection with a health care visit described in subsection (b)(1) that results from an injury inflicted on a prisoner by another prisoner, the prisoner who inflicted the injury, as determined by the Director.

(d) AMOUNT OF FEE.—Any fee assessed and collected under this section shall be in an amount of not less than $1.

(e) NO CONSENT REQUIRED.—Notwithstanding any other provision of law, the consent of a prisoner shall not be required for the collection of a fee from the account of the prisoner under this section. However, each such prisoner shall be given a reasonable opportunity to dispute the amount of the fee or whether the prisoner qualifies under an exclusion under this section.

(f) NO REFUSAL OF TREATMENT FOR FINANCIAL REASONS.—Nothing in this section may be construed to permit any refusal of treatment to a prisoner on the basis that—

(1) the account of the prisoner is insolvent; or

(2) the prisoner is otherwise unable to pay a fee assessed under this section.

(g) USE OF AMOUNTS.—

(1) RESTITUTION OF SPECIFIC VICTIMS.—Amounts collected by the Director under this section from a prisoner subject to an order of restitution issued pursuant to section 3663 or 3663A shall be paid to victims in accordance with the order of restitution.

(2) ALLOCATION OF OTHER AMOUNTS.—Of amounts collected by the Director under this section from prisoners not subject to an order of restitution issued pursuant to section 3663 or 3663A—

(A) 75 percent shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601);[1] and

(B) 25 percent shall be available to the Attorney General for administrative expenses incurred in carrying out this section.

[1] See References in Text note below.

(h) NOTICE TO PRISONERS OF LAW.—Each person who is or becomes a prisoner shall be provided with written and oral notices of the provisions of this section and the applicability of this section to the prisoner. Notwithstanding any other provision of this section, a fee under this section may not be assessed against, or collected from, such person—

(1) until the expiration of the 30-day period beginning on the date on which each prisoner in the prison system is provided with such notices; and

(2) for services provided before the expiration of such period.

(i) NOTICE TO PRISONERS OF REGULATIONS.—The regulations promulgated by the Director under subsection (b)(1), and any amendments to those regulations, shall not take effect until the expiration of the 30-day period beginning on the date on which each prisoner in the prison system is provided with written and oral notices of the provisions of those regulations (or amendments, as the case may be). A fee under this section may not be assessed against, or collected from, a prisoner pursuant to such regulations (or amendments, as the case may be) for services provided before the expiration of such period.

(j) NOTICE BEFORE PUBLIC COMMENT PERIOD.—Before the beginning of any period a proposed regulation under this section is open to public comment, the Director shall provide written and oral notice of the provisions of that proposed regulation to groups that advocate on behalf of Federal prisoners and to each prisoner subject to such proposed regulation.

(k) REPORTS TO CONGRESS.—Not later than 1 year after the date of the enactment of the Federal Prisoner Health Care Copayment Act of 2000, and annually thereafter, the Director shall transmit to Congress a report, which shall include—

(1) a description of the amounts collected under this section during the preceding 12-month period;

(2) an analysis of the effects of the implementation of this section, if any, on the nature and extent of heath care visits by prisoners;

(3) an itemization of the cost of implementing and administering the program;

(4) a description of current inmate health status indicators as compared to the year prior to enactment; and

(5) a description of the quality of health care services provided to inmates during the preceding 12-month period, as compared with the quality of those services provided during the 12-month period ending on the date of the enactment of such Act.

(*l*) COMPREHENSIVE HIV/AIDS SERVICES REQUIRED.—The Bureau of Prisons shall provide comprehensive coverage for services relating to human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) to each Federal prisoner in the custody of the Bureau of Prisons when medically appropriate. The Bureau of Prisons may not assess or collect a fee under this section for providing such coverage.

(Added Pub. L. 106–294, §2(a), Oct. 12, 2000, 114 Stat. 1038.)

Editorial Notes

REFERENCES IN TEXT

Section 1402 of the Victims of Crime Act of 1984, referred to in subsec. (g)(2)(A), is section 1402 of chapter XIV of title II of Pub. L. 98–473, which was classified to section 10601 of Title 42, The Public Health and Welfare, prior to editorial reclassification as section 20101 of Title 34, Crime Control and Law Enforcement.

The date of the enactment of the Federal Prisoner Health Care Copayment Act of 2000, referred to in subsec. (k), is the date of enactment of Pub. L. 106–294, which was approved Oct. 12, 2000.

§ 4049. Officers and employees of the Bureau of Prisons authorized to carry oleoresin capsicum spray

(a) IN GENERAL.—The Director of the Bureau of Prisons shall issue, on a routine basis, oleoresin capsicum spray to—

(1) any officer or employee of the Bureau of Prisons who—

(A) is employed in a prison that is not a minimum or low security prison; and

(B) may respond to an emergency situation in such a prison; and

(2) to such additional officers and employees of prisons as the Director determines appropriate, in accordance with this section.

(b) TRAINING REQUIREMENT.—

(1) IN GENERAL.—In order for an officer or employee of the Bureau of Prisons, including a correctional officer, to be eligible to receive and carry oleoresin capsicum spray pursuant to this section, the officer or employee shall complete a training course before being issued such spray, and annually thereafter, on the use of oleoresin capsicum spray.

(2) TRANSFERABILITY OF TRAINING.—An officer or employee of the Bureau of Prisons who completes a training course pursuant to paragraph (1) and subsequently transfers to employment at a different prison, shall not be required to complete an additional training course solely due such transfer.

(3) TRAINING CONDUCTED DURING REGULAR EMPLOYMENT.—An officer or employee of the Bureau of Prisons who completes a training course required under paragraph (1) shall do so during the course of that officer or employee's regular employment, and shall be compensated at the same rate that the officer or employee would be compensated for conducting the officer or employee's regular duties.

(c) USE OF OLEORESIN CAPSICUM SPRAY.—Officers and employees of the Bureau of Prisons issued oleoresin capsicum spray pursuant to subsection (a) may use such spray to reduce acts of violence—

(1) committed by prisoners against themselves, other prisoners, prison visitors, and officers and employees of the Bureau of Prisons; and

(2) committed by prison visitors against themselves, prisoners, other visitors, and officers and employees of the Bureau of Prisons.

(Added Pub. L. 114–133, §2(a), Mar. 9, 2016, 130 Stat. 296.)

§ 4050. Secure firearms storage

(a) DEFINITIONS.—In this section—

(1) the term ''employee'' means a qualified law enforcement officer employed by the Bureau of Prisons; and

(2) the terms ''firearm'' and ''qualified law enforcement officer'' have the meanings given those terms under section 926B.

(b) SECURE FIREARMS STORAGE.—The Director of the Bureau of Prisons shall ensure that each chief executive officer of a Federal penal or correctional institution—

(1)(A) provides a secure storage area located outside of the secure perimeter of the institution for employees to store firearms; or

(B) allows employees to store firearms in a vehicle lockbox approved by the Director of the Bureau of Prisons; and

(2) notwithstanding any other provision of law, allows employees to carry concealed firearms on the premises outside of the secure perimeter of the institution.

(Added Pub. L. 115–391, title II, § 202(a), Dec. 21, 2018, 132 Stat. 5216.)

§ 4051. Treatment of primary caretaker parents and other individuals

(a) DEFINITIONS.—In this section—

(1) the term ''correctional officer'' means a correctional officer of the Bureau of Prisons;

(2) the term ''covered institution'' means a Federal penal or correctional institution;

(3) the term ''Director'' means the Director of the Bureau of Prisons;

(4) the term ''post-partum recovery'' means the first 12-week period of post-partum recovery after giving birth;

(5) the term ''primary caretaker parent'' has the meaning given the term in section 31903 of the Family Unity Demonstration Project Act (34 U.S.C. 12242);

(6) the term ''prisoner'' means an individual who is incarcerated in a Federal penal or correctional institution, including a vulnerable person; and

(7) the term ''vulnerable person'' means an individual who—

(A) is under 21 years of age or over 60 years of age;

(B) is pregnant;

(C) is victim or witness of a crime;

(D) has filed a nonfrivolous civil rights claim in Federal or State court; or

(E) during the period of incarceration, has been determined to have experienced or to be experiencing severe trauma or to be the victim of gender-based violence—

(i) by any court or administrative judicial proceeding;

(ii) by any corrections official;

(iii) by the individual's attorney or legal service provider; or

(iv) by the individual.

(b) GEOGRAPHIC PLACEMENT.—

(1) ESTABLISHMENT OF OFFICE.—The Director shall establish within the Bureau of Prisons an office that determines the placement of prisoners.

(2) PLACEMENT OF PRISONERS.—In determining the placement of a prisoner, the office established under paragraph (1) shall—

(A) if the prisoner has children, consider placing the prisoner as close to the children as possible; and

(B) consider any other factor that the office determines to be appropriate.

(c) PROHIBITION ON PLACEMENT OF PREGNANT PRISONERS OR PRISONERS IN POST-PARTUM RECOVERY IN SEGREGATED HOUSING UNITS.—

(1) PLACEMENT IN SEGREGATED HOUSING UNITS.—A covered institution may not place a prisoner who is pregnant or in post-partum recovery in a segregated housing unit unless the prisoner presents an immediate risk of harm to the prisoner or others.

(2) RESTRICTIONS.—Any placement of a prisoner described in paragraph (1) in a segregated housing unit shall be limited and temporary.

(d) INTAKE AND ASSESSMENTS.—The Director shall assess the need for family-focused programming at intake, such as questions about children, gauge interest in parenting resources, and concerns about their child or caregiving, and administer ongoing assessment to better inform, identify, and make recommendations about the mother's parental role and familial needs.

(e) PARENTING CLASSES.—The Director shall provide voluntary parenting classes to each prisoner who is a primary caretaker parent, and such classes shall be made available to prisoners with limited English proficiency in compliance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(f) TRAUMA SCREENING.—The Director shall provide training, including cultural competency training, to each correctional officer and each employee of the Bureau of Prisons who regularly interacts with prisoners, including each instructor and health care professional, to enable those correctional officers and employees to—

(1) identify a prisoner who may have a mental or physical health need relating to trauma the prisoner has experienced; and

(2) refer a prisoner described in paragraph (1) to the proper health care professional for diagnosis and treatment.

(g) FAMILY NEEDS TRAINING.—The Director shall provide training to correctional officers and employees of the Bureau of Prisons who engage with prisoners' families on—

(1) how to interact with children in an age-appropriate manner, and the children's caregivers;

(2) basic childhood and adolescent development information; and

(3) basic customer service skills.

(h) INMATE HEALTH.—

(1) HEALTH CARE ACCESS.—The Director shall ensure that all prisoners receive adequate health care.

(2) HYGIENIC PRODUCTS.—The Director shall make essential hygienic products, including shampoo, toothpaste, toothbrushes, and any other hygienic product that the Director determines appropriate, available without charge to prisoners. The Director shall make rules—

(A) on the distribution and accessibility of sanitary products to prisoners, to ensure each prisoner who requires these products receives a quantity the prisoner deems sufficient; and

(B) providing that no visitor is prohibited from visiting a prisoner due to the visitor's use of sanitary products.

(3) GYNECOLOGIST ACCESS.—The Director shall ensure that all prisoners have access to a gynecologist as appropriate.

(4) RELATION TO OTHER LAWS.—Nothing in paragraph (1) shall be construed to affect the requirements under the Prison Rape Elimination Act of 2003 (34 U.S.C. 30301 et seq.).

(Added Pub. L. 117–103, div. W, title X, §1001(b), Mar. 15, 2022, 136 Stat. 912.)

Editorial Notes

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (e), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 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 2000a of Title 42 and Tables.

The Prison Rape Elimination Act of 2003, referred to in subsec. (h)(4), is Pub. L. 108–79, Sept. 4, 2003, 117 Stat. 972, which is classified generally to chapter 303 (§30301 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 2003 Act note set out under section 10101 of Title 34 and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117–103, set out as a note under section 6851 of Title 15, Commerce and Trade.

IMPLEMENTATION DATE

Section, as enacted by Pub. L. 117–103, to be implemented no later than 2 years after Mar. 15, 2022, with interim progress report required, see section 1001(d) of Pub. L. 117–103, set out as an Implementation Date of 2022 Amendment note under section 3621 of this title.

CHAPTER 305—COMMITMENT AND TRANSFER

Editorial Notes

AMENDMENTS

1996—Pub. L. 104–294, title VI, §601(f)(14), Oct. 11, 1996, 110 Stat. 3500, substituted ''centers;'' for ''centers,'' in item 4082.

1984—Pub. L. 98–473, title II, §218(e), Oct. 12, 1984, 98 Stat. 2027, substituted ''Repealed'' for ''Copy of commitment delivered with prisoner'' in item 4084, and ''Repealed'' for ''Transfer for state offense; expense'' in item 4085.

1965—Pub. L. 89–176, §2, Sept. 10, 1965, 79 Stat. 675, substituted ''residential treatment centers, extension of limits of confinement; work furlough'' for ''transfer'' in item 4082.

§4081. Classification and treatment of prisoners

The Federal penal and correctional institutions shall be so planned and limited in size as to facilitate the development of an integrated system which will assure the proper classification and segregation of Federal prisoners according to the nature of the offenses committed, the character and mental condition of the prisoners, and such other factors as should be considered in providing an individualized system of discipline, care, and treatment of the persons committed to such institutions.

(June 25, 1948, ch. 645, 62 Stat. 850.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §907 (May 27, 1930, ch. 339, §7, 46 Stat. 390).

Language of section is so changed as to make one policy for all institutions, thus clarifying the manifest intent of Congress.

Minor changes were made in phraseology.

§4082. Commitment to Attorney General; residential treatment centers; extension of limits of confinement; work furlough

(a) The willful failure of a prisoner to remain within the extended limits of his confinement, or to return within the time prescribed to an institution or facility designated by the Attorney General, shall be deemed an escape from the custody of the Attorney General punishable as provided in chapter 35 of this title.

(b)(1) The Attorney General shall, upon the request of the head of any law enforcement agency of a State or of a unit of local government in a State, make available as expeditiously as possible to such agency, with respect to prisoners who have been convicted of felony offenses against the United States and who are confined at a facility which is a residential community treatment center located in the geographical area in which such agency has jurisdiction, the following information maintained by the Bureau of Prisons (to the extent that the Bureau of Prisons maintains such information)—

(A) the names of such prisoners;

(B) the community treatment center addresses of such prisoners;

(C) the dates of birth of such prisoners;

(D) the Federal Bureau of Investigation numbers assigned to such prisoners;

(E) photographs and fingerprints of such prisoners; and

(F) the nature of the offenses against the United States of which each such prisoner has been convicted and the factual circumstances relating to such offenses.

(2) Any law enforcement agency which receives information under this subsection shall not disseminate such information outside of such agency.

(c) As used in this section—

the term ''facility'' shall include a residential community treatment center; and

the term ''relative'' shall mean a spouse, child (including stepchild, adopted child or child as to whom the prisoner, though not a natural parent, has acted in the place of a parent), parent (including a person who, though not a natural parent, has acted in the place of a parent), brother, or sister.

(June 25, 1948, ch. 645, 62 Stat. 850; Pub. L. 89–176, § 1, Sept. 10, 1965, 79 Stat. 674; Pub. L. 93–209, Dec. 28, 1973, 87 Stat. 907; Pub. L. 98–473, title II, § 218(a), Oct. 12, 1984, 98 Stat. 2027; Pub. L. 99–646, § 57(a), Nov. 10, 1986, 100 Stat. 3611.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 753f (May 14, 1930, ch. 274, § 7, 46 Stat. 326; June 14, 1941, ch. 204, 55 Stat. 252; Oct. 21, 1941, ch. 453, 55 Stat. 743).

Words ''by the juvenile court of the District of Columbia, as well as to those committed by any court of the United States,'' at end of section were omitted as unnecessary, and word ''all'' inserted before ''persons'', without change of meaning.

Provision against penitentiary imprisonment for a term of 1 year or less without consent of defendant was incorporated in section 4083 of this title.

The phrase ''if in his judgment it shall be for the well-being of the prisoner or relieve overcrowded or unhealthful conditions in the institution where such person is confined or for other reasons'', was omitted as unnecessary.

Changes were made in phraseology.

This section supersedes section 705 of title 18, U.S.C., 1940 ed., providing for execution of sentences in houses of correction or reformation; and section 748 of title 18, U.S.C., 1940 ed., providing for confinement of prisoners in United States Disciplinary Barracks.

Editorial Notes

AMENDMENTS

1986—Subsecs. (f), (g). Pub. L. 99–646 added subsec. (f) and redesignated former subsec. (f) as (g).

1984—Pub. L. 98–473 struck out subsecs. (a) to (c) and (e) and redesignated subsecs. (d), (f), and (g) as (a), (b), and (c), respectively. Prior to amendment subsecs. (a) to (c) and (e) read as follows:

''(a) A person convicted of an offense against the United States shall be committed, for such term of imprisonment as the court may direct, to the custody of the Attorney General of the United States, who shall designate the place of confinement where the sentence shall be served.

''(b) The Attorney General may designate as a place of confinement any available, suitable, and appropriate institution or facility, whether maintained by the Federal Government or otherwise, and whether within or without the judicial district in which the person was convicted, and may at any time transfer a person from one place of confinement to another.

''(c) The Attorney General may extend the limits of the place of confinement of a prisoner as to whom there is reasonable cause to believe he will honor his trust, by authorizing him, under prescribed conditions, to—

''(1) visit a specifically designated place or places for a period not to exceed thirty days and return to the same or another institution or facility. An extension of limits may be granted to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of medical services not otherwise available, the contacting of prospective employers, the establishment or reestablishment of family and community ties or for any other significant reason consistent with the public interest; or

''(2) work at paid employment or participate in a training program in the community on a voluntary basis while continuing as a prisoner of the institution or facility to which he is committed, provided that—

''(i) representatives of local union central bodies or similar labor union organizations are consulted;

''(ii) such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

''(iii) the rates of pay and other conditions of employment will not be less than those paid or provided for work of similar nature in the locality in which the work is to be performed.

A prisoner authorized to work at paid employment in the community under this subsection may be required to pay, and the Attorney General is authorized to collect, such costs incident to the prisoner's confinement as the Attorney General deems appropriate and reasonable. Collections shall be deposited in the Treasury of the United States as miscellaneous receipts.

''(e) The authority conferred upon the Attorney General by this section shall extend to all persons committed to the National Training School for Boys.''

1973—Subsec. (c)(1). Pub. L. 93–209 provided for extension of limits to permit establishment or reestablishment of family and community ties and struck out ''only'' after ''may be granted''.

1965—Subsec. (a). Pub. L. 89–176 designated as subsec. (a) first unnumbered par. and struck out ''or his authorized representative'' after ''Attorney General of the United States''.

Subsec. (b). Pub. L. 89–176 designated as subsec. (b) second and third unnumbered par., inserted ''or facility'' after ''appropriate institution'', substituted ''may at any time transfer a person from one place of confinement to another'' for ''may order any inmate transferred from one institution to another'', and made minor changes in language.

Subsecs. (c), (d). Pub. L. 89–176 added subsecs. (c) and (d).

Subsec. (e). Pub. L. 89–176 designated as subsec. (e) fourth and last unnumbered pars.

Subsec. (f). Pub. L. 89–176 added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4083. Penitentiary imprisonment; consent

Persons convicted of offenses against the United States or by courts-martial punishable by imprisonment for more than one year may be confined in any United States penitentiary.

A sentence for an offense punishable by imprisonment for one year or less shall not be served in a penitentiary without the consent of the defendant.

(June 25, 1948, ch. 645, 62 Stat. 850; Pub. L. 86–256, Sept. 14, 1959, 73 Stat. 518.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 753f, 762 (Mar. 2, 1895, ch. 189, § 1, 28 Stat. 957; June 10, 1896, ch. 400, § 1, 29 Stat. 380; May 14, 1930, ch. 274, § 7, 46 Stat. 326; June 14, 1941, ch. 204, 55 Stat. 252; Oct. 21, 1941, ch. 453, 55 Stat. 743).

Said section 762 was condensed and simplified and extended to all penitentiaries instead of to Leavenworth only, since the section is merely declaratory of existing law. (See section 1 of this title classifying offenses and notes thereunder.)

The second paragraph is derived from said section 753f of title 18, U.S.C., 1940 ed.

Minor changes of phraseology were made.

Editorial Notes

AMENDMENTS

1959—Pub. L. 86–256 substituted ''punishable by imprisonment for'' for ''and sentenced to terms of imprisonment of'' in first sentence.

[§§ 4084, 4085. Repealed. Pub. L. 98–473, title II, § 218(a)(3), Oct. 12, 1984, 98 Stat. 2027]

Section 4084, act June 25, 1948, ch. 645, 62 Stat. 850, related to delivery of prisoner with copy of commitment.

Section 4085, act June 25, 1948, ch. 645, 62 Stat. 850, related to authority, expense, etc., respecting transfer of Federal prisoner for State offense.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4086. Temporary safe-keeping of federal offenders by marshals

United States marshals shall provide for the safe-keeping of any person arrested, or held under authority of any enactment of Congress pending commitment to an institution.

(June 25, 1948, ch. 645, 62 Stat. 851.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 691, 692, (R.S. §§ 5537, 5538).

Said section 691 of title 18, U.S.C., 1940 ed., is superseded by sections 753b and 753c of title 18, U.S.C., 1940 ed., which are incorporated in sections 4002, 4003 and 4042 of this title.

This section is rewritten to retain the intent of section 692 of title 18, U.S.C., 1940 ed., which was to insure a safekeeping of United States prisoners until their commitment or confinement in Federal penal institutions. The language conforms with that of said sections 692 and 753b.

Minor changes were made in phraseology.

CHAPTER 306—TRANSFER TO OR FROM FOREIGN COUNTRIES

Editorial Notes

AMENDMENTS

1988—Pub. L. 100–690, title VII, § 7101(c), Nov. 18, 1988, 102 Stat. 4415, added item 4106A.

§ 4100. Scope and limitation of chapter

(a) The provisions of this chapter relating to the transfer of offenders shall be applicable only when a treaty providing for such a transfer is in force, and shall only be applicable to transfers of offenders to and from a foreign country pursuant to such a treaty. A sentence imposed by a foreign country upon an offender who is subsequently transferred to the United States pursuant to a treaty shall be subject to being fully executed in the United States even though the treaty under which the offender was transferred is no longer in force.

(b) An offender may be transferred from the United States pursuant to this chapter only to a country of which the offender is a citizen or national. Only an offender who is a citizen or national of the United States may be transferred to the United States. An offender may be transferred to or from the United States only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in this chapter. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under eighteen years of age, or is deemed by the verifying officer to be mentally incompetent or otherwise incapable of knowingly and voluntarily consenting to the transfer, the transfer shall not be accomplished unless consent to the transfer be given by a parent or guardian, guardian ad litem, or by an appropriate court of the sentencing country. The appointment of a guardian ad litem shall be independent of the appointment of counsel under section 4109 of this title.

(c) An offender shall not be transferred to or from the United States if a proceeding by way of appeal or of collateral attack upon the conviction or sentence be pending.

(d) The United States upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or amnesty, or that there has been an ameliorating modification or a revocation of the sentence shall give the offender the benefit of the action taken by the sentencing country.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1212; amended Pub. L. 100–690, title VII, § 7101(e), Nov. 18, 1988, 102 Stat. 4416.)

Editorial Notes

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–690 inserted '', or is deemed by the verifying officer to be mentally incompetent or otherwise incapable of knowingly and voluntarily consenting to the transfer,'' after ''under eighteen years of age'', '', guardian ad litem,'' after ''guardian'', and ''The appointment of a guardian ad litem shall be independent of the appointment of counsel under section 4109 of this title.''

Statutory Notes and Related Subsidiaries

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95–144, § 5(a), Oct. 28, 1977, 91 Stat. 1221, provided that: ''There is authorized to be appropriated such funds as may be required to carry out the purposes of this Act [which enacted this chapter and sections 955 of Title 10, Armed Forces, and 2256 of Title 28, Judiciary and Judicial Procedure, amended section 636 of Title 28, and enacted provisions set out as notes under sections 3006A, 4100, and 4102 of this title]''.

PRISONER TRANSFER TREATIES

Pub. L. 104–208, div. C, title III, § 330, Sept. 30, 1996, 110 Stat. 3009–631, provided that:

''(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act [Sept. 30, 1996], bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

''(A) is a national of a country that is party to such a treaty; and

''(B) has been convicted of a criminal offense under Federal or State law and who—

''(i) is not in lawful immigration status in the United States, or

''(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation or removal under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.],

for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

''(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

''(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

''(1) the focus of negotiations for such agreements should be—

''(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

''(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

''(C) to eliminate any requirement of prisoner consent to such a transfer, and

''(D) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prisons [sic] sentences;

''(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

''(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

''(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

''(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act [Sept. 30, 1996], and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

''(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

''(A) Preventing of drug smuggling and other cross-border criminal activity.

''(B) Preventing illegal immigration.

''(C) Preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or the appropriate duty or tariff for which has not been paid).

''(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.]

§ 4101. Definitions

As used in this chapter the term—

(a) ''double criminality'' means that at the time of transfer of an offender the offense for which he has been sentenced is still an offense in the transferring country and is also an offense in the receiving country. With regard to a country which has a federal form of government, an act shall be deemed to be an offense in that country if it is an offense under the federal laws or the laws of any state or province thereof;

(b) ''imprisonment'' means a penalty imposed by a court under which the individual is confined to an institution;

(c) ''juvenile'' means—

(1) a person who is under eighteen years of age; or

(2) for the purpose of proceedings and disposition under chapter 403 of this title because of an act of juvenile delinquency, a person who is under twenty-one years of age;

(d) ''juvenile delinquency'' means—

(1) a violation of the laws of the United States or a State thereof or of a foreign country committed by a juvenile which would have been a crime if committed by an adult; or

(2) noncriminal acts committed by a juvenile for which supervision or treatment by juvenile authorities of the United States, a

State thereof, or of the foreign country concerned is authorized;

(e) ''offender'' means a person who has been convicted of an offense or who has been adjudged to have committed an act of juvenile delinquency;

(f) ''parole'' means any form of release of an offender from imprisonment to the community by a releasing authority prior to the expiration of his sentence, subject to conditions imposed by the releasing authority and to its supervision, including a term of supervised release pursuant to section 3583;

(g) ''probation'' means any form of a sentence under which the offender is permitted to remain at liberty under supervision and subject to conditions for the breach of which a penalty of imprisonment may be ordered executed;

(h) ''sentence'' means not only the penalty imposed but also the judgment of conviction in a criminal case or a judgment of acquittal in the same proceeding, or the adjudication of delinquency in a juvenile delinquency proceeding or dismissal of allegations of delinquency in the same proceedings;

(i) ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(j) ''transfer'' means a transfer of an individual for the purpose of the execution in one country of a sentence imposed by the courts of another country; and

(k) ''treaty'' means a treaty under which an offender sentenced in the courts of one country may be transferred to the country of which he is a citizen or national for the purpose of serving the sentence.

(Added Pub. L. 95–144, §1, Oct. 28, 1977, 91 Stat. 1213; amended Pub. L. 98–473, title II, §223(m)(1), Oct. 12, 1984, 98 Stat. 2029.)

Editorial Notes

AMENDMENTS

1984—Subsec. (f). Pub. L. 98–473 inserted ''including a term of supervised release pursuant to section 3583'' after ''supervision''.

Subsec. (g). Pub. L. 98–473 substituted ''under which'' for ''to a penalty of imprisonment the execution of which is suspended'' and ''a'' for ''the suspended'' before ''penalty''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4102. Authority of the Attorney General

The Attorney General is authorized—

(1) to act on behalf of the United States as the authority referred to in a treaty;

(2) to receive custody of offenders under a sentence of imprisonment, on parole, or on probation who are citizens or nationals of the United States transferred from foreign countries and as appropriate confine them in penal or correctional institutions, or assign them to the parole or probation authorities for supervision;

(3) to transfer offenders under a sentence of imprisonment, on parole, or on probation to the foreign countries of which they are citizens or nationals;

(4) to make regulations for the proper implementation of such treaties in accordance with this chapter and to make regulations to implement this chapter;

(5) to render to foreign countries and to receive from them the certifications and reports required to be made under such treaties;

(6) to make arrangements by agreement with the States for the transfer of offenders in their custody who are citizens or nationals of foreign countries to the foreign countries of which they are citizens or nationals and for the confinement, where appropriate, in State institutions of offenders transferred to the United States;

(7) to make agreements and establish regulations for the transportation through the territory of the United States of offenders convicted in a foreign country who are being transported to a third country for the execution of their sentences, the expenses of which shall be paid by the country requesting the transportation;

(8) to make agreements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of juveniles who are transferred pursuant to treaty, the expenses of which shall be paid by the country of which the juvenile is a citizen or national;

(9) in concert with the Secretary of Health, Education, and Welfare, to make arrangements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of individuals who are accused of an offense but who have been determined to be mentally ill; the expenses of which shall be paid by the country of which such person is a citizen or national;

(10) to designate agents to receive, on behalf of the United States, the delivery by a foreign government of any citizen or national of the United States being transferred to the United States for the purpose of serving a sentence imposed by the courts of the foreign country, and to convey him to the place designated by the Attorney General. Such agent shall have all the powers of a marshal of the United States in the several districts through which it may be necessary for him to pass with the offender, so far as such power is requisite for the offender's transfer and safekeeping; within the territory of a foreign country such agent shall have such powers as the authorities of the foreign country may accord him;

(11) to delegate the authority conferred by this chapter to officers of the Department of Justice.

(Added Pub. L. 95–144, §1, Oct. 28, 1977, 91 Stat. 1214.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

CERTIFICATION BY ATTORNEY GENERAL TO SECRETARY OF STATE FOR REIMBURSEMENT OF EXPENSES INCURRED UNDER TRANSFER TREATY

Pub. L. 95–144, § 5(b), Oct. 28, 1977, 91 Stat. 1221, provided that: ''The Attorney General shall certify to the Secretary of State the expenses of the United States related to the return of an offender to the foreign country of which the offender is a citizen or national for which the United States is entitled to seek reimbursement from that country under a treaty providing for transfer and reimbursement.''

§ 4103. Applicability of United States laws

All laws of the United States, as appropriate, pertaining to prisoners, probationers, parolees, and juvenile offenders shall be applicable to offenders transferred to the United States, unless a treaty or this chapter provides otherwise.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1215.)

§ 4104. Transfer of offenders on probation

(a) Prior to consenting to the transfer to the United States of an offender who is on probation, the Attorney General shall determine that the appropriate United States district court is willing to undertake the supervision of the offender.

(b) Upon the receipt of an offender on probation from the authorities of a foreign country, the Attorney General shall cause the offender to be brought before the United States district court which is to exercise supervision over the offender.

(c) The court shall place the offender under supervision of the probation officer of the court. The offender shall be supervised by a probation officer, under such conditions as are deemed appropriate by the court as though probation had been imposed by the United States district court.

(d) The probation may be revoked in accordance with section 3565 of this title and the applicable provisions of the Federal Rules of Criminal Procedure. A violation of the conditions of probation shall constitute grounds for revocation. If probation is revoked the suspended sentence imposed by the sentencing court shall be executed.

(e) The provisions of sections 4105 and 4106 of this title shall be applicable following a revocation of probation.

(f) Prior to consenting to the transfer from the United States of an offender who is on probation, the Attorney General shall obtain the assent of the court exercising jurisdiction over the probationer.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1215; amended Pub. L. 107–273, div. B, title IV, § 4002(e)(6), Nov. 2, 2002, 116 Stat. 1810.)

Editorial Notes

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–273 substituted ''section 3565 of this title and the applicable provisions of'' for ''section 3653 of this title and rule 32(f) of''.

§ 4105. Transfer of offenders serving sentence of imprisonment

(a) Except as provided elsewhere in this section, an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General shall remain in the custody of the Attorney General under the same conditions and for the same period of time as an offender who had been committed to the custody of the Attorney General by a court of the United States for the period of time imposed by the sentencing court.

(b) The transferred offender shall be given credit toward service of the sentence for any days, prior to the date of commencement of the sentence, spent in custody in connection with the offense or acts for which the sentence was imposed.

(c)(1) The transferred offender shall be entitled to all credits for good time, for labor, or any other credit toward the service of the sentence which had been given by the transferring country for time served as of the time of the transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits toward service of sentence for satisfactory behavior, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 3624(b) of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 3624(a) of this title.

(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 3624(b) of this title.

(3) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.

(4) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1215; amended Pub. L. 98–473, title II, § 223(m)(2), Oct. 12, 1984, 98 Stat. 2029.)

Editorial Notes

AMENDMENTS

1984—Subsec. (c)(1). Pub. L. 98–473 substituted ''toward service of sentence for satisfactory behavior'' for ''for good time'', ''3624(b)'' for ''4161'', and ''3624(a)'' for ''4164''.

Subsec. (c)(2). Pub. L. 98–473 substituted ''3624(b)'' for ''4161''.

Subsec. (c)(3), (4). Pub. L. 98–473 redesignated par. (4) as (3) and amended it generally, and struck out former par. (3). Prior to redesignation and amendment, former pars. (3) and (4) read as follows:

''(3) A transferred offender may earn extra good time deductions, as authorized in section 4162 of this title, from the time of transfer.

''(4) All credits toward service of the sentence, other than the credit for time in custody before sentencing, may be forfeited as provided in section 4165 of this title and may be restored by the Attorney General as provided in section 4166 of this title.''

Subsec. (c)(5). Pub. L. 98–473 redesignated par. (5) as (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4106. Transfer of offenders on parole; parole of offenders transferred

(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4215; and 4218[1] of this title shall be applicable.

(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

(d) This section shall apply only to offenses committed before November 1, 1987, and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1216; amended Pub. L. 98–473, title II, § 223(m)(3), Oct. 12, 1984, 98 Stat. 2029; Pub. L. 100–182, § 14, Dec. 7, 1987, 101 Stat. 1268; Pub. L. 100–690, title VII, § 7072(c), Nov. 18, 1988, 102 Stat. 4405.)

Editorial Notes

REFERENCES IN TEXT

Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4215; and 4218 of this title, referred to in subsec. (b), were repealed effective Nov. 1, 1987, by Pub. L. 98–473, title II, §§ 218(a)(5), 235(a)(1), (b)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, 2032, subject to remaining effective for five years after Nov. 1, 1987, in certain circumstances.

Section 235 of the Comprehensive Crime Control Act of 1984, referred to in subsec. (d), is set out as an Effective Date note under section 3551 of this title.

[1] See References in Text note below.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–690 substituted ''4215'' for ''4216''.

1987—Pub. L. 100–182 amended section generally. Prior to amendment, section read as follows:

''(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Probation System for supervision.

''(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence to a term of imprisonment under this subsection, and the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States has jurisdiction to review the period of imprisonment as though it had been imposed by the United States district court.''

1984—Subsec. (a). Pub. L. 98–473 substituted ''Probation System'' for ''Parole Commission''.

Subsec. (b). Pub. L. 98–473 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.''

Subsec. (c). Pub. L. 98–473 struck out subsec. (c) which read as follows: ''An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4106A. Transfer of offenders on parole; parole of offenders transferred

(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

(b)(1)(A) The United States Parole Commission shall, without unnecessary delay, determine a release date and a period and conditions of supervised release for an offender transferred to the United States to serve a sentence of imprisonment, as though the offender were convicted in a United States district court of a similar offense.

(B) In making such determination, the United States Parole Commission shall consider—

(i) any recommendation of the United States Probation Service, including any recommendation as to the applicable guideline range; and

(ii) any documents provided by the transferring country;

relating to that offender.

(C) The combined periods of imprisonment and supervised release that result from such determination shall not exceed the term of imprisonment imposed by the foreign court on that offender.

(D) The duties conferred on a United States probation officer with respect to a defendant by section 3552 of this title shall, with respect to an offender so transferred, be carried out by the United States Probation Service.

(2)(A) A determination by the United States Parole Commission under this subsection may be appealed to the United States court of appeals for the circuit in which the offender is imprisoned at the time of the determination of such Commission. Notice of appeal must be filed not later than 45 days after receipt of notice of such determination.

(B) The court of appeals shall decide and dispose of the appeal in accordance with section 3742 of this title as though the determination appealed had been a sentence imposed by a United States district court.

(3) During the supervised release of an offender under this subsection, the United States district court for the district in which the offender resides shall supervise the offender.

(c) This section shall apply only to offenses committed on or after November 1, 1987.

(Added Pub. L. 100–690, title VII, § 7101(a), Nov. 18, 1988, 102 Stat. 4415; amended Pub. L. 101–647, title XXXV, §§ 3599B, 3599C, Nov. 29, 1990, 104 Stat. 4931, 4932.)

Editorial Notes

AMENDMENTS

1990—Pub. L. 101–647, § 3599B, inserted ''of'' before second reference to ''offenders'' in section catchline.

Subsec. (b)(1)(C). Pub. L. 101–647, § 3599C, inserted period at end.

§ 4107. Verification of consent of offender to transfer from the United States

(a) Prior to the transfer of an offender from the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified by a United States magistrate judge or a judge as defined in section 451 of title 28, United States Code.

(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

(1) only the appropriate courts in the United States may modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in such courts;

(2) the sentence shall be carried out according to the laws of the country to which he is to be transferred and that those laws are subject to change;

(3) if a court in the country to which he is transferred should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of that country, he may be returned to the United States for the purpose of completing the sentence if the United States requests his return; and

(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1216; amended Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 4108. Verification of consent of offender to transfer to the United States

(a) Prior to the transfer of an offender to the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof, shall be verified in the country in which the sentence was imposed by a United States magistrate judge, or by a citizen specifically designated by a judge of the United States as defined in section 451 of title 28, United States Code. The designation of a citizen who is an employee or officer of a department or agency of the United States shall be with the approval of the head of that department or agency.

(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

(1) only the country in which he was convicted and sentenced can modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in that country;

(2) the sentence shall be carried out according to the laws of the United States and that those laws are subject to change;

(3) if a United States court should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of the United States, he may be returned to the

country which imposed the sentence for the purpose of completing the sentence if that country requests his return; and

(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

(Added Pub. L. 95–144, §1, Oct. 28, 1977, 91 Stat. 1217; amended Pub. L. 98–473, title II, §223(m)(4), Oct. 12, 1984, 98 Stat. 2030; Pub. L. 100–690, title VII, §7101(b), Nov. 18, 1988, 102 Stat. 4415; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

Editorial Notes

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–690 struck out ''including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 944(a)(1),'' after ''consequences thereof,''.

1984—Subsec. (a). Pub. L. 98–473 inserted '', including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1),'' after ''consequences thereof''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4109. Right to counsel, appointment of counsel

(a) In proceedings to verify consent of an offender for transfer, the offender shall have the right to advice of counsel. If the offender is financially unable to obtain counsel—

(1) counsel for proceedings conducted under section 4107 shall be appointed in accordance with section 3006A of this title. Such appointment shall be considered an appointment in a misdemeanor case for purposes of compensation under the Act;[1]

(2) counsel for proceedings conducted under section 4108 shall be appointed by the verifying officer pursuant to such regulations as may be prescribed by the Director of the Administrative Office of the United States Courts. The Secretary of State shall make payments of fees and expenses of the appointed counsel, in amounts approved by the verifying officer, which shall not exceed the amounts authorized under section 3006A of this title for representation in a misdemeanor case. Payment in excess of the maximum amount authorized may be made for extended or complex representation whenever the verifying officer certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the chief judge of the United States court of appeals for the appropriate circuit. Counsel from other agencies in any branch of the Government may be appointed: *Provided*, That in such cases the Secretary of State shall pay counsel directly, or reimburse the employing agency for travel and transportation expenses. Notwithstanding section 3324(a) and (b) of title 31, the Secretary may make advance payments of travel and transportation expenses to counsel appointed under this subsection.

(b) Guardians ad litem appointed by the verifying officer under section 4100 of this title to represent offenders who are financially unable to provide for compensation and travel expenses of the guardian ad litem shall be compensated and reimbursed under subsection (a)(1) of this section.

(c) The offender shall have the right to advice of counsel in proceedings before the United States Parole Commission under section 4106A of this title and in an appeal from a determination of such Commission under such section. If the offender is financially unable to obtain counsel, counsel for such proceedings and appeal shall be appointed under section 3006A of this title.

(Added Pub. L. 95–144, §1, Oct. 28, 1977, 91 Stat. 1218; amended Pub. L. 97–258, §3(e)(2), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 100–690, title VII, §7101(d), Nov. 18, 1988, 102 Stat. 4416; Pub. L. 101–647, title XXXV, §3598, Nov. 29, 1990, 104 Stat. 4931.)

Editorial Notes

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647 substituted ''section 3006A of this title'' for ''the Criminal Justice Act (18 U.S.C. 3006A)'' in par. (1) and for ''the Criminal Justice Act (18 U.S.C. 3006(a))'' in par. (2).

1988—Pub. L. 100–690 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1982—Par. (2). Pub. L. 97–258 substituted ''section 3324(a) and (b) of title 31'' for ''section 3648 of the Revised Statutes as amended (31 U.S.C. 529)''.

[1] So in original. Probably should be ''section 3006A of this title;''. See 1990 Amendment note below.

§ 4110. Transfer of juveniles

An offender transferred to the United States because of an act which would have been an act of juvenile delinquency had it been committed in the United States or any State thereof shall be subject to the provisions of chapter 403 of this title except as otherwise provided in the relevant treaty or in an agreement pursuant to such treaty between the Attorney General and the authority of the foreign country.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1218.)

§ 4111. Prosecution barred by foreign conviction

An offender transferred to the United States shall not be detained, prosecuted, tried, or sentenced by the United States, or any State thereof for any offense the prosecution of which would have been barred if the sentence upon which the transfer was based had been by a court of the jurisdiction seeking to prosecute the transferred offender, or if prosecution would have been barred by the laws of the jurisdiction seeking to prosecute the transferred offender if the sentence on which the transfer was based had been issued by a court of the United States or by a court of another State.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1218.)

§ 4112. Loss of rights, disqualification

An offender transferred to the United States to serve a sentence imposed by a foreign court shall not incur any loss of civil, political, or civic rights nor incur any disqualification other than those which under the laws of the United States or of the State in which the issue arises would result from the fact of the conviction in the foreign country.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1218.)

§ 4113. Status of alien offender transferred to a foreign country

(a) An alien who is deportable from the United States but who has been granted voluntary departure pursuant to section 240B of the Immigration and Nationality Act and who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have voluntarily departed from this country.

(b) An alien who is the subject of an order of removal from the United States pursuant to section 240 of the Immigration and Nationality Act who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been removed from this country.

(c) An alien who is the subject of an order of removal from the United States pursuant to section 240 of the Immigration and Nationality Act, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and removed from the United States.

(Added Pub. L. 95–144, § 1, Oct. 28, 1977, 91 Stat. 1219; amended Pub. L. 104–208, div. C, title III, § 308(d)(4)(U), (e)(1)(Q), (2)(I), (g)(3)(B), (5)(A)(iv), Sept. 30, 1996, 110 Stat. 3009–619, 3009–620, 3009–622, 3009–623.)

Editorial Notes

REFERENCES IN TEXT

Section 240B of the Immigration and Nationality Act, referred to in subsec. (a), is classified to section 1229c of Title 8, Aliens and Nationality.

Section 240 of the Immigration and Nationality Act, referred to in subsecs. (b) and (c), is classified to section 1229a of Title 8.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–208, § 308(g)(5)(A)(iv)(I), substituted ''section 240B of the Immigration and Nationality Act'' for ''section 1252(b) or section 1254(e) of title 8, United States Code,''.

Subsec. (b). Pub. L. 104–208, § 308(g)(5)(A)(iv)(II), substituted ''section 240 of the Immigration and Nationality Act'' for ''section 1252 of title 8, United States Code,''.

Pub. L. 104–208, § 308(e)(1)(Q), (2)(I), substituted ''removal'' for ''deportation'' and ''removed'' for ''deported''.

Subsec. (c). Pub. L. 104–208, § 308(g)(3)(B), substituted ''240 of the Immigration and Nationality Act'' for ''1226 of title 8, United States Code''.

Pub. L. 104–208, § 308(d)(4)(U), (e)(2)(I), substituted ''removal'' for ''exclusion and deportation'' and ''removed'' for ''deported''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

§ 4114. Return of transferred offenders

(a) Upon a final decision by the courts of the United States that the transfer of the offender to the United States was not in accordance with the treaty or the laws of the United States and ordering the offender released from serving the sentence in the United States the offender may be returned to the country from which he was transferred to complete the sentence if the country in which the sentence was imposed requests his return. The Attorney General shall notify the appropriate authority of the country which imposed the sentence, within ten days, of a final decision of a court of the United States ordering the offender released. The notification shall specify the time within which the sentencing country must request the return of the offender which shall be no longer than thirty days.

(b) Upon receiving a request from the sentencing country that the offender ordered released be returned for the completion of his sentence, the Attorney General may file a complaint for the return of the offender with any justice or judge of the United States or any authorized magistrate judge within whose jurisdiction the offender is found. The complaint shall be upon oath and supported by affidavits establishing that the offender was convicted and sentenced by the courts of the country to which his return is requested; the offender was transferred to the United States for the execution of his sentence; the offender was ordered released by a court of the United States before he had completed his sentence because the transfer of the offender was not in accordance with the treaty

or the laws of the United States; and that the sentencing country has requested that he be returned for the completion of the sentence. There shall be attached to the complaint a copy of the sentence of the sentencing court and of the decision of the court which ordered the offender released.

A summons or a warrant shall be issued by the justice, judge or magistrate judge ordering the offender to appear or to be brought before the issuing authority. If the justice, judge, or magistrate judge finds that the person before him is the offender described in the complaint and that the facts alleged in the complaint are true, he shall issue a warrant for commitment of the offender to the custody of the Attorney General until surrender shall be made. The findings and a copy of all the testimony taken before him and of all documents introduced before him shall be transmitted to the Secretary of State, that a Return Warrant may issue upon the requisition of the proper authorities of the sentencing country, for the surrender of offender.

(c) A complaint referred to in subsection (b) must be filed within sixty days from the date on which the decision ordering the release of the offender becomes final.

(d) An offender returned under this section shall be subject to the jurisdiction of the country to which he is returned for all purposes.

(e) The return of an offender shall be conditioned upon the offender being given credit toward service of the sentence for the time spent in the custody of or under the supervision of the United States.

(f) Sections 3186, 3188 through 3191, and 3195 of this title shall be applicable to the return of an offender under this section. However, an offender returned under this section shall not be deemed to have been extradited for any purpose.

(g) An offender whose return is sought pursuant to this section may be admitted to bail or be released on his own recognizance at any stage of the proceedings.

(Added Pub. L. 95–144, §1, Oct. 28, 1977, 91 Stat. 1219; amended Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' wherever appearing in subsec. (b) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 4115. Execution of sentences imposing an obligation to make restitution or reparations

If in a sentence issued in a penal proceeding of a transferring country an offender transferred to the United States has been ordered to pay a sum of money to the victim of the offense for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be transmitted through diplomatic channels to the treaty authority of the transferring country for distribution to the victim.

(Added Pub. L. 95–144, §1, Oct. 28, 1977, 91 Stat. 1220.)

CHAPTER 307—EMPLOYMENT

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–391, title VI, §605(b), Dec. 21, 2018, 132 Stat. 5242, added item 4130.

1990—Pub. L. 101–647, title XXXV, §3599A, Nov. 29, 1990, 104 Stat. 4931, substituted ''Fund'' for ''fund'' in item 4126.

1988—Pub. L. 100–690, title VII, §7093(b), Nov. 18, 1988, 102 Stat. 4412, added item 4129.

§ 4121. Federal Prison Industries; board of directors

''Federal Prison Industries'', a government corporation of the District of Columbia, shall be administered by a board of six directors, appointed by the President to serve at the will of the President without compensation.

The directors shall be representatives of (1) industry, (2) labor, (3) agriculture, (4) retailers and consumers, (5) the Secretary of Defense, and (6) the Attorney General, respectively.

(June 25, 1948, ch. 645, 62 Stat. 851; May 24, 1949, ch. 139, §62, 63 Stat. 98.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§744i, 744j (June 23, 1934, ch. 736, §§1, 2, 48 Stat. 1211).

Section consolidates sections 744i and 744j of title 18, U.S.C., 1940 ed. The former was rewritten omitting unnecessary recital as to policy and expressing the original language of the two sections more logically.

Changes were made in transportation and phraseology.

1949 ACT

This section [section 62] incorporates in section 4121 of title 18, U.S.C., with changes in phraseology, the provisions of section 3 of act of June 29, 1948 (ch. 719, 62 Stat. 1100), which was enacted subsequent to the enactment of the revision of title 18 and which provided for appointment of an additional member of the board of directors of the Federal Prison Industries, as a representative of the Secretary of Defense.

Editorial Notes

AMENDMENTS

1949—Act May 24, 1949, made a representative of the Secretary of Defense a member of the board of directors.

Statutory Notes and Related Subsidiaries

MANDATORY WORK REQUIREMENT FOR ALL PRISONERS

Pub. L. 101–647, title XXIX, § 2905, Nov. 29, 1990, 104 Stat. 4914, provided that:

''(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted inmates confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved.

''(2) A Federal prisoner may be excused from the requirement to work only as necessitated by—

''(A) security considerations;

''(B) disciplinary action;

''(C) medical certification of disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

''(D) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.''

CLOSURE OF MCNEIL ISLAND PENITENTIARY; REPORT ON STATUS OF FEDERAL PRISON INDUSTRIES

Pub. L. 95–624, § 10, Nov. 9, 1978, 92 Stat. 3463, required the Attorney General, on or before Sept. 1, 1979, to submit to Congress a plan to close the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before Jan. 1, 1982, and a report on the status of the Federal Prison Industries, including a long-range plan for the improvement of meaningful employment training.

Executive Documents

TRANSFER OF FUNCTIONS

Federal Prison Industries, Inc. (together with its Board of Directors), and its functions transferred to Department of Justice to be administered under general direction and supervision of Attorney General, by Reorg. Plan No. II of 1939, § 3(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431, set out in the Appendix to Title 5, Government Organization and Employees. See, also, Reorg. Plan No. 2 of 1950, § 1, eff. May 1, 1950, 15 F.R. 3173, 64 Stat. 1261, and section 509 of Title 28, Judiciary and Judicial Procedure.

§ 4122. Administration of Federal Prison Industries

(a) Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to the departments or agencies of the United States, but not for sale to the public in competition with private enterprise.

(b)(1) Its board of directors shall provide employment for the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible, diversify, so far as practicable, prison industrial operations and so operate the prison shops that no single private industry shall be forced to bear an undue burden of competition from the products of the prison workshops, and to reduce to a minimum competition with private industry or free labor.

(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible.

(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation. Before the board of directors makes a final decision, the corporation shall do the following:

(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

(iii) the size of the Federal Government and non-Federal Government markets for the product;

(iv) the projected growth in the Federal Government demand for the product; and

(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

(B) The corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or expanded production.

(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

(D) The corporation shall provide to the board of directors—

(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product,

(ii) comments submitted to the corporation on the proposal, and

(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or

other representatives to present comments directly to the board of directors on the proposal.

(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-month period. Such list shall be made available to all interested parties.

(c) Its board of directors may provide for the vocational training of qualified inmates without regard to their industrial or other assignments.

(d)(1) The provisions of this chapter shall apply to the industrial employment and training of prisoners convicted by general courts-martial and confined in any institution under the jurisdiction of any department or agency comprising the Department of Defense, to the extent and under terms and conditions agreed upon by the Secretary of Defense, the Attorney General and the Board of Directors of Federal Prison Industries.

(2) Any department or agency of the Department of Defense may, without exchange of funds, transfer to Federal Prison Industries any property or equipment suitable for use in performing the functions and duties covered by agreement entered into under paragraph (1) of this subsection.

(e)(1) The provisions of this chapter shall apply to the industrial employment and training of prisoners confined in any penal or correctional institution under the direction of the Commissioner of the District of Columbia to the extent and under terms and conditions agreed upon by the Commissioner, the Attorney General, and the Board of Directors of Federal Prison Industries.

(2) The Commissioner of the District of Columbia may, without exchange of funds, transfer to the Federal Prison Industries any property or equipment suitable for use in performing the functions and duties covered by an agreement entered into under subsection (e)(1) of this section.

(3) Nothing in this chapter shall be construed to affect the provisions of the Act approved October 3, 1964 (D.C. Code, sections 24–451 et seq.), entitled ''An Act to establish in the Treasury a correctional industries fund for the government of the District of Columbia, and for other purposes.''

(June 25, 1948, ch. 645, 62 Stat. 851; May 24, 1949, ch. 139, § 63, 63 Stat. 98; Oct. 31, 1951, ch. 655, § 31, 65 Stat. 722; Pub. L. 90–226, title VIII, § 802, Dec. 27, 1967, 81 Stat. 741; Pub. L. 100–690, title VII, § 7096, Nov. 18, 1988, 102 Stat. 4413.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 744a, 744c, 744k (May 27, 1930, ch. 340, §§ 1, 3, 46 Stat. 391; June 23, 1934, ch. 736, § 3, 48 Stat. 1211).

Section consolidates sections 744a, part of 744c, and 744k of title 18, U.S.C., 1940 ed., with such changes of phraseology as were necessary to effect the consolidation.

Provisions in section 744k of title 18, U.S.C., 1940 ed., for transfer of duties to the corporation was omitted as executed.

Other provisions of said section 744c of title 18, U.S.C., 1940 ed., form section 4123 of this title.

Changes were made in phraseology.

1949 ACT

Subsection (c) of section 4122 of title 18, U.S.C., as added by this amendment [see section 63], incorporates provisions of act of May 11, 1948 (ch. 276, 62 Stat. 230), which was not incorporated in title 18 when the revision was enacted. The remainder of such act is incorporated in section 4126 of such title by another section of this bill.

Subsections (d) and (e) of such section 4122, added by this amendment [see section 63], incorporate, with changes in phraseology, the provisions of sections 1 and 2 of act of June 29, 1948 (ch. 719, 62 Stat. 1100), extending the functions and duties of Federal Prisons Industries, Incorporated, to military disciplinary barracks. Section 3 of such act is incorporated in section 4121 of such title by another section of this bill, and section 4 of such act is classified to section 1621a of title 50, U.S.C., Appendix, War and National Defense.

Editorial Notes

REFERENCES IN TEXT

The Act approved October 3, 1964 (D.C. Code, sections 24–451 et seq.), entitled ''An Act to establish in the Treasury a correctional institution industries fund for the government of the District of Columbia, and for other purposes'', referred to in subsec. (e)(3), is Pub. L. 88–622, Oct. 3, 1964, 78 Stat. 1000.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–690 designated existing provisions as par. (1), substituted ''the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible'' for ''all physically fit inmates in the United States penal and correctional institutions'', and added pars. (2) to (6).

1967—Subsec. (d). Pub. L. 90–226, § 802(1), (2), designated existing provisions of subsec. (d) as par. (1) thereof, designated existing provisions of subsec. (e) as par. (2) of subsec. (d), and substituted reference to par. (1) of this subsection for reference to subsec. (d) of this section.

Subsec. (e). Pub. L. 90–226, § 802(3), added subsec. (e). Former subsec. (e) redesignated (d)(2).

1951—Subsecs. (d), (e). Act Oct. 31, 1951, substituted ''Department of Defense'' for ''National Military Establishment''.

1949—Act May 24, 1949, designated existing first two pars. as subsecs. (a) and (b), respectively, and added subsecs. (c) to (e).

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

Office of Commissioner of District of Columbia, as established by Reorg. Plan No. 3 of 1967, abolished as of noon Jan. 2, 1975, by Pub. L. 93–198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by Office of Mayor of District of Columbia by section 421 of Pub. L. 93–198.

UTILIZATION OF SURPLUS PROPERTY

Act June 29, 1948, ch. 719, § 4, 62 Stat. 1100, provided that: ''For its own use in the industrial employment and training of prisoners and not for transfer or disposition, transfers of surplus property under the Surplus Property Act of 1944 [former sections 1611 to 1646 of the former Appendix to Title 50, War and National Defense], may be made to Federal Prison Industries, Incorporated, without reimbursement or transfer of funds.''

§ 4123. New industries

Any industry established under this chapter shall be so operated as not to curtail the production of any existing arsenal, navy yard, or other Government workshop.

Such forms of employment shall be provided as will give the inmates of all Federal penal and correctional institutions a maximum opportunity to acquire a knowledge and skill in trades and occupations which will provide them with a means of earning a livelihood upon release.

The industries may be either within the precincts of any penal or correctional institution or in any convenient locality where an existing property may be obtained by lease, purchase, or otherwise.

(June 25, 1948, ch. 645, 62 Stat. 851.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 744c (May 27, 1930, ch. 340, § 3, 46 Stat. 391).

A part of said section 744c of title 18, U.S.C., 1940 ed., is incorporated in section 4122 of this title.

References to the Attorney General were omitted because section 744k of title 18, U.S.C., 1940 ed., as originally enacted, provided for the transfer to Federal Prison Industries of the powers and duties then vested in the Attorney General.

References to ''this chapter'' were substituted for ''this section'' since the general authority to establish and supervise prison industries is contained in this chapter.

Minor changes of phraseology were made.

§ 4124. Purchase of prison-made products by Federal departments

(a) The several Federal departments and agencies and all other Government institutions of the United States shall purchase at not to exceed current market prices, such products of the industries authorized by this chapter as meet their requirements and may be available.

(b) Disputes as to the price, quality, character, or suitability of such products shall be arbitrated by a board consisting of the Attorney General, the Administrator of General Services, and the President, or their representatives. Their decision shall be final and binding upon all parties.

(c) Each Federal department, agency, and institution subject to the requirements of subsection (a) shall separately report acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 1122(a)(4) of title 41) in the same manner as it reports other acquisitions. Each report published by the Federal Procurement Data System that contains the information collected by the System shall include a statement to accompany the information reported by the department, agency, or institution under the preceding sentence as follows: ''Under current law, sales by Federal Prison Industries are considered intragovernmental transfers. The purpose of reporting sales by Federal Prison Industries is to provide a complete overview of acquisitions by the Federal Government during the reporting period.''.

(d) Within 90 days after the date of the enactment of this subsection, Federal Prison Industries shall publish a catalog of all products and services which it offers for sale. This catalog shall be updated periodically to the extent necessary to ensure that the information in the catalog is complete and accurate.

(June 25, 1948, ch. 645, 62 Stat. 851; Oct. 31, 1951, ch. 655, § 32, 65 Stat. 723; Pub. L. 98–216, § 3(b)(2), Feb. 14, 1984, 98 Stat. 6; Pub. L. 101–647, title XXIX, § 2901, Nov. 29, 1990, 104 Stat. 4912; Pub. L. 102–564, title III, § 303(b), Oct. 28, 1992, 106 Stat. 4262; Pub. L. 104–316, title I, § 109(b), Oct. 19, 1996, 110 Stat. 3832; Pub. L. 111–350, § 5(d)(2), Jan. 4, 2011, 124 Stat. 3847.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 744g (May 27, 1930, ch. 340, § 7, 46 Stat. 392).

The revised section substituted the Director of the Bureau of Federal Supply of the Treasury Department for the General Supply Committee, the functions of the latter having been transferred to the Procurement Division of the Treasury Department by Executive Order No. 6166, § 1, June 10, 1933, and the name of that unit having been changed to Bureau of Federal Supply by order of the Secretary of the Treasury effective January 1, 1947, 11 Federal Register No. 13,638. The Bureau of the Budget was substituted for the Bureau of Efficiency which was abolished by Act of March 3, 1933, ch. 212, § 17, 47 Stat. 1519, without transferring its functions elsewhere. However, the Bureau of the Budget performs similar duties and its Director logically should serve on the arbitration board.

Reference to authority for appropriations was omitted and words ''by this chapter'' substituted therefor.

The word ''agencies'' was substituted for ''independent establishments'' to avoid any possibility of ambiguity. See definition of ''agency'' in section 6 of this title.

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (d), is the date of enactment of Pub. L. 101–647, which was approved Nov. 29, 1990.

AMENDMENTS

2011—Subsec. (c). Pub. L. 111–350 substituted ''section 1122(a)(4) of title 41'' for ''section 6(d)(4) of the Office of Federal Procurement Policy Act''.

1996—Subsec. (b). Pub. L. 104–316 substituted ''Attorney General'' for ''Comptroller General of the United States''.

1992—Subsec. (c). Pub. L. 102–564 substituted ''acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions'' for ''to the General Services Administration all of its acquisitions of products and services from Federal Prison Industries, and that reported information shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act''.

1990—Pub. L. 101–647 designated first and second pars. as subsecs. (a) and (b), respectively, and added subsecs. (c) and (d).

1984—Pub. L. 98–216 substituted ''President'' for ''Director of the Bureau of the Budget'' in second par.

1951—Act Oct. 31, 1951, substituted ''Administrator of General Services'' for ''Director of the Bureau of Federal Supply, Department of the Treasury'' in second par.

Statutory Notes and Related Subsidiaries

AGENCY PURCHASE OF FEDERAL PRISON INDUSTRIES PRODUCTS OR SERVICES

Pub. L. 108–447, div. H, title VI, § 637, Dec. 8, 2004, 118 Stat. 3281, provided that: ''None of the funds made available under this or any other Act for fiscal year 2005 and each fiscal year thereafter shall be expended for the purchase of a product or service offered by Federal Prison Industries, Inc., unless the agency making such purchase determines that such offered product or service provides the best value to the buying agency pursuant to governmentwide procurement regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Act ([former] 41 U.S.C. 421(c)(1)) [now 41 U.S.C. 1303(a)(1)] that impose procedures, standards, and limitations of section 2410n of title 10, United States Code [now 10 U.S.C. 3905].''

Similar provisions were contained in the following prior appropriations act:

Pub. L. 108–199, div. F, title VI, § 637, Jan. 23, 2004, 118 Stat. 358.

PURCHASES BY CENTRAL INTELLIGENCE AGENCY OF PRODUCTS OF FEDERAL PRISON INDUSTRIES

Pub. L. 108–177, title IV, § 404, Dec. 13, 2003, 117 Stat. 2632, as amended by Pub. L. 108–458, title I, § 1071(g)(3)(C), Dec. 17, 2004, 118 Stat. 3692, provided that: ''Notwithstanding section 4124 of title 18, United States Code, purchases by the Central Intelligence Agency from Federal Prison Industries shall be made only if the Director of the Central Intelligence Agency determines that the product or service to be purchased from Federal Prison Industries best meets the needs of the Agency.''

§ 4125. Public works; prison camps

(a) The Attorney General may make available to the heads of the several departments the services of United States prisoners under terms, conditions, and rates mutually agreed upon, for constructing or repairing roads, clearing, maintaining and reforesting public lands, building levees, and constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated by Congress.

(b) The Attorney General may establish, equip, and maintain camps upon sites selected by him elsewhere than upon Indian reservations, and designate such camps as places for confinement of persons convicted of an offense against the laws of the United States.

(c) The expenses of transferring and maintaining prisoners at such camps and of operating such camps shall be paid from the appropriation ''Support of United States prisoners'', which may, in the discretion of the Attorney General, be reimbursed for such expenses.

(d) As part of the expense of operating such camps the Attorney General is authorized to provide for the payment to the inmates or their dependents such pecuniary earnings as he may deem proper, under such rules and regulations as he may prescribe.

(e) All other laws of the United States relating to the imprisonment, transfer, control, discipline, escape, release of, or in any way affecting prisoners, shall apply to prisoners transferred to such camps.

(June 25, 1948, ch. 645, 62 Stat. 852.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 744b, 851, 853, 854, 855 (Feb. 26, 1929, ch. 336, §§ 1, 3, 4, 5, 45 Stat. 1318; May 27, 1930, ch. 340, § 2, 46 Stat. 391).

Section consolidates section 744b of title 18, U.S.C., 1940 ed., with those portions of sections 851, 853–855 of title 18, U.S.C., 1940 ed., which may not have been superseded by section 744b of said title.

Section 851 of title 18, U.S.C., 1940 ed., was superseded except for the proviso which formed the basis for the added words ''elsewhere than upon Indian reservations''.

Section 855 of title 18, U.S.C., 1940 ed., was superseded by section 744b of title 18, U.S.C., 1940 ed., except as to the specific mention in section 855 of said title of expense for maintenance and operation of camps. Hence a reference to operation was added in subsection (c) of this section.

Section 854 of title 18, U.S.C., 1940 ed., was added as a part of subsection (c).

Section 853 of title 18, U.S.C., 1940 ed., was added as subsection (d) of this section, although its retention may be unnecessary.

The phrase ''the cost of which is borne exclusively by the United States'' which followed the words ''constructing or repairing roads'' was omitted as inconsistent with the later phrase ''constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated from the Treasury of the United States.''

The provision for transfer of prisoners was omitted as duplicitous of a similar provision in section 4082 of this title.

Other changes of phraseology were made.

§ 4126. Prison Industries Fund; use and settlement of accounts

(a) All moneys under the control of Federal Prison Industries, or received from the sale of the products or by-products of such Industries, or for the services of federal prisoners, shall be deposited or covered into the Treasury of the United States to the credit of the Prison Industries Fund and withdrawn therefrom only pursuant to accountable warrants or certificates of settlement issued by the Government Accountability Office.

(b) All valid claims and obligations payable out of said fund shall be assumed by the corporation.

(c) The corporation, in accordance with the laws generally applicable to the expenditures of the several departments, agencies, and establishments of the Government, is authorized to employ the fund, and any earnings that may accrue to the corporation—

(1) as operating capital in performing the duties imposed by this chapter;

(2) in the lease, purchase, other acquisition, repair, alteration, erection, and maintenance of industrial buildings and equipment;

(3) in the vocational training of inmates without regard to their industrial or other assignments;

(4) in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, not less than 15 percent of such compensation for any inmate shall be reserved in the fund or a separate account and made available to assist the inmate with costs associated with release from prison, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution in which the inmates are confined.

In no event may compensation for such injuries be paid in an amount greater than that provided in chapter 81 of title 5.

(d) Accounts of all receipts and disbursements of the corporation shall be rendered to the Government Accountability Office for settlement and adjustment, as required by the Comptroller General.

(e) Such accounting shall include all fiscal transactions of the corporation, whether involving appropriated moneys, capital, or receipts from other sources.

(f) Funds available to the corporation may be used for the lease, purchase, other acquisition, repair, alteration, erection, or maintenance of facilities only to the extent such facilities are necessary for the industrial operations of the corporation under this chapter. Such funds may not be used for the construction or acquisition of penal or correctional institutions, including camps described in section 4125.

(June 25, 1948, ch. 645, 62 Stat. 852; May 24, 1949, ch. 139, § 64, 63 Stat. 99; Pub. L. 87–317, Sept. 26, 1961, 75 Stat. 681; Pub. L. 100–690, title VII, § 7094, Nov. 18, 1988, 102 Stat. 4412; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 115–391, title VI, § 605(c), Dec. 21, 2018, 132 Stat. 5242.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §§ 744d, 744e, 744f, 744*l* (May 27, 1930, ch. 340, §§ 4–6, 46 Stat. 391, 392; June 23, 1934, ch. 736, § 4, 48 Stat. 1211).

This section is a restatement of section 744*l* of title 18, U.S.C., 1940 ed., with which sections 744d and 744f and the first sentence of section 744e of title 18, U.S.C., 1940 ed., are consolidated, in view of the fact that those provisions have been superseded by section 744*l* of title 18, U.S.C., 1940 ed., in connection with other provisions of the act of June 23, 1934, ch. 736, 48 Stat. 1211.

The first sentence of section 744*l* of title 18, U.S.C., 1940 ed., authorizing replacement of the prison industries working capital fund by the prison industries fund was omitted, as executed. That provision superseded section 744d of title 18, U.S.C., 1940 ed., which authorized creation of the prison industries working capital fund and the first sentence of section 744e of title 18, U.S.C., 1940 ed., directing that certain funds should be credited to the consolidated prison industries working capital fund.

The phrase ''or received from the sale of the products or by-products of such Industries, or for the services of Federal prisoners,'' was inserted to make the first paragraph of this section complete, and required the Federal Prison Industries to account for all moneys under its control.

The words ''in the repair, alteration, erection and maintenance of industrial buildings and equipment'' and ''under rules and regulations promulgated by the Attorney General in paying compensation to inmates employed in any industry, or performing outstanding services in industrial operations'' were inserted in part to conform to administrative construction, and in part to provide greater flexibility in the operation of Prison Industries. Much friction was caused by the inability of Prison Industries to compensate inmates whose services in operating the utilities of the institution were most necessary but which were uncompensated while those prisoners who worked in the Industries received compensation. This inequitable situation is corrected by the revised section.

The words ''in performing the duties imposed by this chapter'' were substituted for the words ''for the purposes enumerated in sections 744a–744h of this title,'' since the provisions with regard to prison industries now appear in this chapter. The general provisions as to use of the fund supersede the more specific provisions of section 744f of said title (enacted earlier).

A reference to the Federal Employees' Compensation Act as appeared in the 1934 act was substituted for the reference to specific sections of title 5. The word ''law'' was substituted for the reference to sections in title 31 since translation of the reference in the 1934 act was not practicable.

Remaining provisions of said section 744e of title 18, U.S.C., 1940 ed., relating to authorization of appropriations, were omitted as unnecessary.

Other changes in phraseology were made.

1949 ACT

This section [section 64] incorporates in section 4126 of title 18, U.S.C., provisions of act of May 11, 1948 (ch. 276, 62 Stat. 230), which was not incorporated in title 18 when the revision was enacted. The remainder of such act is incorporated in section 4122 of such title by another section of this bill.

Editorial Notes

AMENDMENTS

2018—Subsec. (c)(4). Pub. L. 115–391 inserted ''not less than 15 percent of such compensation for any inmate shall be reserved in the fund or a separate account and made available to assist the inmate with costs associated with release from prison,'' after ''operations,''.

2004—Subsecs. (a), (d). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1988—Subsecs. (a), (b). Pub. L. 100–690, § 7094(1), designated first and second pars. as subsecs. (a) and (b), respectively.

Subsec. (c). Pub. L. 100–690, § 7094(1), (2), designated third par. as subsec. (c) and amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The corporation, in accordance with the laws generally applicable to the expenditures of the several departments and establishments of the government, is authorized to employ the fund, and any earnings that may accrue to the corporation, as operating capital in performing the duties imposed by this chapter; in the repair, alteration, erection and maintenance of industrial buildings and equipment; in the vocational training of inmates without regard to their industrial or other assignments; in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution where confined. In no event shall compensation be paid in a greater amount than that provided in the Federal Employees' Compensation Act.''

Subsecs. (d), (e). Pub. L. 100–690, § 7094(1), designated fourth and fifth pars. as subsecs. (d) and (e), respectively.

Subsec. (f). Pub. L. 100–690, § 7094(3), added subsec. (f).

1961—Pub. L. 87–317 authorized compensation for injuries to inmates incurred while working in connection with the maintenance or operation of the institution where confined.

1949—Act May 24, 1949, inserted ''in the vocational training of inmates without regard to their industrial or other assignments;'' after second semicolon in third par.

§ 4127. Prison Industries report to Congress

The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year. Such

report shall include a statement of the amount of obligations issued under section 4129(a)(1) during such fiscal year, and an estimate of the amount of obligations that will be so issued in the following fiscal year.

(June 25, 1948, ch. 645, 62 Stat. 852; Pub. L. 100–690, title VII, §7095, Nov. 18, 1988, 102 Stat. 4413.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §744m (June 23, 1934, ch. 736, §5, 48 Stat. 1212).

Words ''of Federal Prison Industries'' were inserted after ''board of directors''.

Minor changes were made in phraseology.

Editorial Notes

AMENDMENTS

1988—Pub. L. 100–690 amended section generally. Prior to amendment, section read as follows: ''The board of directors of Federal Prison Industries shall make annual reports to Congress on the conduct of the business of the corporation and on the condition of its funds.''

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 117 of House Document No. 103–7.

§ 4128. Enforcement by Attorney General

In the event of any failure of Federal Prison Industries to act, the Attorney General shall not be limited in carrying out the duties conferred upon him by law.

(June 25, 1948, ch. 645, 62 Stat. 853.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §744n (June 23, 1934, ch. 736, §6, 48 Stat. 1212).

Phrase relating to section being ''supplemental'' to sections 744i–744h of title 18, U.S.C., 1940 ed., is omitted as unnecessary.

Retention of remainder of section is essential to insure authority of Attorney General to require performance of duties of Prison Industries. (See sections 4001 and 4003 of this title.) This is also consistent with 1939 Reorganization Plan No. II, §3(a), transferring the corporation to the Department of Justice ''under the general direction and supervision of the Attorney General''. (See section 133t of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees.)

Words ''Federal Prison Industries'' were substituted for ''the corporation''.

§ 4129. Authority to borrow and invest

(a)(1) As approved by the board of directors, Federal Prison Industries, to such extent and in such amounts as are provided in appropriations Acts, is authorized to issue its obligations to the Secretary of the Treasury, and the Secretary of the Treasury, in the Secretary's discretion, may purchase or agree to purchase any such obligations, except that the aggregate amount of obligations issued by Federal Prison Industries under this paragraph that are outstanding at any time may not exceed 25 percent of the net worth of the corporation. For purchases of such obligations by the Secretary of the Treasury, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after the date of the enactment of this section, and the purposes for which securities may be issued under that chapter are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. For purposes of the first sentence of this paragraph, the net worth of Federal Prison Industries is the amount by which its assets (including capital) exceed its liabilities.

(2) The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(b) Federal Prison Industries may request the Secretary of the Treasury to invest excess moneys from the Prison Industries Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the corporation as determined by the board of directors, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(Added Pub. L. 100–690, title VII, §7093(a), Nov. 18, 1988, 102 Stat. 4411.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 100–690 which was approved Nov. 18, 1988.

§ 4130. Additional markets

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other provision of law, Federal Prison Industries may sell products to—

(1) public entities for use in penal or correctional institutions;

(2) public entities for use in disaster relief or emergency response;

(3) the government of the District of Columbia; and

(4) any organization described in subsection (c)(3), (c)(4), or (d) of section 501 of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code.

(b) OFFICE FURNITURE.—Federal Prison Industries may not sell office furniture to the organizations described in subsection (a)(4).

(c) DEFINITIONS.—In this section:

(1) The term ''office furniture'' means any product or service offering intended to meet the furnishing needs of the workplace, includ-

ing office, healthcare, educational, and hospitality environments.

(2) The term ''public entity'' means a State, a subdivision of a State, an Indian tribe, and an agency or governmental corporation or business of any of the foregoing.

(3) The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands.

(Added Pub. L. 115–391, title VI, §605(a), Dec. 21, 2018, 132 Stat. 5242.)

Editorial Notes

REFERENCES IN TEXT

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (a)(4), is classified to section 501 of Title 26, Internal Revenue Code.

[CHAPTER 309—REPEALED]

[§§ 4161 to 4166. Repealed. Pub. L. 98–473, title II, §218(a)(4), Oct. 12, 1984, 98 Stat. 2027]

Section 4161, acts June 25, 1948, ch. 645, 62 Stat. 853; Sept. 14, 1959, Pub. L. 86–259, 73 Stat. 546, related to computation of reduction of time of sentence generally.

Section 4162, act June 25, 1948, ch. 645, 62 Stat. 853, related to deduction from sentence for industrial good time.

Section 4163, acts June 25, 1948, ch. 645, 62 Stat. 853; Sept. 19, 1962, Pub. L. 87–665, 76 Stat. 552, related to discharge of prisoner.

Section 4164, acts June 25, 1948, ch. 645, 62 Stat. 853; June 29, 1951, ch. 176, 65 Stat. 98, related to released prisoner as parolee.

Section 4165, act June 25, 1948, ch. 645, 62 Stat. 854, related to forfeiture of good time for offense.

Section 4166, act June 25, 1948, ch. 645, 62 Stat. 854, related to restoration of forfeited commutation.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal, with sections to remain in effect for five years as to an individual who committed an offense or an act of juvenile delinquency before Nov. 1, 1987, and as to a term of imprisonment during the period described in section 235(a)(1)(B) of Pub. L. 98–473, see section 235(a)(1), (b)(1)(B) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

[CHAPTER 311—REPEALED]

Editorial Notes

CODIFICATION

A prior chapter 311, consisting of sections 4201–4210, act June 25, 1948, ch. 645, 62 Stat. 854, 855, as amended, was repealed by section 2 of Pub. L. 94–233 as part of the general revision of this chapter by Pub. L. 94–233.

[§§ 4201 to 4218. Repealed. Pub. L. 98–473, title II, §218(a)(5), Oct. 12, 1984, 98 Stat. 2027]

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL; CHAPTER TO REMAIN IN EFFECT AFTER NOVEMBER 1, 1987

Pub. L. 98–473, title II, §235(a)(1), Oct. 12, 1984, 98 Stat. 2031, set out in an Effective Date; Savings Provision note under section 3551 of this title, provided that the repeal of this chapter is effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal. Pub. L. 98–473, title II, §235(b)(1)(A), Oct. 12, 1984, 98 Stat. 2032, provided that the provisions of this chapter in effect before Nov. 1, 1987, would remain in effect for 5 years after Nov. 1, 1987, as to an individual who committed an offense or an act of juvenile delinquency before Nov. 1, 1987, and as to a term of imprisonment during the period described in section 235(a)(1)(B) of Pub. L. 98–473.

Provisions further extending the period that this chapter would remain in effect after Nov. 1, 1987, were contained in the following:

Pub. L. 118–15, div. A, §123, Sept. 30, 2023, 137 Stat. 78, as amended by Pub. L. 118–22, div. A, §101(5), Nov. 17, 2023, 137 Stat. 113, extended the period from 36 years to 36 years and 94 days.

Pub. L. 117–328, div. O, title VIII, §801(b), Dec. 29, 2022, 136 Stat. 5232, extended the period from 35 years and 46 days to 36 years.

Pub. L. 117–180, div. C, title I, §103(b), Sept. 30, 2022, 136 Stat. 2133, extended the period from 35 years to 35 years and 46 days.

Pub. L. 116–159, div. D, title II, §4202, Oct. 1, 2020, 134 Stat. 741, extended the period from 33 years to 35 years.

Pub. L. 115–274, §2, Oct. 31, 2018, 132 Stat. 4160, extended the period from 31 years to 33 years.

Pub. L. 113–47, §2, Oct. 31, 2013, 127 Stat. 572, extended the period from 26 years to 31 years.

Pub. L. 112–44, §2, Oct. 21, 2011, 125 Stat. 532, extended the period from 24 years to 26 years.

Pub. L. 110–312, §2, Aug. 12, 2008, 122 Stat. 3013, extended the period from 21 years to 24 years.

Pub. L. 109–76, §2, Sept. 29, 2005, 119 Stat. 2035, extended the period from 18 years to 21 years.

Pub. L. 107–273, div. C, title I, §11017(a), Nov. 2, 2002, 116 Stat. 1824, extended the period from 15 years to 18 years.

Pub. L. 104–232, §2(a), Oct. 2, 1996, 110 Stat. 3055, extended the period from 10 years to 15 years.

Pub. L. 101–650, title III, §316, Dec. 1, 1990, 104 Stat. 5115, extended the period from 5 years to 10 years.

TEXT OF CHAPTER IN EFFECT PRIOR TO REPEAL

The provisions of this chapter as in effect prior to repeal, and as amended subsequent to repeal, read as follows:

§4201. Definitions

As used in this chapter—

(1) ''Commission'' means the United States Parole Commission;

(2) ''Commissioner'' means any member of the United States Parole Commission;

(3) ''Director'' means the Director of the Bureau of Prisons;

(4) ''Eligible prisoner'' means any Federal prisoner who is eligible for parole pursuant to this title or any other law including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;

(5) ''Parolee'' means any eligible prisoner who has been released on parole or deemed as if released on parole under section 4164 or section 4205(f); and

(6) ''Rules and regulations'' means rules and regulations promulgated by the Commission pursuant to section 4203 and section 553 of title 5, United States Code.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 219.)

§4202. Parole Commission created

There is hereby established, as an independent agency in the Department of Justice, a United States Parole Commission which shall be comprised of nine members appointed by the President, by and with the advice and consent of the Senate. The President shall designate from among the Commissioners one to serve as Chairman. The term of office of a Commissioner shall be six years, except that the term of a person appointed as a Commissioner to fill a vacancy shall ex-

pire six years from the date upon which such person was appointed and qualified. Upon the expiration of a term of office of a Commissioner, the Commissioner shall continue to act until a successor has been appointed and qualified, except that no Commissioner may serve in excess of twelve years. Commissioners shall be compensated at the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(Added Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 219.)

UNITED STATES PAROLE COMMISSION EXTENSION

Pub. L. 107–273, div. C, title I, § 11017, Nov. 2, 2002, 116 Stat. 1824, provided that:

''(a) EXTENSION OF THE PAROLE COMMISSION.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 [Pub. L. 98–473, set out as a note under section 3551 of this title] (98 Stat. 2032) as such section relates to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to 'fifteen years' or 'fifteen-year period' shall be deemed to be a reference to 'eighteen years' or 'eighteen-year period', respectively.

''(b) STUDY BY ATTORNEY GENERAL.—The Attorney General, not later than 60 days after the enactment of this Act [Nov. 2, 2002], should establish a committee within the Department of Justice to evaluate the merits and feasibility of transferring the United States Parole Commission's functions regarding the supervised release of District of Columbia offenders to another entity or entities outside the Department of Justice. This committee should consult with the District of Columbia Superior Court and the District of Columbia Court Services and Offender Supervision Agency, and should report its findings and recommendations to the Attorney General. The Attorney General, in turn, should submit to Congress, not later than 18 months after the enactment of this Act, a long-term plan for the most effective and cost-efficient assignment of responsibilities relating to the supervised release of District of Columbia offenders.

''(c) SERVICE AS COMMISSIONER.—Notwithstanding subsection (a), the final clause of the fourth sentence of section 4202 of title 18, United States Code, which begins 'except that', shall not apply to a person serving as a Commissioner of the United States Parole Commission when this Act takes effect [Nov. 2, 2002].''

PAROLE COMMISSION PHASEOUT

Pub. L. 104–232, §§ 1–3, Oct. 2, 1996, 110 Stat. 3055, 3056, as amended by Pub. L. 105–33, title XI, § 11231(d), Aug. 5, 1997, 111 Stat. 745, provided that:

''SECTION 1. SHORT TITLE.

''This Act [enacting and amending provisions set out as notes under section 3551 of this title] may be cited as the 'Parole Commission Phaseout Act of 1996'.

''SEC. 2. EXTENSION OF PAROLE COMMISSION.

''(a) IN GENERAL.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 [Pub. L. 98–473, set out as a note under section 3551 of this title] (98 Stat. 2032) as it related to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to 'ten years' or 'ten-year period' shall be deemed to be a reference to 'fifteen years' or 'fifteen-year period', respectively.

''(b) POWERS AND DUTIES OF PAROLE COMMISSION.—Notwithstanding section 4203 of title 18, United States Code, the United States Parole Commission may perform its functions with any quorum of Commissioners, or Commissioner, as the Commission may prescribe by regulation.

''(c) The United States Parole Commission shall have no more than five members.

''SEC. 3. REPORTS BY THE ATTORNEY GENERAL.

''(a) IN GENERAL.—Beginning in the year 1998, the Attorney General shall report to the Congress not later than May 1 of each year through the year 2002 on the status of the United States Parole Commission. Unless the Attorney General, in such report, certifies that the continuation of the Commission is the most effective and cost-efficient manner for carrying out the Commission's functions, the Attorney General shall include in such report an alternative plan for a transfer of the Commission's functions to another entity.

''(b) TRANSFER WITHIN THE DEPARTMENT OF JUSTICE.—

''(1) EFFECT OF PLAN.—If the Attorney General includes such a plan in the report, and that plan provides for the transfer of the Commission's functions and powers to another entity within the Department of Justice, such plan shall take effect according to its terms on November 1 of that year in which the report is made, unless Congress by law provides otherwise. In the event such plan takes effect, all laws pertaining to the authority and jurisdiction of the Commission with respect to individual offenders shall remain in effect notwithstanding the expiration of the period specified in section 2 of this Act.

''(2) CONDITIONAL REPEAL.—Effective on the date such plan takes effect, paragraphs (3) and (4) of section 235(b) of the Sentencing Reform Act of 1984 [Pub. L. 98–473, set out as a note under section 3551 of this title] (98 Stat. 2032) are repealed.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

EXTENSION OF TERM OF COMMISSIONER

Pub. L. 98–473, title II, § 235(b)(2), Oct. 12, 1984, 98 Stat. 2032, which provided that notwithstanding the provisions of section 4202 of this title as in effect on the day before Nov. 1, 1987 [set out above], the term of office of a Commissioner who is in office on Nov. 1, 1987, is extended to the end of the five-year period after Nov. 1, 1987, was repealed by Pub. L. 104–232, § 4, Oct. 2, 1996, 110 Stat. 3056. Pub. L. 101–650, title III, § 316, Dec. 1, 1990, 104 Stat. 5115, further extended the term of office of a Commissioner to a ten-year period after Nov. 1, 1987.

§ 4203. Powers and duties of the Commission

(a) The Commission shall meet at least quarterly, and by majority vote shall—

(1) promulgate rules and regulations establishing guidelines for the powers enumerated in subsection (b) of this section and such other rules and regulations as are necessary to carry out a national parole policy and the purposes of this chapter;

(2) create such regions as are necessary to carry out the provisions of this chapter; and

(3) ratify, revise, or deny any request for regular, supplemental, or deficiency appropriations, prior to the submission of the requests to the Office of Management and Budget by the Chairman, which requests shall be separate from those of any other agency of the Department of Justice.

(b) The Commission, by majority vote, and pursuant to the procedures set out in this chapter, shall have the power to—

(1) grant or deny an application or recommendation to parole any eligible prisoner;

(2) impose reasonable conditions on an order granting parole;

(3) modify or revoke an order paroling any eligible prisoner; and

(4) request probation officers and other individuals, organizations, and public or private agencies to perform such duties with respect to any parolee as the Commission deems necessary for maintaining proper supervision of and assistance to such parolees; and so as to assure that no probation officers, individuals,

organizations, or agencies shall bear excessive caseloads.

(c) The Commission, by majority vote, and pursuant to rules and regulations—

(1) may delegate to any Commissioner or commissioners powers enumerated in subsection (b) of this section;

(2) may delegate to hearing examiners any powers necessary to conduct hearings and proceedings, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause and issue subpenas for witnesses or evidence in parole revocation proceedings, and recommend disposition of any matters enumerated in subsection (b) of this section, except that any such findings or recommendations shall be based upon the concurrence of not less than two hearing examiners;

(3) may delegate authority to conduct hearings held pursuant to section 4214 to any officer or employee of the executive or judicial branch of Federal or State government; and

(4) may review, or may delegate to the National Appeals Board the power to review, any decision made pursuant to subparagraph (1) of this subsection except that any such decision so reviewed must be reaffirmed, modified or reversed within thirty days of the date the decision is rendered, and, in case of such review, the individual to whom the decision applies shall be informed in writing of the Commission's actions with respect thereto and the reasons for such actions.

(d) Except as otherwise provided by law, any action taken by the Commission pursuant to subsection (a) of this section shall be taken by a majority vote of all individuals currently holding office as members of the Commission which shall maintain and make available for public inspection a record of the final vote of each member on statements of policy and interpretations adopted by it. In so acting, each Commissioner shall have equal responsibility and authority, shall have full access to all information relating to the performance of such duties and responsibilities, and shall have one vote.

(e)(1) The Commission shall, upon the request of the head of any law enforcement agency of a State or of a unit of local government in a State, make available as expeditiously as possible to such agency, with respect to individuals who are under the jurisdiction of the Commission, who have been convicted of felony offenses against the United States, and who reside, are employed, or are supervised in the geographical area in which such agency has jurisdiction, the following information maintained by the Commission (to the extent that the Commission maintains such information)—

(A) the names of such individuals;

(B) the addresses of such individuals;

(C) the dates of birth of such individuals;

(D) the Federal Bureau of Investigation numbers assigned to such individuals;

(E) photographs and fingerprints of such individuals; and

(F) the nature of the offenses against the United States of which each such individual has been convicted and the factual circumstances relating to such offense.

(2) Any law enforcement agency which receives information under this subsection shall not disseminate such information outside of such agency.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 220; amended Pub. L. 99–646, §57(b), (c), Nov. 10, 1986, 100 Stat. 3611, 3612.)

§4204. Powers and duties of the Chairman

(a) The Chairman shall—

(1) convene and preside at meetings of the Commission pursuant to section 4203 and such additional meetings of the Commission as the Chairman may call or as may be requested in writing by at least three Commissioners;

(2) appoint, fix the compensation of, assign, and supervise all personnel employed by the Commission except that—

(A) the appointment of any hearing examiner shall be subject to approval of the Commission within the first year of such hearing examiner's employment; and

(B) regional Commissioners shall appoint and supervise such personnel employed regularly and full time in their respective regions as are compensated at a rate up to and including grade 9 of the General Schedule pay rates (5 U.S.C. 5332);

(3) assign duties among officers and employees of the Commission, including Commissioners, so as to balance the workload and provide for orderly administration;

(4) direct the preparation of requests for appropriations for the Commission, and the use of funds made available to the Commission;

(5) designate not fewer than three Commissioners to serve on the National Appeals Board of whom one shall be so designated to serve as vice chairman of the Commission (who shall act as Chairman of the Commission in the absence or disability of the Chairman or in the event of the vacancy of the Chairmanship), and designate, for each such region established pursuant to section 4203, one Commissioner to serve as regional Commissioner in each such region; except that in each such designation the Chairman shall consider years of service, personal preference and fitness, and no such designation shall take effect unless concurred in by the President, or his designee;

(6) serve as spokesman for the Commission and report annually to each House of Congress on the activities of the Commission; and

(7) exercise such other powers and duties and perform such other functions as may be necessary to carry out the purposes of this chapter or as may be provided under any other provision of law.

(b) The Chairman shall have the power to—

(1) without regard to section 3324(a) and (b) of title 31, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(2) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31;

(3) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

(4) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the parole process;

(5) carry out programs of research concerning the parole process to develop classification systems which describe types of offenders, and to develop theories and practices which can be applied to the different types of offenders;

(6) publish data concerning the parole process;

(7) devise and conduct, in various geographical locations, seminars, workshops and training programs providing continuing studies and instruction for personnel of Federal, State and local agencies and private and public organizations working with parolees and connected with the parole process; and

(8) utilize the services, equipment, personnel, information, facilities, and instrumentalities with or without reimbursement therefor of other Federal, State, local, and private agencies with their consent.

(c) In carrying out his functions under this section, the Chairman shall be governed by the national parole policies promulgated by the Commission.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 221; amended Pub. L. 97–258, §3(e)(3), (4), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 99–646, §58(a), Nov. 10, 1986, 100 Stat. 3612.)

EX. ORD. NO. 11919. DELEGATION OF PRESIDENTIAL AUTHORITY TO CONCUR IN DESIGNATIONS OF COMMISSIONERS

Ex. Ord. No. 11919, June 9, 1976, 41 F.R. 23663, provided: By virtue of the authority vested in me by section 301 of title 3, United States Code, and section 4204(a)(5) of title 18, United States Code, as enacted by the Parole Commission and Reorganization Act (Public Law 94–233), and as President of the United States of America, it is hereby ordered that the Attorney General shall serve as the President's designee for purposes of concurring in designations of Commissioners of the United States Parole Commission to serve on the National Appeals Board, as vice chairman of the Commission, and as regional Commissioner.

GERALD R. FORD.

§ 4205. Time of eligibility for release on parole

(a) Whenever confined and serving a definite term or terms of more than one year, a prisoner shall be eligible for release on parole after serving one-third of such term or terms or after serving ten years of a life sentence or of a sentence of over thirty years, except to the extent otherwise provided by law.

(b) Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interest of the public require that the defendant be sentenced to imprisonment for a term exceeding one year, may (1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the prisoner shall become eligible for parole, which term may be less than but shall not be more than one-third of the maximum sentence imposed by the court, or (2) the court may fix the maximum sentence of imprisonment to be served in which event the court may specify that the prisoner may be released on parole at such time as the Commission may determine.

(c) If the court desires more detailed information as a basis for determining the sentence to be imposed, the court may commit the defendant to the custody of the Attorney General, which commitment shall be deemed to be for the maximum sentence of imprisonment prescribed by law, for a study as described in subsection (d) of this section. The results of such study, together with any recommendations which the Director of the Bureau of Prisons believes would be helpful in determining the disposition of the case, shall be furnished to the court within three months unless the court grants time, not to exceed an additional three months, for further study. After receiving such reports and recommendations, the court may in its discretion: (1) place the offender on probation as authorized by section 3651; or (2) affirm the sentence of imprisonment originally imposed, or reduce the sentence of imprisonment, and commit the offender under any applicable provision of law. The term of the sentence shall run from the date of original commitment under this section.

(d) Upon commitment of a prisoner sentenced to imprisonment under the provisions of subsections (a) or (b) of this section, the Director, under such regulations as the Attorney General may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Commission a summary report together with any recommendations which in his opinion would be helpful in determining the suitability of the prisoner for parole. This report may include but shall not be limited to data regarding the prisoner's previous delinquency or criminal experience, pertinent circumstances of his social background, his capabilities, his mental and physical health, and such other factors as may be considered pertinent. The Commission may make such other investigation as it may deem necessary.

(e) Upon request of the Commission, it shall be the duty of the various probation officers and government bureaus and agencies to furnish the Commission information available to such officer, bureau, or agency, concerning any eligible prisoner or parolee and whenever not incompatible with the public interest, their views and recommendation with respect to any matter within the jurisdiction of the Commission.

(f) Any prisoner sentenced to imprisonment for a term or terms of not less than six months but not more than one year shall be released at the expiration of such sentence less good time deductions provided by law, unless the court which imposed sentence, shall, at the time of sentencing, provide for the prisoner's release as if on parole after service of one-third of such term or terms notwithstanding the provisions of section 4164. This subsection shall not prevent delivery of any person released on parole to the authorities of any State otherwise entitled to his custody.

(g) At any time upon motion of the Bureau of Prisons, the court may reduce any minimum term to the time the defendant has served. The court shall have jurisdiction to act upon the application at any time and no hearing shall be required.

(h) Nothing in this chapter shall be construed to provide that any prisoner shall be eligible for release on parole if such prisoner is ineligible for such release under any other provision of law.

(Added Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 222.)

§ 4206. Parole determination criteria

(a) If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines:

(1) that release would not depreciate the seriousness of his offense or promote disrespect for the law; and

(2) that release would not jeopardize the public welfare;

subject to the provisions of subsections (b) and (c) of this section, and pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1), such prisoner shall be released.

(b) The Commission shall furnish the eligible prisoner with a written notice of its determination not later than twenty-one days, excluding holidays, after the date of the parole determination proceeding. If parole is denied such notice shall state with particularity the reasons for such denial.

(c) The Commission may grant or deny release on parole notwithstanding the guidelines referred to in subsection (a) of this section if it determines there is good cause for so doing: *Provided*, That the prisoner is furnished written notice stating with particularity the reasons for its determination, including a summary of the information relied upon.

(d) Any prisoner, serving a sentence of five years or longer, who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years including any life term, whichever is earlier: *Provided, however*, That the Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State, or local crime.

(Added Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 223.)

§ 4207. Information considered

In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant:

(1) reports and recommendations which the staff of the facility in which such prisoner is confined may make;

(2) official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

(3) presentence investigation reports;

(4) recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge;

(5) a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim; and

(5)[(6)] reports of physical, mental, or psychiatric examination of the offender.

There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 224; amended Pub. L. 98–473, title II, §1408(a), Oct. 12, 1984, 98 Stat. 2177.)

§4208. Parole determination proceeding; time

(a) In making a determination under this chapter (relating to parole) the Commission shall conduct a parole determination proceeding unless it determines on the basis of the prisoner's record that the prisoner will be released on parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsections (a) and (b)(1) of section 4205 shall be held not later than thirty days before the date of such eligibility for parole. Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole pursuant to subsection (b)(2) of section 4205 or released on parole and whose parole has been revoked shall be held not later than one hundred and twenty days following such prisoner's imprisonment or reimprisonment in a Federal institution, as the case may be. An eligible prisoner may knowingly and intelligently waive any proceeding.

(b) At least thirty days prior to any parole determination proceeding, the prisoner shall be provided with (1) written notice of the time and place of the proceeding, and (2) reasonable access to a report or other document to be used by the Commission in making its determination. A prisoner may waive such notice, except that if notice is not waived the proceeding shall be held during the next regularly scheduled proceedings by the Commission at the institution in which the prisoner is confined.

(c) Subparagraph (2) of subsection (b) shall not apply to—

(1) diagnostic opinions which, if made known to the eligible prisoner, could lead to a serious disruption of his institutional program;

(2) any document which reveals sources of information obtained upon a promise of confidentiality; or

(3) any other information which, if disclosed, might result in harm, physical or otherwise, to any person.

If any document is deemed by either the Commission, the Bureau of Prisons, or any other agency to fall within the exclusionary provisions of subparagraphs (1), (2), or (3) of this subsection, then it shall become the duty of the Commission, the Bureau, or such other agency, as the case may be, to summarize the basic contents of the material withheld, bearing in mind the need for confidentiality or the impact on the inmate, or both, and furnish such summary to the inmate.

(d)(1) During the period prior to the parole determination proceeding as provided in subsection (b) of this section, a prisoner may consult, as provided by the director, with a representative as referred to in subparagraph (2) of this subsection, and by mail or otherwise with any person concerning such proceeding.

(2) The prisoner shall, if he chooses, be represented at the parole determination proceeding by a representative who qualifies under rules and regulations promulgated by the Commission. Such rules shall not exclude attorneys as a class.

(e) The prisoner shall be allowed to appear and testify on his own behalf at the parole determination proceeding.

(f) A full and complete record of every proceeding shall be retained by the Commission. Upon request, the Commission shall make available to any eligible prisoner such record as the Commission may retain of the proceeding.

(g) If parole is denied, a personal conference to explain the reasons for such denial shall be held, if feasible, between the prisoner and a representative of the Commission at the conclusion of the proceeding. When feasible, the conference shall include advice to the prisoner as to what steps may be taken to enhance his chance of being released at a subsequent proceeding.

(h) In any case in which release on parole is not granted, subsequent parole determination proceedings shall be held not less frequently than:

(1) eighteen months in the case of a prisoner with a term or terms of more than one year but less than seven years; and

(2) twenty-four months in the case of a prisoner with a term or terms of seven years or longer.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 224; amended Pub. L. 99–646, §58(b), Nov. 10, 1986, 100 Stat. 3612.)

§4209. Conditions of parole

(a) In every case, the Commission shall impose as conditions of parole that the parolee not commit another Federal, State, or local crime, that the parolee not possess illegal controlled substances.[sic] and, if a fine was imposed, that the parolee make a diligent effort to pay the fine in accordance with the judgment. In every case, the Commission shall impose as a condition of parole for a person required to register under the Sex Offender Registration and Notification Act that the person comply with the requirements of that Act. In every case, the Commission shall impose as a condition of parole that the parolee cooperate in the collection of a DNA sample from the parolee, if the collection of such a sample is authorized pursuant to section 3 or section 4 of the DNA Analysis Backlog Elimination Act of 2000 or section 1565 of title 10. In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 4214(f) when considering any action against a defendant who fails a drug test. The Commission may impose or modify other conditions of parole to the extent that such conditions are reasonably related to—

(1) the nature and circumstances of the offense; and

(2) the history and characteristics of the parolee;

and may provide for such supervision and other limitations as are reasonable to protect the public welfare.

(b) The conditions of parole should be sufficiently specific to serve as a guide to supervision and conduct, and upon release on parole the parolee shall be given a certificate setting forth the conditions of his parole. An effort shall be made to make certain that the parolee understands the conditions of his parole.

(c) Release on parole or release as if on parole (or probation, or supervised release where applicable) may as a condition of such release require—

(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole; or

(2) a parolee to remain at his place of residence during nonworking hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices, except that a condition under this paragraph may be imposed only as an alternative to incarceration.

A parolee residing in a residential community treatment center pursuant to paragraph (1) of this subsection may be required to pay such costs incident to such residence as the Commission deems appropriate.

(d)(1) The Commission may modify conditions of parole pursuant to this section on its own motion, or on the motion of a United States probation officer supervising a parolee: *Provided*, That the parolee receives notice of such action and has ten days after receipt of such notice to express his views on the proposed modification. Following such ten-day period, the Commission shall have twenty-one days, exclusive of holidays, to act upon such motion or application. Notwithstanding any other provision of this paragraph, the Commission may modify conditions of parole, without regard to such ten-day period, on any such motion if the Commission determines that the immediate modification of conditions of parole is required to prevent harm to the parolee or to the public.

(2) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

(3) The provisions of this subsection shall not apply to modifications of parole conditions pursuant to a revocation proceeding under section 4214.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 225; amended Pub. L. 98–473, title II, §§235(a)(1), 238(e), (i), Oct. 12, 1984, 98 Stat. 2031, 2039; Pub. L. 98–596, §§7, 12(a)(5), (9), (b), Oct. 30, 1984, 98 Stat. 3138, 3139, 3140; Pub. L. 99–646, §58(c), Nov. 10, 1986, 100 Stat. 3612; Pub. L. 100–690, title VII, §§7303(c)(1), (2), 7305(c), Nov. 18, 1988, 102 Stat. 4464, 4466; Pub. L. 103–322, title II, §20414(d), Sept. 13, 1994, 108 Stat. 1832; Pub. L. 105–119, title I, §115(a)(8)(B)(v), Nov. 26, 1997, 111 Stat. 2466; Pub. L. 106–546, §7(c), Dec. 19, 2000, 114 Stat. 2734; Pub. L. 109–248, title I, §141(j), July 27, 2006, 120 Stat. 604.)

REFERENCES IN TEXT

The Sex Offender Registration and Notification Act, referred to in subsec. (a), is title I of Pub. L. 109–248, July 27, 2006, 120 Stat. 590, which was classified principally to subchapter I (§16901 et seq.) of chapter 151 of Title 42, The Public Health and Welfare, prior to editorial reclassification as chapter 209 (§20901 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 2006 Act note set out under section 10101 of Title 34 and Tables.

Sections 3 and 4 of the DNA Analysis Backlog Elimination Act of 2000, referred to in subsec. (a), are sections 3 and 4 of Pub. L. 106–546, which are classified to sections 40702 and 40703, respectively, of Title 34, Crime Control and Law Enforcement.

CODIFICATION

Pub. L. 98–473, §§235(a)(1), 238(e), (i), and Pub. L. 98–596, §12(a)(5), (9), (b), amended section as follows: Section 238(e) of Pub. L. 98–473 amended provisions of subsec. (a) preceding par. (1) effective pursuant to section 235(a)(1) of Pub. L. 98–473 the first day of the first calendar month beginning twenty-four months after Oct. 12, 1984. Section 12(a)(5) of Pub. L. 98–596 amended provisions of subsec. (a) preceding par. (1) to read as they had before amendment by Pub. L. 98–473, applicable pursuant to section 12(b) of Pub. L. 98–596 on and after the date of enactment of Pub. L. 98–473 (Oct. 12, 1984). Section 238(i) of Pub. L. 98–473 which repealed section 238 of Pub. L. 98–473 on the same date established by section 235(a)(1) of Pub. L. 98–473 was repealed by section 12(a)(9) of Pub. L. 98–596. The cumulative effect of the amendments resulted in no change in this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–119 effective 1 year after Nov. 26, 1997, see section 115(c)(1) of Pub. L. 105–119, set out as a note under section 3521 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 7303(c)(1), (2) of Pub. L. 100–690 applicable with respect to persons whose probation, supervised release, or parole begins after Dec. 31, 1988, see section 7303(d) of Pub. L. 100–690, set out as a note under section 3563 of this title.

§4210. Jurisdiction of Commission

(a) A parolee shall remain in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms for which such parolee was sentenced.

(b) Except as otherwise provided in this section, the jurisdiction of the Commission over the parolee shall terminate no later than the date of the expiration of the maximum term or terms for which he was sentenced, except that—

(1) such jurisdiction shall terminate at an earlier date to the extent provided under section 4164 (relating to mandatory release) or section 4211 (relating to early termination of parole supervision), and

(2) in the case of a parolee who has been convicted of any criminal offense committed subsequent to his release on parole, and such offense is punishable by a term of imprisonment, detention or incarceration in any penal facility, the Commission shall determine, in accordance with the provisions of section 4214(b) or (c), whether all or any part of the unexpired term being served at the time of parole shall run concurrently or consecutively with the sentence imposed for the new offense, but in no case shall such service together with such time as the parolee has previously served in connection with the offense for which he was paroled, be longer than the maximum term for which he was sentenced in connection with such offense.

(c) In the case of any parolee found to have intentionally refused or failed to respond to any reasonable request, order, summons, or warrant of the Commission or any member or agent thereof, the jurisdiction of the Commission may be extended for the period during which the parolee so refused or failed to respond.

(d) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

(e) Upon the termination of the jurisdiction of the Commission over any parolee, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 226; amended Pub. L. 99–646, §58(d), (e), Nov. 10, 1986, 100 Stat. 3612.)

§4211. Early termination of parole

(a) Upon its own motion or upon request of the parolee, the Commission may terminate supervision over a parolee prior to the termination of jurisdiction under section 4210.

(b) Two years after each parolee's release on parole, and at least annually thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision. In calculating such two-year period there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

(c)(1) Five years after each parolee's release on parole, the Commission shall terminate supervision over

such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in section 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engaged in conduct violating any criminal law.

(2) If supervision is not terminated under subparagraph (1) of this subsection the parolee may request a hearing annually thereafter, and a hearing, with procedures as provided in subparagraph (1) of this subsection shall be conducted with respect to such termination of supervision not less frequently than biennially.

(3) In calculating the five-year period referred to in subparagraph (1), there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

(Added Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 227.)

§ 4212. Aliens

When an alien prisoner subject to deportation becomes eligible for parole, the Commission may authorize the release of such prisoner on condition that such person be deported and remain outside the United States.

Such prisoner when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation.

(Added Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 227.)

§ 4213. Summons to appear or warrant for retaking of parolee

(a) If any parolee is alleged to have violated his parole, the Commission may—

(1) summon such parolee to appear at a hearing conducted pursuant to section 4214; or

(2) issue a warrant and retake the parolee as provided in this section.

(b) Any summons or warrant issued under this section shall be issued by the Commission as soon as practicable after discovery of the alleged violation, except when delay is deemed necessary. Imprisonment in an institution shall not be deemed grounds for delay of such issuance, except that, in the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be suspended pending disposition of the charge.

(c) Any summons or warrant issued pursuant to this section shall provide the parolee with written notice of—

(1) the conditions of parole he is alleged to have violated as provided under section 4209;

(2) his rights under this chapter; and

(3) the possible action which may be taken by the Commission.

(d) Any officer of any Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant issued under this section is delivered, shall execute such warrant by taking such parolee and returning him to the custody of the regional commissioner, or to the custody of the Attorney General, if the Commission shall so direct.

(Added Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 227.)

§ 4214. Revocation of parole

(a)(1) Except as provided in subsections (b) and (c), any alleged parole violator summoned or retaken under section 4213 shall be accorded the opportunity to have—

(A) a preliminary hearing at or reasonably near the place of the alleged parole violation or arrest, without unnecessary delay, to determine if there is probable cause to believe that he has violated a condition of his parole; and upon a finding of probable cause a digest shall be prepared by the Commission setting forth in writing the factors considered and the reasons for the decision, a copy of which shall be given to the parolee within a reasonable period of time; except that after a finding of probable cause the Commission may restore any parolee to parole supervision if:

(i) continuation of revocation proceedings is not warranted; or

(ii) incarceration of the parolee pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations;

(iii) the parolee is not likely to fail to appear for further proceedings; and

(iv) the parolee does not constitute a danger to himself or others.

(B) upon a finding of probable cause under subparagraph (1)(A), a revocation hearing at or reasonably near the place of the alleged parole violation or arrest within sixty days of such determination of probable cause except that a revocation hearing may be held at the same time and place set for the preliminary hearing.

(2) Hearings held pursuant to subparagraph (1) of this subsection shall be conducted by the Commission in accordance with the following procedures:

(A) notice to the parolee of the conditions of parole alleged to have been violated, and the time, place, and purposes of the scheduled hearing;

(B) opportunity for the parolee to be represented by an attorney (retained by the parolee, or if he is financially unable to retain counsel, counsel shall be provided pursuant to section 3006A) or, if he so chooses, a representative as provided by rules and regulations, unless the parolee knowingly and intelligently waives such representation.

(C) opportunity for the parolee to appear and testify, and present witnesses and relevant evidence on his own behalf; and

(D) opportunity for the parolee to be apprised of the evidence against him and, if he so requests, to confront and cross-examine adverse witnesses, unless the Commission specifically finds substantial reason for not so allowing.

For the purposes of subparagraph (1) of this subsection, the Commission may subpena witnesses and evidence, and pay witness fees as established for the courts of the United States. If a person refuses to obey such a subpena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, or in which such person may be found, to request such person to attend, testify, and produce evidence. The court may issue an order requiring such person to appear before the Commission, when the court finds such information, thing, or testimony directly related to a matter with respect to which the Commission is empowered to make a determination under this section. Failure to obey such an order is punishable by such court as a contempt. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, or in which such person may be found.

(b)(1) Conviction for any criminal offense committed subsequent to release on parole shall constitute probable cause for purposes of subsection (a) of this section. In cases in which a parolee has been convicted of such an offense and is serving a new sentence in an institution, a parole revocation warrant or summons issued pursuant to section 4213 may be placed against him as a detainer. Such detainer shall be reviewed by the Commission within one hundred and eighty days of notification to the Commission of placement. The parolee shall receive notice of the pending review, have an opportunity to submit a written application containing information relative to the disposition of the detainer, and, unless waived, shall have counsel as provided in subsection (a)(2)(B) of this section to assist him in the preparation of such application.

(2) If the Commission determines that additional information is needed to review a detainer, a dispositional hearing may be held at the institution where the parolee is confined. The parolee shall have notice of such hearing, be allowed to appear and testify

on his own behalf, and, unless waived, shall have counsel as provided in subsection (a)(2)(B) of this section.

(3) Following the disposition review, the Commission may:

(A) let the detainer stand; or

(B) withdraw the detainer.

(c) Any alleged parole violator who is summoned or retaken by warrant under section 4213 who knowingly and intelligently waives his right to a hearing under subsection (a) of this section, or who knowingly and intelligently admits violation at a preliminary hearing held pursuant to subsection (a)(1)(A) of this section, or who is retaken pursuant to subsection (b) of this section, shall receive a revocation hearing within ninety days of the date of retaking. The Commission may conduct such hearing at the institution to which he has been returned, and the alleged parole violator shall have notice of such hearing, be allowed to appear and testify on his own behalf, and, unless waived, shall have counsel or another representative as provided in subsection (a)(2)(B) of this section.

(d) Whenever a parolee is summoned or retaken pursuant to section 4213, and the Commission finds pursuant to the procedures of this section and by a preponderance of the evidence that the parolee has violated a condition of his parole the Commission may take any of the following actions:

(1) restore the parolee to supervision;

(2) reprimand the parolee;

(3) modify the parolee's conditions of the parole;

(4) refer the parolee to a residential community treatment center for all or part of the remainder of his original sentence; or

(5) formally revoke parole or release as if on parole pursuant to this title.

The Commission may take any such action provided it has taken into consideration whether or not the parolee has been convicted of any Federal, State, or local crime subsequent to his release on parole, and the seriousness thereof, or whether such action is warranted by the frequency or seriousness of the parolee's violation of any other condition or conditions of his parole.

(e) The Commission shall furnish the parolee with a written notice of its determination not later than twenty-one days, excluding holidays, after the date of the revocation hearing. If parole is revoked, a digest shall be prepared by the Commission setting forth in writing the factors considered and reasons for such action, a copy of which shall be given to the parolee.

(f) Notwithstanding any other provision of this section, a parolee who is found by the Commission to be in possession of a controlled substance shall have his parole revoked.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 228; amended Pub. L. 98–473, title II, §§235(a)(1), 238(f), (i), Oct. 12, 1984, 98 Stat. 2031, 2039; Pub. L. 98–596, §12(a)(6), (9), (b), Oct. 30, 1984, 98 Stat. 3139, 3140; Pub. L. 99–646, §58(f), Nov. 10, 1986, 100 Stat. 3612; Pub. L. 100–690, title VII, §7303(c)(3), Nov. 18, 1988, 102 Stat. 4464.)

CODIFICATION

Pub. L. 98–473, §§235(a)(1), 238(f), (i), and Pub. L. 98–596, §12(a)(6), (9), (b), amended section as follows: Section 238(f) of Pub. L. 98–473 amended par. (1) effective pursuant to section 235(a)(1) of Pub. L. 98–473 the first day of the first calendar month beginning twenty-four months after Oct. 12, 1984. Section 12(a)(6) of Pub. L. 98–596 amended par. (1) to read as it had before amendment by Pub. L. 98–473, applicable pursuant to section 12(b) of Pub. L. 98–596 on and after the date of enactment of Pub. L. 98–473 (Oct. 12, 1984). Section 238(i) of Pub. L. 98–473 which repealed section 238 of Pub. L. 98–473 on the same date established by section 235(a)(1) of Pub. L. 98–473 was repealed by section 12(a)(9) of Pub. L. 98–596. The cumulative effect of the amendments resulted in no change in this section.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 7303(c)(3) of Pub. L. 100–690 applicable with respect to persons whose probation, supervised release, or parole begins after Dec. 31, 1988, see section 7303(d) of Pub. L. 100–690, set out as a note under section 3563 of this title.

§4215. Appeal

(a) Whenever parole release is denied under section 4206, parole conditions are imposed or modified under section 4209, parole discharge is denied under section 4211(c), or parole is modified or revoked under section 4214, the individual to whom any such decision applies may appeal such decision by submitting a written application to the National Appeal [Appeals] Board not later than thirty days following the date on which the decision is rendered.

(b) The National Appeals Board, upon receipt of the appellant's papers, must act pursuant to rules and regulations within sixty days to reaffirm, modify, or reverse the decision and shall inform the appellant in writing of the decision and the reasons therefor.

(c) The National Appeals Board may review any decision of a regional commissioner upon the written request of the Attorney General filed not later than thirty days following the decision and, by majority vote, shall reaffirm, modify, or reverse the decision within sixty days of the receipt of the Attorney General's request. The Board shall inform the Attorney General and the individual to whom the decision applies in writing of its decision and the reasons therefor.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 230; amended Pub. L. 98–473, title II, §1408(c), Oct. 12, 1984, 98 Stat. 2178.)

[§4216. Repealed. Pub. L. 99–646, §3(a), Nov. 10, 1986, 100 Stat. 3592]

[§4217. Repealed. Pub. L. 99–646, §58(g)(1), Nov. 10, 1986, 100 Stat. 3612, as amended by Pub. L. 100–690, title VII, §7014, Nov. 18, 1988, 102 Stat. 4395]

§4218. Applicability of Administrative Procedure Act

(a) For purposes of the provisions of chapter 5 of title 5, United States Code, other than sections 554, 555, 556, and 557, the Commission is an ''agency'' as defined in such chapter.

(b) For purposes of subsection (a) of this section, section 553(b)(3)(A) of title 5, United States Code, relating to rulemaking, shall be deemed not to include the phrase ''general statements of policy''.

(c) To the extent that actions of the Commission pursuant to section 4203(a)(1) are not in accord with the provisions of section 553 of title 5, United States Code, they shall be reviewable in accordance with the provisions of sections 701 through 706 of title 5, United States Code.

(d) Actions of the Commission pursuant to paragraphs (1), (2), and (3) of section 4203(b) shall be considered actions committed to agency discretion for purposes of section 701(a)(2) of title 5, United States Code.

(Added Pub. L. 94–233, §2, Mar. 15, 1976, 90 Stat. 231.)

CHAPTER 313—OFFENDERS WITH MENTAL DISEASE OR DEFECT

[1] So in original. Does not conform to section catchline.

Editorial Notes

AMENDMENTS

2006—Pub. L. 109–248, title III, §302(1), July 27, 2006, 120 Stat. 619, inserted ''or to undergo postrelease proceedings'' after ''trial'' in item 4241 and added item 4248.

1984—Pub. L. 98–473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2057, substituted ''OFFENDERS WITH MENTAL DISEASE OR DEFECT'' for ''MENTAL DEFECTIVES'' in chapter heading, ''Determination of mental competency to stand trial'' for ''Examination and transfer to hospital'' in item 4241, ''Determination of the existence of insanity at the time of the offense'' for ''Retransfer upon recovery'' in item 4242, ''Hospitalization of a person found not guilty only by reason of insanity'' for ''Delivery to state authorities on expiration of sentence'' in item 4243, ''Hospitalization of a convicted person suffering from mental disease or defect'' for ''Mental competency after arrest and before trial'' in item 4244, ''Hospitalization of an imprisoned person suffering from mental disease or defect'' for ''Mental incompetency undisclosed at trial'' in item 4245, ''Hospitalization of a person due for release but suffering from mental disease or defect'' for ''Procedure upon finding of mental incompetency'' in item 4246, and ''General provisions for chapter'' for ''Alternate procedure on expiration of sentence'' in item 4247, and struck out item 4248 ''Termination of custody by release or transfer''.

1951—Act Oct. 31, 1951, ch. 655, §33, 65 Stat. 723, inserted ''on expiration of sentence'' in item 4243.

1949—Act Sept. 7, 1949, ch. 535, §2, 63 Stat. 688, added items 4244 to 4248.

§ 4241. Determination of mental competency to stand trial to undergo postrelease proceedings[1]

(a) MOTION TO DETERMINE COMPETENCY OF DEFENDANT.—At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, or at any time after the commencement of probation or supervised release and prior to the completion of the sentence, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility—

(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward; and

(2) for an additional reasonable period of time until—

(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the proceedings to go forward; or

(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the proceedings to go forward, the defendant is subject to the provisions of sections 4246 and 4248.

(e) DISCHARGE.—When the director of the facility in which a defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. The court shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial or other proceedings. Upon discharge, the defendant is subject to the provisions of chapters 207 and 227.

(f) ADMISSIBILITY OF FINDING OF COMPETENCY.—A finding by the court that the defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the offense charged, and shall not be admissible as evidence in a trial for the offense charged.

(June 25, 1948, ch. 645, 62 Stat. 855; Pub. L. 98–473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2057; Pub. L. 109–248, title III, §302(2), July 27, 2006, 120 Stat. 619.)

[2] So in original. Probably should be followed by a period.

[1] So in original. Probably should be ''stand trial or to undergo postrelease proceedings''.

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 876 (May 13, 1930, ch. 254, § 6, 46 Stat. 271).

Changes were made in phraseology and surplusage omitted.

Editorial Notes

AMENDMENTS

2006—Pub. L. 109–248, § 302(2)(A), inserted ''to undergo postrelease proceedings'' after ''trial'' in section catchline.

Subsec. (a). Pub. L. 109–248, § 302(2)(B), inserted ''or at any time after the commencement of probation or supervised release and prior to the completion of the sentence,'' after ''sentencing of the defendant,''.

Subsec. (d). Pub. L. 109–248, § 302(2)(C), substituted ''proceedings to go forward'' for ''trial to proceed'' wherever appearing and ''sections 4246 and 4248'' for ''section 4246'' in concluding provisions.

Subsec. (e). Pub. L. 109–248, § 302(2)(D), inserted ''or other proceedings'' after ''trial'' and substituted ''chapters 207 and 227'' for ''chapter 207''.

1984—Pub. L. 98–473 amended section generally, substituting ''Determination of mental competency to stand trial'' for ''Examination and transfer to hospital'' in section catchline, and substituting provisions relating to motion, report, hearing, etc., for determination of competency of defendant, for provisions relating to boards of examiners for examination of inmates of Federal penal and correctional institutions and transfer of such inmates to hospitals.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–473, title II, § 401, Oct. 12, 1984, 98 Stat. 2057, provided that: ''This chapter [chapter IV (§§ 401–406) of title II of Pub. L. 98–473, enacting section 20 of this title and amending this chapter, section 3006A of this title, and rule 12.2 of the Federal Rules of Criminal Procedure and rule 704 of the Federal Rules of Evidence set out in the Appendix to this title] may be sited [cited] as the 'Insanity Defense Reform Act of 1984'.''

§ 4242. Determination of the existence of insanity at the time of the offense

(a) MOTION FOR PRETRIAL PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—Upon the filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, that the defendant intends to rely on the defense of insanity, the court, upon motion of the attorney for the Government, shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find the defendant—

(1) guilty;

(2) not guilty; or

(3) not guilty only by reason of insanity.

(June 25, 1948, ch. 645, 62 Stat. 855; Pub. L. 98–473, title II, § 403(a), Oct. 12, 1984, 98 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 877 (May 13, 1930, ch. 254, § 7, 46 Stat. 272).

Minor change was made in phraseology.

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473 amended section generally, substituting ''Determination of the existence of insanity at the time of the offense'' for ''Retransfer upon recovery'' in section catchline, and substituting provisions relating to motion for pretrial psychiatric or psychological examination, and special verdict, for provisions relating to retransfer to a penal or correctional institution upon recovery of an inmate of the United States hospital for defective delinquents.

§ 4243. Hospitalization of a person found not guilty only by reason of insanity

(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e).

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, pursuant to subsection (c), the court shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(c) HEARING.—A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict.

(d) BURDEN OF PROOF.—In a hearing pursuant to subsection (c) of this section, a person found not guilty only by reason of insanity of an offense involving bodily injury to, or serious damage to the property of, another person, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect. With respect to any other offense, the person has the burden of such proof by a preponderance of the evidence.

(e) DETERMINATION AND DISPOSITION.—If, after the hearing, the court fails to find by the standard specified in subsection (d) of this section that the person's release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

(1) such a State will assume such responsibility; or

(2) the person's mental condition is such that his release, or his conditional release

under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

(f) DISCHARGE.—When the director of the facility in which an acquitted person is hospitalized pursuant to subsection (e) determines that the person has recovered from his mental disease or defect to such an extent that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by the standard specified in subsection (d) that the person has recovered from his mental disease or defect to such an extent that—

(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

(g) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a medical facility responsible for administering a regimen imposed on an acquitted person conditionally discharged under subsection (f) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

(h) LIMITATIONS ON FURLOUGHS.—An individual who is hospitalized under subsection (e) of this section after being found not guilty only by reason of insanity of an offense for which subsection (d) of this section creates a burden of proof of clear and convincing evidence, may leave temporarily the premises of the facility in which that individual is hospitalized only—

(1) with the approval of the committing court, upon notice to the attorney for the Government and such individual, and after opportunity for a hearing;

(2) in an emergency; or

(3) when accompanied by a Federal law enforcement officer (as defined in section 115 of this title).

(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

(2) APPLICATION.—

(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under

this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

(D) EFFECT.—Nothing in this paragraph shall be construed to—

(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.

(June 25, 1948, ch. 645, 62 Stat. 855; Pub. L. 98–473, title II, § 403(a), Oct. 12, 1984, 98 Stat. 2059; Pub. L. 100–690, title VII, § 7043, Nov. 18, 1988, 102 Stat. 4400; Pub. L. 104–294, title III, § 301(a), Oct. 11, 1996, 110 Stat. 3494.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 878 (May 13, 1930, ch. 254, § 8, 46 Stat. 272).

Changes were made in translations and phraseology, and unnecessary words omitted.

Editorial Notes

AMENDMENTS

1996—Subsec. (i). Pub. L. 104–294 added subsec. (i).

1988—Subsec. (h). Pub. L. 100–690 added subsec. (h).

1984—Pub. L. 98–473 amended section generally, substituting ''Hospitalization of a person found not guilty only by reason of insanity'' for ''Delivery to state authorities on expiration of sentence'' in section catchline, and substituting provisions relating to determination of present mental condition of acquitted person, examination and report, hearing, etc., for provisions relating to duties of the superintendent of the United States hospital for defective delinquents regarding delivery to state authorities on expiration of sentence of any insane person.

Statutory Notes and Related Subsidiaries

SEVERABILITY

Pub. L. 104–294, title III, § 301(d), Oct. 11, 1996, 110 Stat. 3495, provided that: ''If any provision of this section [amending this section and enacting provisions set out as notes below], an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby.''

TRANSFER OF RECORDS

Pub. L. 104–294, title III, § 301(b), Oct. 11, 1996, 110 Stat. 3495, provided that: ''Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital—

''(1) not later than 30 days after the date of enactment of this Act [Oct. 11, 1996], shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

''(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

''(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

''(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.''

CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES

Pub. L. 104–294, title III, § 301(c), Oct. 11, 1996, 110 Stat. 3495, provided that: ''The amendments made by this section [amending this section and enacting provisions set out as notes above] shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section.''

§ 4244. Hospitalization of a convicted person suffering from mental disease or defect

(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c). In addition to the information required to be included in the psychiatric or psychological report pursuant to the provisions of section 4247(c), if the report includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also in-

clude an opinion by the examiner concerning the sentencing alternatives that could best accord the defendant the kind of treatment he does need.

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence of imprisonment to the maximum term authorized by law for the offense for which the defendant was found guilty.

(e) DISCHARGE.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing and may modify the provisional sentence.

(Added Sept. 7, 1949, ch. 535, §1, 63 Stat. 686; amended Pub. L. 98–473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2061.)

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473 amended section generally, substituting ''Hospitalization of a convicted person suffering from mental disease or defect'' for ''Mental incompetency after arrest and before trial'' in section catchline, and substituting provisions relating to motion, examination and report, hearing, etc., to determine present mental condition of convicted defendant, for provisions relating to motion, examination, etc., to determine the mental competency of a person after arrest and before trial.

Statutory Notes and Related Subsidiaries

SEPARABILITY

Act Sept. 7, 1949, ch. 535, §4, 63 Stat. 688, provided that: ''If any provision of Title 18, United States Code, sections 4244 to 4248, inclusive, or the application thereof to any person or circumstance shall be held invalid, the remainder of the said sections and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.''

USE OF APPROPRIATIONS

Act Sept. 7, 1949, ch. 535, §3, 63 Stat. 688, provided that: ''The Attorney General may authorize the use of any unexpended balance of the appropriation for 'Support of United States prisoners' for carrying out the purposes of Title 18, United States Code, sections 4244 to 4248, inclusive, or in payment of any expenses incidental thereto and not provided for by other specific appropriations.''

§ 4245. Hospitalization of an imprisoned person suffering from mental disease or defect

(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF IMPRISONED PERSON.—If a person serving a sentence of imprisonment objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment, an attorney for the Government, at the request of the director of the facility in which the person is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the person. The court shall grant the motion if there is reasonable cause to believe that the person may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. A motion filed under this subsection shall stay the transfer of the person pending completion of procedures contained in this section.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the person may be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the person is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility, the court shall commit the person to the custody of the Attorney General. The Attorney General shall hospitalize the person for treatment in a suitable facility until he is no longer in need of such custody for care or treatment or until the expiration of the sentence of imprisonment, whichever occurs earlier.

(e) DISCHARGE.—When the director of the facility in which the person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the person has not expired, the court shall order that the person be reimprisoned until the expiration of his sentence of imprisonment.

(Added Sept. 7, 1949, ch. 535, §1, 63 Stat. 687; amended Pub. L. 98–473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2062.)

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473 amended section generally, substituting ''Hospitalization of an imprisoned person suf-

fering from mental disease or defect'' for ''Mental incompetency undisclosed at trial'' in section catchline, and substituting provisions relating to motion, examination and report, hearing, etc., to determine present mental condition of imprisoned person, for provisions relating to procedures and authorities regarding mental incompetency undisclosed at trial.

§ 4246. Hospitalization of a person due for release but suffering from mental disease or defect

(a) INSTITUTION OF PROCEEDING.—If the director of a facility in which a person is hospitalized certifies that a person in the custody of the Bureau of Prisons whose sentence is about to expire, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available, he shall transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until—

(1) such a State will assume such responsibility; or

(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

(e) DISCHARGE.—When the director of the facility in which a person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the person or, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that—

(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

(f) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a medical facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psy-

chiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

(g) RELEASE TO STATE OF CERTAIN OTHER PERSONS.—If the director of a facility in which a person is hospitalized pursuant to this chapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than ten days after certification by the director of the facility.

(h) DEFINITION.—As used in this chapter the term ''State'' includes the District of Columbia.

(Added Sept. 7, 1949, ch. 535, §1, 63 Stat. 687; amended Pub. L. 98–473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2062; Pub. L. 101–647, title XXXV, §3599D, Nov. 29, 1990, 104 Stat. 4932; Pub. L. 105–33, title XI, §11204(1), Aug. 5, 1997, 111 Stat. 739.)

Editorial Notes

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–33, §11204(1)(A), inserted ''in the custody of the Bureau of Prisons'' after ''certifies that a person''.

Subsec. (h). Pub. L. 105–33, §11204(1)(B), added subsec. (h).

1990—Subsec. (g). Pub. L. 101–647 substituted ''chapter'' for ''subchapter''.

1984—Pub. L. 98–473 amended section generally, substituting ''Hospitalization of a person due for release but suffering from mental disease or defect'' for ''Procedure upon finding of mental incompetency'' in section catchline, and substituting provisions relating to proceedings, examination and report, hearing, etc., regarding hospitalization of a person due for release but suffering from mental disease or defect, for provisions relating to powers of the trial court with respect to finding of mental incompetency of accused.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–33, title XI, §11721, Aug. 5, 1997, 111 Stat. 786, provided that: ''Except as otherwise provided in this title [enacting section 138 of former Title 40, Public Buildings, Property, and Works, amending this section, section 4247 of this title, section 1063 of Title 20, Education, section 225b of Title 24, Hospitals and Asylums, sections 6103 and 7213 of Title 26, Internal Revenue Code, sections 715 and 6501 of Title 31, Money and Finance, sections 71f and 138 of former Title 40, and sections 13723 and 14407 of Title 42, The Public Health and Welfare, enacting provisions set out as a note under section 6103 of Title 26, and amending provisions set out as a note under section 4201 of this title], the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 [Pub. L. 104–8, 109 Stat. 108], as amended by this title [so certified Sept. 8, 1997].''

§ 4247. General provisions for chapter

(a) DEFINITIONS.—As used in this chapter—

(1) ''rehabilitation program'' includes—

(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

(C) drug, alcohol, and sex offender treatment programs, and other treatment programs that will assist the individual in overcoming a psychological or physical dependence or any condition that makes the individual dangerous to others; and

(D) organized physical sports and recreation programs;

(2) ''suitable facility'' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant;

(3) ''State'' includes the District of Columbia;

(4) ''bodily injury'' includes sexual abuse;

(5) ''sexually dangerous person'' means a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others; and

(6) ''sexually dangerous to others'' with respect[1] a person, means that the person suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—A psychiatric or psychological examination ordered pursuant to this chapter shall be conducted by a licensed or certified psychiatrist or psychologist, or, if the court finds it appropriate, by more than one such examiner. Each examiner shall be designated by the court, except that if the examination is ordered under section 4245, 4246, or 4248, upon the request of the defendant an additional examiner may be selected by the defendant. For the purposes of an examination pursuant to an order under section 4241, 4244, or 4245, the court may commit the person to be examined for a reasonable period, but

[1] So in original. Probably should be followed by ''to''.

not to exceed thirty days, and under section 4242, 4243, 4246, or 4248, for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 4241, 4244, or 4245, and not to exceed thirty days under section 4242, 4243, 4246, or 4248, upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

(c) PSYCHIATRIC OR PSYCHOLOGICAL REPORTS.—A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

(1) the person's history and present symptoms;

(2) a description of the psychiatric, psychological, and medical tests that were employed and their results;

(3) the examiner's findings; and

(4) the examiner's opinions as to diagnosis, prognosis, and—

(A) if the examination is ordered under section 4241, whether the person is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense;

(B) if the examination is ordered under section 4242, whether the person was insane at the time of the offense charged;

(C) if the examination is ordered under section 4243 or 4246, whether the person is suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another;

(D) if the examination is ordered under section 4248, whether the person is a sexually dangerous person;

(E) if the examination is ordered under section 4244 or 4245, whether the person is suffering from a mental disease or defect as a result of which he is in need of custody for care or treatment in a suitable facility; or

(F) if the examination is ordered as a part of a presentence investigation, any recommendation the examiner may have as to how the mental condition of the defendant should affect the sentence.

(d) HEARING.—At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A. The person shall be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS.—(1) The director of the facility in which a person is committed pursuant to—

(A) section 4241 shall prepare semiannual reports; or

(B) section 4243, 4244, 4245, 4246, or 4248 shall prepare annual reports concerning the mental condition of the person and containing recommendations concerning the need for his continued commitment. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct. A copy of each such report concerning a person committed after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.

(2) The director of the facility in which a person is committed pursuant to section 4241, 4243, 4244, 4245, 4246, or 4248 shall inform such person of any rehabilitation programs that are available for persons committed in that facility.

(f) VIDEOTAPE RECORD.—Upon written request of defense counsel, the court may order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 4243, 4246, or 4248 precludes a person who is committed under either of such sections from establishing by writ of habeas corpus the illegality of his detention.

(h) DISCHARGE.—Regardless of whether the director of the facility in which a person is committed has filed a certificate pursuant to the provisions of subsection (e) of section 4241, 4244, 4245, 4246, or 4248, or subsection (f) of section 4243, counsel for the person or his legal guardian may, at any time during such person's commitment, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility, but no such motion may be filed within one hundred and eighty days of a court determination that the person should continue to be committed. A copy of the motion shall be sent to the director of the facility in which the person is committed and to the attorney for the Government.

(i) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—The Attorney General—

(A) may contract with a State, a political subdivision, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter;

(B) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243, 4246, or 4248;

(C) shall, before placing a person in a facility pursuant to the provisions of section 4241, 4243,

4244, 4245, 4246, or 4248, consider the suitability of the facility's rehabilitation programs in meeting the needs of the person; and

(D) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of this chapter and in the establishment of standards for facilities used in the implementation of this chapter.

(j) Sections 4241, 4242, 4243, and 4244 do not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.

(Added Sept. 7, 1949, ch. 535, §1, 63 Stat. 687; amended Pub. L. 98–473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2065; Pub. L. 100–690, title VII, §§7044, 7047(a), Nov. 18, 1988, 102 Stat. 4400, 4401; Pub. L. 103–322, title XXXIII, §330003(d), Sept. 13, 1994, 108 Stat. 2141; Pub. L. 105–33, title XI, §11204(2), (3), Aug. 5, 1997, 111 Stat. 739; Pub. L. 109–248, title III, §302(3), July 27, 2006, 120 Stat. 619.)

Editorial Notes

REFERENCES IN TEXT

Acts of Congress applicable exclusively to the District of Columbia, referred to in subsec. (j), are classified generally to the District of Columbia Code.

The Uniform Code of Military Justice, referred to in subsec. (j), is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

AMENDMENTS

2006—Pub. L. 109–248, §302(3)(A), substituted '', 4246, or 4248'' for '', or 4246'' wherever appearing.

Subsec. (a)(1)(C). Pub. L. 109–248, §302(3)(C)(i), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and''.

Subsec. (a)(4) to (6). Pub. L. 109–248, §302(3)(C)(ii)–(iv), added pars. (4) to (6).

Subsec. (b). Pub. L. 109–248, §302(3)(D), substituted ''4245, 4246, or 4248'' for ''4245 or 4246''.

Subsec. (c)(4)(D) to (F). Pub. L. 109–248, §302(3)(E), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (e). Pub. L. 109–248, §302(3)(F), substituted ''committed'' for ''hospitalized'' wherever appearing and ''continued commitment'' for ''continued hospitalization'' in par. (1)(B).

Subsec. (g). Pub. L. 109–248, §302(3)(B), substituted ''4243, 4246, or 4248'' for ''4243 or 4246''.

Subsec. (h). Pub. L. 109–248, §302(3)(F), substituted ''committed'' for ''hospitalized'' wherever appearing and ''person's commitment'' for ''person's hospitalization''.

Subsec. (i)(B). Pub. L. 109–248, §302(3)(B), substituted ''4243, 4246, or 4248'' for ''4243 or 4246''.

1997—Subsec. (a)(3). Pub. L. 105–33, §11024(2)(C), added par. (3).

Subsec. (j). Pub. L. 105–33, §11024(3), substituted ''Sections 4241, 4242, 4243, and 4244 do'' for ''This chapter does''.

1994—Subsec. (h). Pub. L. 103–322 substituted ''subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,'' for ''subsection (e) of section 4241, 4243, 4244, 4245, or 4246,''.

1988—Subsec. (b). Pub. L. 100–690, §7047(a), substituted ''psychologist'' for ''clinical psychologist'' in first sentence.

Subsec. (e)(1)(B). Pub. L. 100–690, §7044, inserted at end ''A copy of each such report concerning a person hospitalized after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.''

1984—Pub. L. 98–473 amended section generally, substituting ''General provisions for chapter'' for ''Alternate procedure of expiration of sentence'' in section catchline, and substituting provisions relating to definitions, examinations, reports, etc., as applicable to chapter, for provisions relating to powers and duties regarding alternate procedure on expiration of sentence of prisoner.

Statutory Notes and Related Subsidiaries

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 this title.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4248. Civil commitment of a sexually dangerous person

(a) INSTITUTION OF PROCEEDINGS.—In relation to a person who is in the custody of the Bureau of Prisons, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons relating to the mental condition of the person, the Attorney General or any individual authorized by the Attorney General or the Director of the Bureau of Prisons may certify that the person is a sexually dangerous person, and transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is a sexually dangerous person. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the person is a sexually dangerous person, the court shall commit the person to the custody of the Attorney General.

The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall place the person for treatment in a suitable facility, until—

(1) such a State will assume such responsibility; or

(2) the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment;

whichever is earlier.

(e) DISCHARGE.—When the Director of the facility in which a person is placed pursuant to subsection (d) determines that the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the person or, on motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person's condition is such that—

(1) he will not be sexually dangerous to others if released unconditionally, the court shall order that he be immediately discharged; or

(2) he will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the court shall—

(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the Director of the facility in which he is committed, and that has been found by the court to be appropriate; and

(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

(f) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that he is sexually dangerous to others in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

(g) RELEASE TO STATE OF CERTAIN OTHER PERSONS.—If the director of the facility in which a person is hospitalized or placed pursuant to this chapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is a sexually dangerous person, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility.

(Added Pub. L. 109–248, title III, §302(4), July 27, 2006, 120 Stat. 620.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4248, act Sept. 7, 1949, ch. 535, §1, 63 Stat. 688, related to the termination of custody by release or transfer, prior to its omission in the general amendment of this chapter by Pub. L. 98–473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2057.

[CHAPTER 314—REPEALED]

[§§ 4251 to 4255. Repealed. Pub. L. 98–473, title II, §218(a)(6), Oct. 12, 1984, 98 Stat. 2027]

Section 4251, added Pub. L. 89–793, title II, §201, Nov. 8, 1966, 80 Stat. 1442; amended Pub. L. 91–513, title III, §1102(s), Oct. 27, 1970, 84 Stat. 1294; Pub. L. 92–420, §3, Sept. 16, 1972, 86 Stat. 677, defined terms for purposes of this chapter.

Section 4252, added Pub. L. 89–793, title II, §201, Nov. 8, 1966, 80 Stat. 1443, related to examination to determine if offender is an addict and likely to be rehabilitated through treatment.

Section 4253, added Pub. L. 89–793, title II, §201, Nov. 8, 1966, 80 Stat. 1443, related to commitment for treatment.

Section 4254, added Pub. L. 89–793, title II, §201, Nov. 8, 1966, 80 Stat. 1443, related to conditional release.

Section 4255, added Pub. L. 89–793, title II, §201, Nov. 8, 1966, 80 Stat. 1443; amended Pub. L. 95–537, §3, Oct. 27, 1978, 92 Stat. 2038; Pub. L. 99–570, §1861(c), Oct. 27, 1986, 100 Stat. 3207–53; Pub. L. 99–646, §19, Nov. 10, 1986, 100 Stat. 3596, related to supervision in the community.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal, with sections to remain in effect for five years as to an individual who committed an offense or an act of juvenile delinquency before Nov. 1, 1987, and as to a term of imprisonment during the period described in

section 235(a)(1)(B) of Pub. L. 98–473, see section 235(a)(1), (b)(1)(C) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

CHAPTER 315—DISCHARGE AND RELEASE PAYMENTS

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473, title II, § 218(f), Oct. 12, 1984, 98 Stat. 2027, in items 4281, 4283, and 4284, substituted ''Repealed'' for ''Discharge from prison'', ''Probation'', and ''Advances for rehabilitation'', respectively.

1978—Pub. L. 95–503, § 2, Oct. 24, 1978, 92 Stat. 1704, added item 4285.

1952—Act May 15, 1952, ch. 289, § 3, 66 Stat. 73, added item 4284.

[§ 4281. Repealed. Pub. L. 98–473, title II, § 218(a)(7), Oct. 12, 1984, 98 Stat. 2027]

Section, acts June 25, 1948, ch. 645, 62 Stat. 856; Sept. 19, 1962, Pub. L. 87–672, 76 Stat. 557, related to discharge from prison of a convicted person.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4282. Arrested but unconvicted persons

On the release from custody of a person arrested on a charge of violating any law of the United States or of the Territory of Alaska, but not indicted nor informed against, or indicted or informed against but not convicted, and detained pursuant to chapter 207, or a person held as a material witness, the court in its discretion may direct the United States marshal for the district wherein he is released, pursuant to regulations promulgated by the Attorney General, to furnish the person so released with transportation and subsistence to the place of his arrest, or, at his election, to the place of his bona fide residence if such cost is not greater than to the place of arrest.

(June 25, 1948, ch. 645, 62 Stat. 856; Pub. L. 98–473, title II, § 207, Oct. 12, 1984, 98 Stat. 1986.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 746a (July 3, 1926, ch. 795, § 2, as added June 21, 1941, ch. 212, 55 Stat. 254).

The phrase ''informed against'' was inserted in two places in view of the fact that under the Federal Rules of Criminal Procedure the use of informations may be expected to increase. See Rule 7(b).

The section was extended to cover a person held as a material witness and unable to make bail. His predicament obviously calls for the relief afforded by the revised section.

Changes were made in phraseology and surplusage omitted.

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473 substituted ''and detained pursuant to chapter 207'' for ''and not admitted to bail'' and struck out ''and unable to make bail'' after ''held as a material witness''.

Executive Documents

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

[§§ 4283, 4284. Repealed. Pub. L. 98–473, title II, § 218(a)(7), Oct. 12, 1984, 98 Stat. 2027]

Section 4283, act June 25, 1948, ch. 645, 62 Stat. 856, related to furnishing transportation when placing a defendant on probation.

Section 4284, added May 15, 1952, ch. 289, § 1, 66 Stat. 72; amended Sept. 13, 1982, Pub. L. 97–258, § 3(e)(5), 96 Stat. 1064, related to advances for rehabilitation.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4285. Persons released pending further judicial proceedings

Any judge or magistrate judge of the United States, when ordering a person released under chapter 207 on a condition of his subsequent appearance before that court, any division of that court, or any court of the United States in another judicial district in which criminal proceedings are pending, may, when the interests of justice would be served thereby and the United States judge or magistrate judge is satisfied, after appropriate inquiry, that the defendant is financially unable to provide the necessary transportation to appear before the required court on his own, direct the United States marshal to arrange for that person's means of noncustodial transportation or furnish the fare for such transportation to the place where his appearance is required, and in addition may direct the United States marshal to furnish that person with an amount of money for subsistence expenses to his destination, not to exceed the amount authorized as a per diem allowance for travel under section 5702(a) of title 5, United States Code. When so ordered, such expenses shall be paid by the marshal out of funds authorized by the Attorney General for such expenses.

(Added Pub. L. 95–503, § 1, Oct. 24, 1978, 92 Stat. 1704; amended Pub. L. 101–647, title XXXV, § 3599E, Nov. 29, 1990, 104 Stat. 4932; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

Editorial Notes

AMENDMENTS

1990—Pub. L. 101–647 substituted ''exceed'' for ''exced'' after ''not to''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Words ''magistrate judge'' substituted for ''magistrate'' wherever appearing in text pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Pub. L. 95–503, § 3, Oct. 24, 1978, 92 Stat. 1704, provided that: ''The amendments made by this Act [enacting this section] shall take effect on October 1, 1978.''

CHAPTER 317—INSTITUTIONS FOR WOMEN

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–391, title III, § 301(b), Dec. 21, 2018, 132 Stat. 5220, added item 4322.

§ 4321. Board of Advisers

Four citizens of the United States of prominence and distinction, appointed by the President to serve without compensation, for terms of four years, together with the Attorney General of the United States, the Director of the Bureau of Prisons and the warden of the Federal Reformatory for Women, shall constitute a Board of Advisers of said Federal Reformatory for Women, which shall recommend ways and means for the discipline and training of the inmates, to fit them for suitable employment upon their discharge.

Any person chosen to fill a vacancy shall be appointed only for the unexpired term of the citizen whom he shall succeed.

(June 25, 1948, ch. 645, 62 Stat. 856; Pub. L. 98–473, title II, § 223(n), Oct. 12, 1984, 98 Stat. 2030.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 816 (June 7, 1924, ch. 287, § 7, 43 Stat. 474; May 14, 1930, ch. 274, § 1, 46 Stat. 325).

The provisions relating to the appointment of the board in the first instance were omitted as executed.

''Warden'' was substituted for ''superintendent'' and ''Federal Reformatory for Women'' for ''United States Industrial Institution for Women'' to conform to existing administrative usage.

Minor changes were made in translation, phraseology, and arrangement.

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473 struck out ''parole or'' before ''discharge'' at end of first par.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4322. Use of restraints on prisoners during the period of pregnancy, labor, and postpartum recovery prohibited

(a) PROHIBITION.—Except as provided in subsection (b), beginning on the date on which pregnancy is confirmed by a healthcare professional, and ending at the conclusion of postpartum recovery, a prisoner in the custody of the Bureau of Prisons, or in the custody of the United States Marshals Service pursuant to section 4086, shall not be placed in restraints.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The prohibition under subsection (a) shall not apply if—

(A) an appropriate corrections official, or a United States marshal, as applicable, makes a determination that the prisoner—

(i) is an immediate and credible flight risk that cannot reasonably be prevented by other means; or

(ii) poses an immediate and serious threat of harm to herself or others that cannot reasonably be prevented by other means; or

(B) a healthcare professional responsible for the health and safety of the prisoner determines that the use of restraints is appropriate for the medical safety of the prisoner.

(2) LEAST RESTRICTIVE RESTRAINTS.—In the case that restraints are used pursuant to an exception under paragraph (1), only the least restrictive restraints necessary to prevent the harm or risk of escape described in paragraph (1) may be used.

(3) APPLICATION.—

(A) IN GENERAL.—The exceptions under paragraph (1) may not be applied—

(i) to place restraints around the ankles, legs, or waist of a prisoner;

(ii) to restrain a prisoner's hands behind her back;

(iii) to restrain a prisoner using 4-point restraints; or

(iv) to attach a prisoner to another prisoner.

(B) MEDICAL REQUEST.—Notwithstanding paragraph (1), upon the request of a healthcare professional who is responsible for the health and safety of a prisoner, a corrections official or United States marshal, as applicable, shall refrain from using restraints on the prisoner or shall remove restraints used on the prisoner.

(c) REPORTS.—

(1) REPORT TO THE DIRECTOR AND HEALTHCARE PROFESSIONAL.—If a corrections official or United States marshal uses restraints on a prisoner under subsection (b)(1), that official or marshal shall submit, not later than 30 days after placing the prisoner in restraints, to the Director of the Bureau of Prisons or the Director of the United States Marshals Service, as applicable, and to the healthcare professional responsible for the health and safety of the prisoner, a written report that describes the facts and circumstances surrounding the use of restraints, and includes—

(A) the reasoning upon which the determination to use restraints was made;

(B) the details of the use of restraints, including the type of restraints used and length of time during which restraints were used; and

(C) any resulting physical effects on the prisoner observed by or known to the corrections official or United States marshal, as applicable.

(2) SUPPLEMENTAL REPORT TO THE DIRECTOR.—Upon receipt of a report under paragraph (1), the healthcare professional responsible for the health and safety of the prisoner may submit to the Director such information as the healthcare professional determines is relevant to the use of restraints on the prisoner.

(3) REPORT TO JUDICIARY COMMITTEES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Director of the Bureau of Prisons and the Director of the United States Marshals Service shall each submit to the Judiciary Committee of the Senate and of the House of Representatives a report that certifies compliance with this section and includes the information required to be reported under paragraph (1).

(B) PERSONALLY IDENTIFIABLE INFORMATION.—The report under this paragraph shall not contain any personally identifiable information of any prisoner.

(d) NOTICE.—Not later than 48 hours after the confirmation of a prisoner's pregnancy by a healthcare professional, that prisoner shall be notified by an appropriate healthcare professional, corrections official, or United States marshal, as applicable, of the restrictions on the use of restraints under this section.

(e) VIOLATION REPORTING PROCESS.—The Director of the Bureau of Prisons, in consultation with the Director of the United States Marshals Service, shall establish a process through which a prisoner may report a violation of this section.

(f) TRAINING.—

(1) IN GENERAL.—The Director of the Bureau of Prisons and the Director of the United States Marshals Service shall each develop training guidelines regarding the use of restraints on female prisoners during the period of pregnancy, labor, and postpartum recovery, and shall incorporate such guidelines into appropriate training programs. Such training guidelines shall include—

(A) how to identify certain symptoms of pregnancy that require immediate referral to a healthcare professional;

(B) circumstances under which the exceptions under subsection (b) would apply;

(C) in the case that an exception under subsection (b) applies, how to apply restraints in a way that does not harm the prisoner, the fetus, or the neonate;

(D) the information required to be reported under subsection (c); and

(E) the right of a healthcare professional to request that restraints not be used, and the requirement under subsection (b)(3)(B) to comply with such a request.

(2) DEVELOPMENT OF GUIDELINES.—In developing the guidelines required by paragraph (1), the Directors shall each consult with healthcare professionals with expertise in caring for women during the period of pregnancy and postpartum recovery.

(g) DEFINITIONS.—For purposes of this section:

(1) POSTPARTUM RECOVERY.—The term ''postpartum recovery'' means the 12-week period, or longer as determined by the healthcare professional responsible for the health and safety of the prisoner, following delivery, and shall include the entire period that the prisoner is in the hospital or infirmary.

(2) PRISONER.—The term ''prisoner'' means a person who has been sentenced to a term of imprisonment pursuant to a conviction for a Federal criminal offense, or a person in the custody of the Bureau of Prisons, including a person in a Bureau of Prisons contracted facility.

(3) RESTRAINTS.—The term ''restraints'' means any physical or mechanical device used to control the movement of a prisoner's body, limbs, or both.

(Added Pub. L. 115–391, title III, § 301(a), Dec. 21, 2018, 132 Stat. 5217.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(3)(A), is the date of enactment of Pub. L. 115–391, which was approved Dec. 21, 2018.

CHAPTER 319—NATIONAL INSTITUTE OF CORRECTIONS

Editorial Notes

AMENDMENTS

1974—Pub. L. 93–415, title V, § 521, Sept. 7, 1974, 88 Stat. 1139, added chapter heading.

Statutory Notes and Related Subsidiaries

REPEALS

Pub. L. 93–415, title V, § 521, Sept. 7, 1974, 88 Stat. 1139, cited as a credit in an amendment to this analysis, was repealed by Pub. L. 115–385, title III, § 307, Dec. 21, 2018, 132 Stat. 5152.

§ 4351. Establishment; Advisory Board; appointment of members; compensation; officers; committees; delegation of powers; Director, appointment and powers [1]

(a) There is hereby established within the Bureau of Prisons a National Institute of Corrections.

(b) The overall policy and operations of the National Institute of Corrections shall be under the supervision of an Advisory Board. The Board

[1] Editorially supplied. Sections 4351 and 4352 added by Pub. L. 93–415 without corresponding enactment of chapter analysis.

[1] Section catchline editorially supplied.

shall consist of sixteen members. The following six individuals shall serve as members of the Commission ex officio: the Director of the Federal Bureau of Prisons or his designee, the Director of the Bureau of Justice Assistance or his designee, Chairman of the United States Sentencing Commission or his designee, the Director of the Federal Judicial Center or his designee, the Associate Administrator for the Office of Juvenile Justice and Delinquency Prevention[2] or his designee, and the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare or his designee.

(c) The remaining ten members of the Board shall be selected as follows:

(1) Five shall be appointed initially by the Attorney General of the United States for staggered terms; one member shall serve for one year, one member for two years, and three members for three years. Upon the expiration of each member's term, the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be qualified as a practitioner (Federal, State, or local) in the field of corrections, probation, or parole.

(2) Five shall be appointed initially by the Attorney General of the United States for staggered terms, one member shall serve for one year, three members for two years, and one member for three years. Upon the expiration of each member's term the Attorney General shall appoint successors who will each serve for a term of three years. Each member selected shall be from the private sector, such as business, labor, and education, having demonstrated an active interest in corrections, probation, or parole.

(d) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States. Members of the Commission who are full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Board. Other members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Commission pursuant to this title, be entitled to receive compensation at the rate not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(e) The Board shall elect a chairman from among its members who shall serve for a term of one year. The members of the Board shall also elect one or more members as a vice-chairman.

(f) The Board is authorized to appoint, without regard to the civil service laws, technical, or other advisory committees to advise the Institute with respect to the administration of this title as it deems appropriate. Members of these committees not otherwise employed by the United States, while engaged in advising the Institute or attending meetings of the committees, shall be entitled to receive compensation at the rate fixed by the Board but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(g) The Board is authorized to delegate its powers under this title to such persons as it deems appropriate.

(h) The Institute shall be under the supervision of an officer to be known as the Director, who shall be appointed by the Attorney General after consultation with the Board. The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administrative personnel, subject to the civil service and classification laws, as are necessary to the functioning of the Institute. The Director shall have the power to acquire and hold real and personal property for the Institute and may receive gifts, donations, and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other advisory councils comprised of consultants to guide and advise the Board. The Director is authorized to delegate his powers under this title to such persons as he deems appropriate.

(Added Pub. L. 93–415, title V, § 521, Sept. 7, 1974, 88 Stat. 1139; amended Pub. L. 95–115, § 8(a), Oct. 3, 1977, 91 Stat. 1060; Pub. L. 98–473, title II, § 223(*o*), Oct. 12, 1984, 98 Stat. 2030; Pub. L. 103–322, title XXXIII, § 330001(i), Sept. 13, 1994, 108 Stat. 2140.)

Editorial Notes

REFERENCES IN TEXT

The Office of Juvenile Justice and Delinquency Prevention, referred to in subsec. (b), as originally created by section 11111 of Title 34, Crime Control and Law Enforcement, was headed by an Associate Administrator. However, section 11111 of Title 34, as amended by Pub. L. 98–473, establishes the Office of Juvenile Justice and Delinquency Prevention, headed by an Administrator.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''Director of the Bureau of Justice Assistance'' for ''Administrator of the Law Enforcement Assistance Administration''.

1984—Subsec. (b). Pub. L. 98–473 substituted ''Sentencing Commission'' for ''Parole Board''.

1977—Subsec. (b). Pub. L. 95–115 substituted ''Associate'' for ''Deputy Assistant'' and ''Office of'' for ''National Institute for''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of Health, Education, and Welfare redesignated Department of Health and Human Services by

[2] See References in Text note below.

Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–115 effective Oct. 1, 1977, see section 263(c) of Pub. L. 93–415, as added by Pub. L. 95–115, formerly set out as a note under section 11101 of Title 34, Crime Control and Law Enforcement.

REPEALS

Pub. L. 93–415, title V, § 521, Sept. 7, 1974, 88 Stat. 1139, cited as a credit to this section, was repealed by Pub. L. 115–385, title III, § 307, Dec. 21, 2018, 132 Stat. 5152.

TRANSFER OF FUNCTIONS

Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 10142(3) through (6) of Title 34, Crime Control and Law Enforcement, transferred to Assistant Attorney General for Office of Justice Programs, see section 1000(a)(1) [title I, § 108(b)] of Pub. L. 106–113, set out as a note under section 10141 of Title 34.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

EXCEPTIONS TO MEMBERSHIP REQUIREMENTS DURING FIVE-YEAR PERIOD

For exceptions to the membership requirements set forth in this section, which exceptions are applicable for five-year period following Nov. 1, 1987, see section 235(b)(5) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

§ 4352. Authority of Institute; time; records of recipients; access; scope of section [1]

(a) In addition to the other powers, express and implied, the National Institute of Corrections shall have authority—

(1) to receive from or make grants to and enter into contracts with Federal, State, tribal, and general units of local government, public and private agencies, educational institutions, organizations, and individuals to carry out the purposes of this chapter;

(2) to serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on corrections, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal and juvenile offenders;

(3) to assist and serve in a consulting capacity to Federal, State, tribal, and local courts, departments, and agencies in the development, maintenance, and coordination of programs, facilities, and services, training, treatment, and rehabilitation with respect to criminal and juvenile offenders;

(4) to encourage and assist Federal, State, tribal, and local government programs and services, and programs and services of other public and private agencies, institutions, and organizations in their efforts to develop and implement improved corrections programs;

(5) to devise and conduct, in various geographical locations, seminars, workshops, and training programs for law enforcement officers, judges, and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay ex-offenders, and paraprofessional personnel, connected with the treatment and rehabilitation of criminal and juvenile offenders;

(6) to develop technical training teams to aid in the development of seminars, workshops, and training programs within the several States and tribal communities, and with the State, tribal, and local agencies which work with prisoners, parolees, probationers, and other offenders;

(7) to conduct, encourage, and coordinate research relating to corrections, including the causes, prevention, diagnosis, and treatment of criminal offenders;

(8) to formulate and disseminate correctional policy, goals, standards, and recommendations for Federal, State, tribal, and local correctional agencies, organizations, institutions, and personnel;

(9) to conduct evaluation programs which study the effectiveness of new approaches, techniques, systems, programs, and devices employed to improve the corrections system;

(10) to receive from any Federal department or agency such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information to the Institute;

(11) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel, facilities, or equipment of such departments and agencies;

(12) to confer with and avail itself of the assistance, services, records, and facilities of State, tribal, and local governments or other public or private agencies, organizations, or individuals;

(13) to enter into contracts with public or private agencies, organizations, or individuals, for the performance of any of the functions of the Institute; and

(14) to procure the services of experts and consultants in accordance with section 3109 of

[1] Section catchline editorially supplied.

title 5 of the United States Code, at rates of compensation not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code.

[(b) Repealed. Pub. L. 97–375, title I, § 109(a), Dec. 21, 1982, 96 Stat. 1820.]

(c) Each recipient of assistance under this chapter shall keep such records as the Institute shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(d) The Institute, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purposes of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this chapter.

(e) The provision of this section shall apply to all recipients of assistance under this title, whether by direct grant or contract from the Institute or by subgrant or subcontract from primary grantees or contractors of the Institute.

(Added Pub. L. 93–415, title V, § 521, Sept. 7, 1974, 88 Stat. 1140; amended Pub. L. 97–375, title I, § 109(a), Dec. 21, 1982, 96 Stat. 1820; Pub. L. 101–647, title XXXV, § 3599F, Nov. 29, 1990, 104 Stat. 4932; Pub. L. 111–211, title II, § 261(b), July 29, 2010, 124 Stat. 2299.)

Editorial Notes

AMENDMENTS

2010—Subsec. (a)(1), (3), (4). Pub. L. 111–211, § 261(b)(1), inserted ''tribal,'' after ''State,''.

Subsec. (a)(6). Pub. L. 111–211, § 261(b)(2), inserted ''and tribal communities,'' after ''States'' and '', tribal,'' after ''State''.

Subsec. (a)(8). Pub. L. 111–211, § 261(b)(1), inserted ''tribal,'' after ''State,''.

Subsec. (a)(12). Pub. L. 111–211, § 261(b)(3), inserted '', tribal,'' after ''State''.

1990—Subsec. (c). Pub. L. 101–647 substituted ''this chapter shall'' for ''this shall''.

1982—Subsec. (b). Pub. L. 97–375 struck out subsec. (b) which directed the Institute to submit an annual report to the President and Congress, including a comprehensive and detailed report of the Institute's operations, activities, financial condition and accomplishments under this title, and which might include such recommendations related to corrections as the Institute deemed appropriate.

Statutory Notes and Related Subsidiaries

INCLUSION OF NATIONAL INSTITUTE OF CORRECTIONS IN FEDERAL PRISON SYSTEM SALARIES AND EXPENSES BUDGET

Pub. L. 104–208, div. A, title I, § 101(a), [title I], Sept. 30, 1996, 110 Stat. 3009, 3009–11, provided in part: ''That the National Institute of Corrections hereafter shall be included in the FPS Salaries and Expenses budget, in the Contract Confinement program and shall continue to perform its current functions under 18 U.S.C. 4351, et seq., with the exception of its grant program and shall collect reimbursement for services whenever possible''.

REPEALS

Pub. L. 93–415, title V, § 521, Sept. 7, 1974, 88 Stat. 1140, cited as a credit to this section, was repealed by Pub. L. 115–385, title III, § 307, Dec. 21, 2018, 132 Stat. 5152.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

NATIONAL TRAINING CENTER FOR PRISON DRUG REHABILITATION PROGRAM PERSONNEL

Pub. L. 100–690, title VI, § 6292, Nov. 18, 1988, 102 Stat. 4369, which provided that the Director of the National Institute of Corrections, in consultation with persons with expertise in the field of community-based drug rehabilitation, was to establish and operate, at any suitable location, a national training center for training Federal, State, and local prison or jail officials to conduct drug rehabilitation programs for criminals convicted of drug-related crimes and for drug-dependent criminals, was editorially reclassified as section 10426 of Title 34, Crime Control and Law Enforcement.

[§ 4353. Repealed. Pub. L. 107–273, div. A, title III, § 301(a), Nov. 2, 2002, 116 Stat. 1780]

Section, added Pub. L. 93–415, title V, § 521, Sept. 7, 1974, 88 Stat. 1141, authorized appropriations to carry out purposes of this chapter.

PART IV—CORRECTION OF YOUTHFUL OFFENDERS

Editorial Notes

AMENDMENTS

1984—Pub. L. 98–473, title II, § 218(g), Oct. 12, 1984, 98 Stat. 2027, in item for chapter 402 substituted ''Repealed'' for ''Federal Youth Corrections Act''.

1950—Act Sept. 30, 1950, ch. 1115, § 5(a), 64 Stat. 1090, added item for chapter 402.

CHAPTER 401—GENERAL PROVISIONS

Editorial Notes

AMENDMENTS

1996—Pub. L. 104–134, title I, § 101[(a)] [title VI, § 614(a)(2)], Apr. 26, 1996, 110 Stat. 1321, 1321–65; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, struck out item 5002 ''Advisory Corrections Council''.

1952—Act May 9, 1952, ch. 253, § 2, 66 Stat. 68, added item 5003.

1950—Act Sept. 30, 1950, ch. 1115, § 5(b), 64 Stat. 1090, added item 5002.

§ 5001. Surrender to State authorities; expenses

Whenever any person under twenty-one years of age has been arrested, charged with the commission of an offense punishable in any court of