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1 **"CHAPTER 58—UNITED STATES SENTENCING**
2 **COMMISSION**

"Sec.

"991. United States Sentencing Commission; establishment and purposes.

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3 **"§ 991. United States Sentencing Commission; establish-**
4 **ment and purposes**

5 "(a) There is established as an independent commission
6 in the judicial branch of the United States a United States
7 Sentencing Commission which shall consist of seven voting
8 members and one nonvoting member. The President, after
9 consultation with representatives of judges, prosecuting at-
10 torneys, defense attorneys, law enforcement officials, senior
11 citizens, victims of crime, and others interested in the crimi-
12 nal justice process, shall appoint the voting members of the
13 Commission, by and with the advice and consent of the
14 Senate, one of whom shall be appointed, by and with the
15 advice and consent of the Senate, as the Chairman. At least
16 **(131)**~~two~~ *three* of the members shall be Federal judges in
17 regular active service selected after considering a list of six
18 judges recommended to the President by the Judicial Confer-
19 ence of the United States. Not more than four of the mem-
20 bers of the Commission shall be members of the same politi-
21 cal party. The Attorney General, or his designee, shall be an

1 ex officio, nonvoting member of the Commission. The Chair-
2 man and members of the Commission shall be subject to re-
3 moval from the Commission by the President only for neglect
4 of duty or malfeasance in office or for other good cause
5 shown.

6 “(b) The purposes of the United States Sentencing
7 Commission are to—

8 “(1) establish sentencing policies and practices for
9 the Federal criminal justice system that—

10 “(A) assure the meeting of the purposes of
11 sentencing as set forth in section 3553(a)(2) of
12 title 18, United States Code;

13 “(B) provide certainty and fairness in meet-
14 ing the purposes of sentencing, avoiding unwar-
15 ranted sentencing disparities among defendants
16 with similar records who have been found guilty
17 of similar criminal conduct while maintaining suf-
18 ficient flexibility to permit individualized sentences
19 when warranted by mitigating or aggravating fac-
20 tors not taken into account in the establishment of
21 general sentencing practices; and

22 “(C) reflect, to the extent practicable, ad-
23 vancement in knowledge of human behavior as it
24 relates to the criminal justice process; and

1 “(2) develop means of measuring the degree to
2 which the sentencing, penal, and correctional practices
3 are effective in meeting the purposes of sentencing as
4 set forth in section 3553(a)(2) of title 18, United States
5 Code.

6 **“§ 992. Terms of office; compensation**

7 “(a) The voting members of the United States Sentenc-
8 ing Commission shall be appointed for six-year terms, except
9 that the initial terms of the first members of the Commission
10 shall be staggered so that—

11 “(1) two members, including the Chairman, serve
12 terms of six years;

13 “(2) three members serve terms of four years; and

14 “(3) two members serve terms of two years.

15 “(b) No voting member may serve more than two full
16 terms. A voting member appointed to fill a vacancy that
17 occurs before the expiration of the term for which his prede-
18 cessor was appointed shall be appointed only for the remain-
19 der of such term.

20 “(c) The Chairman of the Commission shall hold a full-
21 time position and shall be compensated during the term of
22 office at the annual rate at which judges of the United States
23 courts of appeals are compensated. The voting members of
24 the Commission, other than the Chairman, shall hold full-
25 time positions until the end of the first six years after the

1 sentencing guidelines go into effect pursuant to section
2 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983, and
3 shall be compensated at the annual rate at which judges of
4 the United States courts of appeals are compensated. There-
5 after, the voting members of the Commission, other than the
6 Chairman, shall hold part-time positions and shall be paid at
7 the daily rate at which judges of the United States courts of
8 appeals are compensated. A Federal judge may serve as a
9 member of the Commission without resigning his appoint-
10 ment as a Federal judge. ✓

11 **“§ 993. Powers and duties of Chairman**

12 “The Chairman shall—

13 “(a) call and preside at meetings of the Commis-
14 sion, which shall be held for at least two weeks in each
15 quarter after the members of the Commission hold
16 part-time positions; and

17 “(b) direct—

18 “(1) the preparation of requests for appro-
19 priations for the Commission; and

20 “(2) the use of funds made available to the
21 Commission.

22 **“§ 994. Duties of the Commission**

23 “(a) The Commission, by affirmative vote of at least
24 four members of the Commission, and pursuant to its rules
25 and regulations and consistent with all pertinent provisions of

1 this title and title 18, United States Code, shall promulgate
2 and distribute to all courts of the United States and to the
3 United States Probation System—

4 “(1) guidelines, as described in this section, for
5 use of a sentencing court in determining the sentence
6 to be imposed in a criminal case, including—

7 “(A) a determination whether to impose a
8 sentence to probation, a fine, or a term of impris-
9 onment;

10 “(B) a determination as to the appropriate
11 amount of a fine or the appropriate length of a ,
12 term of probation or a term of imprisonment;

13 “(C) a determination whether a sentence to a
14 term of imprisonment should include a require-
15 ment that the defendant be placed on a term of
16 supervised release after imprisonment, and, if so,
17 the appropriate length of such a term; and

18 “(D) a determination whether multiple sen-
19 tences to terms of imprisonment should be ordered
20 to run concurrently or consecutively;

21 “(2) general policy statements regarding applica-
22 tion of the guidelines or any other aspect of sentencing
23 or sentence implementation that in the view of the
24 Commission would further the purposes set forth in

1 section 3553(a)(2) of title 18, United States Code, in-
2 cluding the appropriate use of—

3 “(A) the sanctions set forth in sections 3554,
4 3555, and 3556 of title 18;

5 “(B) the conditions of probation and super-
6 vised release set forth in sections 3563(b) and
7 3583(d) of title 18;

8 “(C) the sentence modification provisions set
9 forth in sections 3563(c), 3573, and 3582(c) of
10 title 18;

11 “(D) the authority granted under rule
12 11(e)(2) of the Federal Rules of Criminal Proce-
13 dure to accept or reject a plea agreement entered
14 into pursuant to rule 11(e)(1); and

15 “(E) the temporary release provisions set
16 forth in section 3622 of title 18, and the pre-
17 release custody provisions set forth in section
18 3624(c) of title 18; and

19 “(3) guidelines or general policy statements re-
20 garding the appropriate use of the probation revocation
21 provisions set forth in section 3565 of title 18, and the
22 provisions for modification of the term or conditions of
23 probation or supervised release set forth in sections
24 3563(c), 3564(d), and 3583(e) of title 18.

1 “(b) The Commission, in the guidelines promulgated
2 pursuant to subsection (a)(1), shall, for each category of of-
3 fense involving each category of defendant, establish a sen-
4 tencing range that is consistent with all pertinent provisions
5 of title 18, United States Code. If a sentence specified by the
6 guidelines includes a term of imprisonment, the maximum of
7 the range established for such a term shall not exceed the
8 minimum of that range by more than 25 per centum.

9 “(c) The Commission, in establishing categories of of-
10 fenses for use in the guidelines and policy statements govern-
11 ing the imposition of sentences of probation, a fine, or impris-
12 onment, governing the imposition of other authorized sanc-
13 tions, governing the size of a fine or the length of a term of
14 probation, imprisonment, or supervised release, and govern-
15 ing the conditions of probation, supervised release, or impris-
16 onment, shall consider whether the following matters, among
17 others, have any relevance to the nature, extent, place of
18 service, or other incidents of an appropriate sentence, and
19 shall take them into account only to the extent that they do
20 have relevance—

21 “(1) the grade of the offense;

22 “(2) the circumstances under which the offense
23 was committed which mitigate or aggravate the seri-
24 ousness of the offense;

1 “(3) the nature and degree of the harm caused by
2 the offense, including whether it involved property, ir-
3 replaceable property, a person, a number of persons, or
4 a breach of public trust;

5 “(4) the community view of the gravity of the of-
6 fense;

7 “(5) the public concern generated by the offense;

8 “(6) the deterrent effect a particular sentence may
9 have on the commission of the offense by others; and

10 “(7) the current incidence of the offense in the
11 community and in the Nation as a whole.

12 “(d) The Commission in establishing categories of de-
13 fendants for use in the guidelines and policy statements gov-
14 erning the imposition of sentences of probation, a fine, or
15 imprisonment, governing the imposition of other authorized
16 sanctions, governing the size of a fine or the length of a term
17 of probation, imprisonment, or supervised release, and gov-
18 erning the conditions of probation, supervised release, or im-
19 prisonment, shall consider whether the following matters,
20 among others, with respect to a defendant, have any rel-
21 evance to the nature, extent, place of service, or other inci-
22 dents of an appropriate sentence, and shall take them into
23 account only to the extent that they do have relevance—

24 “(1) age;

25 “(2) education;

1 “(3) vocational skills;

2 “(4) mental and emotional condition to the extent
3 that such condition mitigates the defendant’s culpability
4 or to the extent that such condition is otherwise plainly
5 relevant;

6 “(5) physical condition, including drug depend-
7 ence;

8 “(6) previous employment record;

9 “(7) family ties and responsibilities;

10 “(8) community ties;

11 “(9) role in the offense;

12 “(10) criminal history; and

13 “(11) degree of dependence upon criminal activity
14 for a livelihood.

15 The Commission shall assure that the guidelines and policy
16 statements are entirely neutral as to the race, sex, national
17 origin, creed, and socioeconomic status of offenders.

18 “(e) The Commission shall assure that the guidelines
19 and policy statements, in recommending a term of imprison-
20 ment or length of a term of imprisonment, reflect the general
21 inappropriateness of considering the education, vocational
22 skills, employment record, family ties and responsibilities,
23 and community ties of the defendant.

24 “(f) The Commission, in promulgating guidelines pursu-
25 ant to subsection (a)(1), shall promote the purposes set forth

1 in section 991(b)(1), with particular attention to the require-
2 ments of subsection 991(b)(1)(B) for providing certainty and
3 fairness in sentencing and reducing unwarranted sentence
4 disparities.

5 “(g) The Commission, in promulgating guidelines pursu-
6 ant to subsection (a)(1) to meet the purposes of sentencing as
7 set forth in section 3553(a)(2) of title 18, United States Code,
8 shall take into account the nature and capacity of the penal,
9 correctional, and other facilities and services available, and
10 shall make recommendations concerning any change or ex-
11 pansion in the nature or capacity of such facilities and serv-
12 ices that might become necessary as a result of the guidelines
13 promulgated pursuant to the provisions of this chapter.
14 **(132)** *The sentencing guidelines prescribed under this chap-*
15 *ter shall be formulated to minimize the likelihood that the*
16 *Federal prison population will exceed the capacity of the*
17 *Federal prisons, as determined by the Commission.*

18 “(h) The Commission shall assure that the guidelines
19 will specify a sentence to a term of imprisonment at or near
20 the maximum term authorized by section 3581(b) of title 18,
21 United States Code, for categories of defendants in which the
22 defendant is eighteen years old or older and—

23 “(1) has been convicted of a felony that is—

24 “(A) a crime of violence; or

1 “(B) an offense described in section 401 of
2 the Controlled Substances Act (21 U.S.C. 841),
3 sections 1002(a), 1005, and 1009 of the Con-
4 trolled Substances Import and Export Act (21
5 U.S.C. 952(a), 955, and 959), and section 1 of
6 the Act of September 15, 1980 (21 U.S.C. 955a);
7 and

8 “(2) has previously been convicted of two or more
9 prior felonies, each of which is—

10 “(A) a crime of violence; or

11 “(B) an offense described in section 401 of ,
12 the Controlled Substances Act (21 U.S.C. 841),
13 sections 1002(a), 1005, and 1009 of the Con-
14 trolled Substances Import and Export Act (21
15 U.S.C. 952(a), 955, and 959), and section 1 of
16 the Act of September 15, 1980 (21 U.S.C. 955a).

17 “(i) The Commission shall assure that the guidelines
18 will specify a sentence to a substantial term of imprisonment
19 for categories of defendants in which the defendant—

20 “(1) has a history of two or more prior Federal,
21 State, or local felony convictions for offenses commit-
22 ted on different occasions;

23 “(2) committed the offense as part of a pattern of
24 criminal conduct from which he derived a substantial
25 portion of his income;

1 “(3) committed the offense in furtherance of a
2 conspiracy with three or more persons engaging in a
3 pattern of racketeering activity in which the defendant
4 participated in a managerial or supervisory capacity;

5 “(4) committed a crime of violence that consti-
6 tutes a felony while on release pending trial, sentence,
7 or appeal from a Federal, State, or local felony for
8 which he was ultimately convicted; or

9 “(5) committed a felony that is set forth in section
10 401 or 1010 of the Comprehensive Drug Abuse Pre-
11 vention and Control Act of 1970 (21 U.S.C. 841 and
12 960), and that involved trafficking in a substantial
13 quantity of a controlled substance.

14 “(j) The Commission shall insure that the guidelines re-
15 flect the general appropriateness of imposing a sentence
16 other than imprisonment in cases in which the defendant is a
17 first offender who has not been convicted of a crime of vio-
18 lence or an otherwise serious offense, and the general appro-
19 priateness of imposing a term of imprisonment on a person
20 convicted of a crime of violence that results in serious bodily
21 injury.

22 “(k) The Commission shall insure that the guidelines re-
23 flect the inappropriateness of imposing a sentence to a term
24 of imprisonment for the purpose of rehabilitating the defend-
25 ant or providing the defendant with needed educational or

1 vocational training, medical care, or other correctional treat-
2 ment.

3 “(l) The Commission shall insure that the guidelines
4 promulgated pursuant to subsection (a)(1) reflect—

5 “(1) the appropriateness of imposing an incremen-
6 tal penalty for each offense in a case in which a de-
7 fendant is convicted of—

8 “(A) multiple offenses committed in the same
9 course of conduct that result in the exercise of an-
10 cillary jurisdiction over one or more of the of-
11 fenses; and

12 “(B) multiple offenses committed at different
13 times, including those cases in which the subse-
14 quent offense is a violation of section 3146 (penal-
15 ty for failure to appear) or is committed while the
16 person is released pursuant to the provisions of
17 section 3147 (penalty for an offense committed
18 while on release) of title 18; and

19 “(2) the general inappropriateness of imposing
20 consecutive terms of imprisonment for an offense of
21 conspiring to commit an offense or soliciting commis-
22 sion of an offense and for an offense that was the sole
23 object of the conspiracy or solicitation.

24 “(m) The Commission shall insure that the guidelines
25 reflect the fact that, in many cases, current sentences do not

1 accurately reflect the seriousness of the offense. This will re-
2 quire that, as a starting point in its development of the initial
3 sets of guidelines for particular categories of cases, the Com-
4 mission ascertain the average sentences imposed in such cat-
5 egories of cases prior to the creation of the Commission, and
6 in cases involving sentences to terms of imprisonment, the
7 length of such terms actually served. The Commission shall
8 not be bound by such average sentences, and shall independ-
9 ently develop a sentencing range that is consistent with the
10 purposes of sentencing described in section 3553(a)(2) of title
11 18, United States Code.

12 “(n) The Commission periodically shall review and
13 revise, in consideration of comments and data coming to its
14 attention, the guidelines promulgated pursuant to the provi-
15 sions of this section. In fulfilling its duties and in exercising
16 its powers, the Commission shall consult with authorities on,
17 and individual and institutional representatives of, various as-
18 pects of the Federal criminal justice system. The United
19 States Probation System, the Bureau of Prisons, the Judicial
20 Conference of the United States, the Criminal Division of the
21 United States Department of Justice, and a representative of
22 the Federal Public Defenders shall submit to the Commission
23 any observations, comments, or questions pertinent to the
24 work of the Commission whenever they believe such commu-
25 nication would be useful, and shall, at least annually, submit

1 to the Commission a written report commenting on the oper-
2 ation of the Commission's guidelines, suggesting changes in
3 the guidelines that appear to be warranted, and otherwise
4 assessing the Commission's work.

5 “(o) The Commission, at or after the beginning of a reg-
6 ular session of Congress but not later than the first day of
7 May, shall report to the Congress any amendments of the
8 guidelines promulgated pursuant to subsection (a)(1), and a
9 report of the reasons therefor, and the amended guidelines
10 shall take effect one hundred and eighty days after the Com-
11 mission reports them, except to the extent the effective date
12 is enlarged or the guidelines are disapproved or modified by
13 Act of Congress.

14 “(p) The Commission and the Bureau of Prisons shall
15 submit to Congress an analysis and recommendations con-
16 cerning maximum utilization of resources to deal effectively
17 with the Federal prison population. Such report shall be
18 based upon consideration of a variety of alternatives, includ-
19 ing—

20 “(1) modernization of existing facilities;

21 “(2) inmate classification and periodic review of
22 such classification for use in placing inmates in the
23 least restrictive facility necessary to ensure adequate
24 security; and

1 “(3) use of existing Federal facilities, such as
2 those currently within military jurisdiction.

3 “(q) The Commission, within three years of the date of
4 enactment of the Sentencing Reform Act of 1983, and there-
5 after whenever it finds it advisable, shall recommend to the
6 Congress that it raise or lower the grades, or otherwise
7 modify the maximum penalties, of those offenses for which
8 such an adjustment appears appropriate.

9 “(r) The Commission shall give due consideration to any
10 petition filed by a defendant requesting modification of the
11 guidelines utilized in the sentencing of such defendant, on the
12 basis of changed circumstances unrelated to the defendant,
13 including changes in—

14 “(1) the community view of the gravity of the of-
15 fense;

16 “(2) the public concern generated by the offense;
17 and

18 “(3) the deterrent effect particular sentences may
19 have on the commission of the offense by others.

20 Within one hundred and eighty days of the filing of such peti-
21 tion the Commission shall provide written notice to the de-
22 fendant whether or not it has approved the petition. If the
23 petition is disapproved the written notice shall contain the
24 reasons for such disapproval. The Commission shall submit to

1 the Congress at least annually an analysis of such written
2 notices.

3 “(s) The Commission, in promulgating general policy
4 statements regarding the sentencing modification provisions
5 in section 3582(c)(1)(A) of title 18, shall describe what should
6 be considered extraordinary and compelling reasons for sen-
7 tence reduction, including the criteria to be applied and a list
8 of specific examples. Rehabilitation of the defendant alone
9 shall not be considered an extraordinary and compelling
10 reason.

11 “(t) If the Commission reduces the term of imprison-
12 ment recommended in the guidelines applicable to a particu-
13 lar offense or category of offenses, it shall specify by what
14 amount the sentences of prisoners serving terms of imprison-
15 ment that are outside the applicable guideline ranges for the
16 offense may be reduced.

17 “(u) The Commission shall ensure that the general
18 policy statements promulgated pursuant to subsection (a)(2)
19 include a policy limiting consecutive terms of imprisonment
20 for an offense involving a violation of a general prohibition
21 and for an offense involving a violation of a specific prohibi-
22 tion encompassed within the general prohibition.

23 “(v) The appropriate judge or officer shall submit to the
24 Commission in connection with each sentence imposed a
25 written report of the sentence, the offense for which it is

1 imposed, the age, race, and sex of the offender, information
2 regarding factors made relevant by the guidelines, and such
3 other information as the Commission finds appropriate. The
4 Commission shall submit to Congress at least annually an
5 analysis of these reports and any recommendations for legis-
6 lation that the Commission concludes is warranted by that
7 analysis.

8 “(w) The provisions of section 553 of title 5, relating to
9 publication in the Federal Register and public hearing proce-
10 dure, shall apply to the promulgation of guidelines pursuant
11 to this section.

12 **“§ 995. Powers of the Commission**

13 “(a) The Commission, by vote of a majority of the mem-
14 bers present and voting, shall have the power to—

15 “(1) establish general policies and promulgate
16 such rules and regulations for the Commission as are
17 necessary to carry out the purposes of this chapter;

18 “(2) appoint and fix the salary and duties of the
19 Staff Director of the Sentencing Commission, who
20 shall serve at the discretion of the Commission and
21 who shall be compensated at a rate not to exceed the
22 highest rate now or hereafter prescribed for grade 18
23 of the General Schedule pay rates (5 U.S.C. 5332);

24 “(3) deny, revise, or ratify any request for regu-
25 lar, supplemental, or deficiency appropriations prior to

1 any submission of such request to the Office of Man-
2 agement and Budget by the Chairman;

3 “(4) procure for the Commission temporary and
4 intermittent services to the same extent as is author-
5 ized by section 3109(b) of title 5, United States Code;

6 “(5) utilize, with their consent, the services,
7 equipment, personnel, information, and facilities of
8 other Federal, State, local, and private agencies and
9 instrumentalities with or without reimbursement there-
10 for;

11 “(6) without regard to 31 U.S.C. 3324, enter into
12 and perform such contracts, leases, cooperative agree-
13 ments, and other transactions as may be necessary in
14 the conduct of the functions of the Commission, with
15 any public agency, or with any person, firm, associa-
16 tion, corporation, educational institution, or non-profit
17 organization;

18 “(7) accept and employ, in carrying out the provi-
19 sions of this title, voluntary and uncompensated serv-
20 ices, notwithstanding the provisions of 31 U.S.C.
21 1342, however, individuals providing such services
22 shall not be considered Federal employees except for
23 purposes of chapter 81 of title 5, United States Code,
24 with respect to job-incurred disability and title 28,
25 United States Code, with respect to tort claims;

1 “(8) request such information, data, and reports
2 from any Federal agency or judicial officer as the Com-
3 mission may from time to time require and as may be
4 produced consistent with other law;

5 “(9) monitor the performance of probation officers
6 with regard to sentencing recommendations, including
7 application of the Sentencing Commission guidelines
8 and policy statements;

9 “(10) issue instructions to probation officers con-
10 cerning the application of Commission guidelines and
11 policy statements;

12 “(11) arrange with the head of any other Federal
13 agency for the performance by such agency of any
14 function of the Commission, with or without reimburse-
15 ment;

16 “(12) establish a research and development pro-
17 gram within the Commission for the purpose of—

18 “(A) serving as a clearinghouse and informa-
19 tion center for the collection, preparation, and dis-
20 semination of information on Federal sentencing
21 practices; and

22 “(B) assisting and serving in a consulting ca-
23 pacity to Federal courts, departments, and agen-
24 cies in the development, maintenance, and coordi-
25 nation of sound sentencing practices;

1 “(13) collect systematically the data obtained from
2 studies, research, and the empirical experience of
3 public and private agencies concerning the sentencing
4 process;

5 “(14) publish data concerning the sentencing proc-
6 ess;

7 “(15) collect systematically and disseminate infor-
8 mation concerning sentences actually imposed, and the
9 relationship of such sentences to the factors set forth in
10 section 3553(a) of title 18, United States Code;

11 “(16) collect systematically and disseminate infor- ,
12 mation regarding effectiveness of sentences imposed;

13 “(17) devise and conduct, in various geographical
14 locations, seminars and workshops providing continuing
15 studies for persons engaged in the sentencing field;

16 “(18) devise and conduct periodic training pro-
17 grams of instruction in sentencing techniques for judi-
18 cial and probation personnel and other persons con-
19 nected with the sentencing process;

20 “(19) study the feasibility of developing guidelines
21 for the disposition of juvenile delinquents;

22 “(20) make recommendations to Congress con-
23 cerning modification or enactment of statutes relating
24 to sentencing, penal, and correctional matters that the
25 Commission finds to be necessary and advisable to

1 carry out an effective, humane and rational sentencing
2 policy;

3 “(21) hold hearings and call witnesses that might
4 assist the Commission in the exercise of its powers or
5 duties; and

6 “(22) perform such other functions as are required
7 to permit Federal courts to meet their responsibilities
8 under section 3553(a) of title 18, United States Code,
9 and to permit others involved in the Federal criminal
10 justice system to meet their related responsibilities.

11 “(b) The Commission shall have such other powers and
12 duties and shall perform such other functions as may be nec-
13 essary to carry out the purposes of this chapter, and may
14 delegate to any member or designated person such powers as
15 may be appropriate other than the power to establish general
16 policy statements and guidelines pursuant to section 994(a)
17 (1) and (2), the issuance of general policies and promulgation
18 of rules and regulations pursuant to subsection (a)(1) of this
19 section, and the decisions as to the factors to be considered in
20 establishment of categories of offenses and offenders pursuant
21 to section 994(b). The Commission shall, with respect to its
22 activities under subsections (a)(9), (a)(10), (a)(11), (a)(12),
23 (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the
24 extent practicable, utilize existing resources of the Adminis-
25 trative Office of the United States Courts and the Federal

1 Judicial Center for the purpose of avoiding unnecessary du-
2 plication.

3 “(c) Upon the request of the Commission, each Federal
4 agency is authorized and directed to make its services, equip-
5 ment, personnel, facilities, and information available to the
6 greatest practicable extent to the Commission in the execu-
7 tion of its functions.

8 “(d) A simple majority of the membership then serving
9 shall constitute a quorum for the conduct of business. Other
10 than for the promulgation of guidelines and policy statements
11 pursuant to section 994, the Commission may exercise its
12 powers and fulfill its duties by the vote of a simple majority
13 of the members present.

14 “(e) Except as otherwise provided by law, the Commis-
15 sion shall maintain and make available for public inspection a
16 record of the final vote of each member on any action taken
17 by it.

18 **“§ 996. Director and staff**

19 “(a) The Staff Director shall supervise the activities of
20 persons employed by the Commission and perform other
21 duties assigned to him by the Commission.

22 “(b) The Staff Director shall, subject to the approval of
23 the Commission, appoint such officers and employees as are
24 necessary in the execution of the functions of the Commis-
25 sion. The officers and employees of the Commission shall be

1 exempt from the provisions of part III of title 5, United
 2 States Code, except the following chapters: 81 (Compensa-
 3 tion for Work Injuries), 83 (Retirement), 85 (Unemployment
 4 Compensation), 87 (Life Insurance), 89 (Health Insurance),
 5 and 91 (Conflicts of Interest).

6 **"§ 997. Annual report**

7 "The Commission shall report annually to the Judicial
 8 Conference of the United States, the Congress, and the
 9 President of the United States on the activities of the
 10 Commission.

11 **"§ 998. Definitions**

12 "As used in this chapter—

13 "(a) 'Commission' means the United States Sen-
 14 tencing Commission;

15 "(b) 'Commissioner' means a member of the
 16 United States Sentencing Commission;

17 "(c) 'guidelines' means the guidelines promulgated
 18 by the Commission pursuant to section 994(a) of this
 19 title; and

20 "(d) 'rules and regulations' means rules and regu-
 21 lations promulgated by the Commission pursuant to
 22 section 995 of this title."

23 (b) The chapter analysis of part III of title 28, United
 24 States Code, is amended by adding after the item relating to
 25 chapter 57 the following new item:

"58. United States Sentencing Commission..... 991".

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To John Roberts

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From Julia Woody

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_____ Per Your Request/Per Our
Conversation

_____ FYI

Message: The Comprehensive Crime
Control Act of 1984, H.R. 5963,
was incorporated into the
Continuing Resolution, H.J. Res 648,
on September 25, 1984, by the

House. H.J. Res 648 became
P.L. 98-473 on October 12, 1984.
The public law has not yet
been printed (won't be
until February). I have copied
the section you requested
from the Oct 4 version of HJ Res 648,
which includes ^{two} Senate
amendments to the section.
These amendments became
part of the final law as
enacted.

1. SPON=Fish, et. al; STTL=Acquisition of Foreign Evidence Improvements Act Comprehensive Crime Control Act of 1984 Bail Reform Act of 1984 Sentencing Reform Act of 1984 Comprehensive Forfeiture Act of 1984 Insanity Defense Reform Act of 1984 Controlled Substances Penalties Amendments Act of 1984 Livestock Fraud Protection Act Pharmacy Protection and Violent Offender Control Act of 1984 LATEST ACTION=Sep 25, 84 House Incorporated this Measure in H.J.Res.648 as an Amendment.

2. S.1762 : SPON=Thurmond, et. al; STTL=Pharmacy Protection and Violent Offender Control Act of 1983 Livestock Fraud Protection Act Comprehensive Crime Control Act of 1983 Bail Reform Act of 1983 Sentencing Reform Act of 1983 Comprehensive Forfeiture Act of 1983 Insanity Defense Reform Act of 1983 Controlled Substances Penalties Amendments Act of 1983 LATEST ACTION=Sep 25, 84 H.J.R.648 Passed the House with an Amendment Incorporating the Language of H.R.5963 (Identical to H.R.6031).

READY FOR NEW COMMAND:

BIRE:LG98; TITLE/LINE--SET 2

ITEM 1 OF 1

1. H.J.RES.648 : SPON=Whitten; LATEST TITLE=A Joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes. LATEST ACTION=Oct 12, 84 Became Public Law No: 98-473.

READY FOR NEW COMMAND:

H. J. RES. 648

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 1984

Ordered to be printed with the amendments of the Senate numbered

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1985, and
for other purposes,

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*

3 (1) ~~TITLE I~~

4 That the following sums are hereby appropriated, out of
5 any money in the Treasury not otherwise appropriated, and
6 out of applicable corporate or other revenues, receipts, and
7 funds, for the several departments, agencies, corporations,
8 and other organizational units of the Government for the
9 fiscal year 1985, and for other purposes, namely:

10 SEC. 101. (2)(a) Such amounts as may be necessary
11 for projects or activities, not otherwise specifically provided
12 for in this joint resolution, at a rate for operations and to the
13 extent and in the manner provided for in the following appo-

P.L. 98-473 of 10/12/84

H. J. Res. 648

Ninety-eighth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-third day of January,
one thousand nine hundred and eighty-four*

Joint Resolution

Making continuing appropriations for the fiscal year 1985, and for other purposes.

*Resolved by the Senate and House of Representatives of the United
States of America in Congress assembled,*

TITLE I

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1985, and for other purposes, namely:

SEC. 101. ~~(a) Such amounts as may be necessary for~~

(a) *Such sums as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1985 (H.R. 5743), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Numbered 98-1071), filed in the House of Representatives on September 25, 1984, as if such Act had been enacted into law.*



21 SEC. 102. Unless otherwise provided for in this joint
22 resolution or in the applicable appropriation Act, appropria-
23 tions and funds made available and authority granted pursu-
24 ant to this joint resolution shall be available from October 1,
25 1984, and shall remain available until (a) enactment into law

1 of an appropriation for any project or activity provided for in
2 this joint resolution, or (b) enactment of the applicable appro-
3 priation Act by both Houses without any provision for such
4 project or activity, or (c) September 30, 1985, whichever first
5 occurs.

6 SEC. 103. Appropriations made and authority granted
7 pursuant to this joint resolution shall cover all obligations or
8 expenditures incurred for any project or activity during the
9 period for which funds or authority for such project or activi-
10 ty are available under this joint resolution.

11 SEC. 104. Expenditures made pursuant to this joint res-
12 olution shall be charged to the applicable appropriation, fund,
13 or authorization whenever a bill in which such applicable ap-
14 propriation, fund, or authorization is contained is enacted into
15 law.

16 SEC. 105. Any appropriation for the fiscal year 1985
17 required to be apportioned pursuant to subchapter II of chap-
18 ter 15 of title 31, United States Code, may be apportioned on
19 a basis indicating the need (to the extent any such increases
20 cannot be absorbed within available appropriations) for a sup-
21 plemental or deficiency estimate of appropriation to the
22 extent necessary to permit payment of such pay increases as
23 may be granted pursuant to law to civilian officers and em-
24 ployees and to active and retired military personnel. Each
25 such appropriation shall otherwise be subject to the require-

TITLE II

This Title may be cited as the "Comprehensive Crime Control Act of 1984."

SEC. 201. Section 102 of this joint resolution (H.J. Res. 648) shall not apply with respect to the provisions enacted by this title.

✓ CHAPTER I—BAIL

SEC. 202. This chapter may be cited as the "✓Bail Reform Act of 1984".

SEC. 203. (a) Sections 3141 through 3151 of title 18, United States Code, are repealed and the following new sections are inserted in lieu thereof:

"§ 3141. Release and detention authority generally

"(a) PENDING TRIAL.—A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provisions of this chapter.

"(b) PENDING SENTENCE OR APPEAL.—A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

CHAPTER II—SENTENCING REFORM

SEC. 211. This chapter may be cited as the "Sentencing Reform Act of 1984".

SEC. 212. (a) Title 18 of the United States Code is amended by—

(1) redesignating sections 3577, 3578, 3579, 3580, 3611, 3612, 3615, 3617, 3618, 3619, 3620, and 3656 as sections 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, and 3672 of a new chapter 232 of title 18 of the United States Code, respectively;

(2) repealing chapters 227, 229, and 231 and substituting the following new chapters:

"CHAPTER 227—SENTENCES

"Subchapter	
"A. General Provisions	3551
"B. Probation	3561
"C. Fines	3571
"D. Imprisonment	3581

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.	
"3551. Authorized sentences.	
"3552. Presentence reports.	
"3553. Imposition of a sentence.	
"3554. Order of criminal forfeiture.	
"3555. Order of notice to victims.	
"3556. Order of restitution.	
"3557. Review of a sentence.	
"3558. Implementation of a sentence.	
"3559. Sentencing classification of offenses.	

*eff: 11/1/86,
as calculated
by term of p. 461*

(2) The item relating to Rule 38 is amended to read as follows:

"38. Stay of Execution.

"(a) Death.

"(b) Imprisonment.

"(c) Fine.

"(d) Probation.

"(e) Criminal forfeiture, notice to victims, and restitution.

"(f) Disabilities."

SEC. 216. (a) The Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates are amended by adding the following new rule at the end thereof:

"Rule 9. Definition

"As used in these rules, 'petty offense' means a Class B or C misdemeanor or an infraction."

(b) The Table of Rules that precedes Rule 1 is amended by adding at the end thereof the following new item:

"9. Definition."

SEC. 217. (a) Title 28 of the United States Code is amended by adding the following new chapter after chapter 57:

"CHAPTER 58—UNITED STATES SENTENCING COMMISSION

"Sec.

"991. United States Sentencing Commission; establishment and purposes.

"992. Terms of office; compensation.

"993. Powers and duties of Chairman.

"994. Duties of the Commission.

"995. Powers of the Commission.

"996. Director and staff.

"997. Annual report.

"998. Definitions.

Important note: Only this sec. is eff. on date of enactment (p. 461, see

sec. 235 (a) (1) (B) (i)). The rest of Chapter II has (an) other eff. date(s).

"§ 991. United States Sentencing Commission; establishment and purposes

"(a) There is established as an independent commission in the judicial branch of the United States a United States

sentencing commission which shall consist of seven voting

members and one non-voting member. The commission, and

its members, shall be appointed by the President, and

shall hold office for a term of five years.

Not more than three members shall be Federal judges in regular active

service, and not more than two shall be members of the

Senate, and not more than one shall be a member of the

House of Representatives. At least

two of the members shall be Federal judges in regular active

service, and not more than two shall be members of the

Senate, and not more than one shall be a member of the

House of Representatives. Not more than four of the members of the

commission shall be members of the same political party.

The commission shall have the honor and respect of the

United States. Not more than four of the members of the

commission shall be members of the same political party.

The commission shall have the honor and respect of the

United States. Not more than four of the members of the

commission shall be members of the same political party.

"(b) The United States Sentencing Commission are to—

Commission are to—

Quorum, p. 517

Staff Director of the Commission,
app't. by the Commission, p. 513.

"Powers" p. 512

see p. 461



11/1/91

Thru 11/1/89

9 mbrs., including
2 ex off., non-

voting mbrs.
After 11/1/91

8 mbrs.,
including the AG
(or designee) as
single ex off., non-
voting mbr.

also, see p. 468

"(1) establish sentencing policies and practices for the Federal criminal justice system that—

"(A) assure the meeting of the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

"(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices; and

"(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

"(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

"§ 992. Terms of office; compensation

"(a) [The voting members of the United States Sentencing Commission shall be appointed for six-year terms, except

(and see p. 462)
bottom (2)"

that the initial terms of the first members of the Commission shall be staggered so that—

“(1) two members, including the Chairman, serve terms of six years;

“(2) three members serve terms of four years; and

“(3) two members serve terms of two years.”

“(b) No voting member may serve more than two full terms. [A voting member appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.]

“(c) [The Chairman of the Commission shall hold a full-time position and shall be compensated during the term of office at the annual rate at which judges of the United States courts of appeals are compensated.] [The voting members of the Commission, other than the Chairman, shall hold full-time positions until the end of the first six years after the sentencing guidelines go into effect pursuant to section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983, and shall be compensated at the annual rate at which judges of the United States courts of appeals are compensated. Thereafter, the voting members of the Commission, other than the Chairman, shall hold part-time positions and shall be paid at the daily rate at which judges of the United States courts of appeals are compensated.] A [Federal judge may serve as a

Salary

should be
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member of the Commission without resigning his appointment as a Federal judge.]

“§ 993. Powers and duties of Chairman

“The Chairman shall—

“(a) call and preside at meetings of the Commission, which shall be held for at least two weeks in each quarter after the members of the Commission hold part-time positions; and

“(b) direct—

“(1) the preparation of requests for appropriations for the Commission; and

“(2) the use of funds made available to the Commission.

“§ 994. Duties of the Commission

“(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

“(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

“(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

“(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;

“(C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term; and

“(D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively;

“(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

“(A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;

“(B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;

“(C) the sentence modification provisions set forth in sections 3563(c), 3573, and 3582(c) of title 18;

“(D) the authority granted under rule 11(e)(2) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and

“(E) the temporary release provisions set forth in section 3622 of title 18, and the pre-release custody provisions set forth in section 3624(c) of title 18; and

“(3) guidelines or general policy statements regarding the appropriate use of the probation revocation provisions set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.

“(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code. If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 per centum.

“(c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

“(1) the grade of the offense;

“(2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

“(3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;

“(4) the community view of the gravity of the offense;

“(5) the public concern generated by the offense;

“(6) the deterrent effect a particular sentence may have on the commission of the offense by others; and

“(7) the current incidence of the offense in the community and in the Nation as a whole.

“(d) The Commission in establishing categories of defendants for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, with respect to a defendant, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

“(1) age;

“(2) education;

“(3) vocational skills;

“(4) mental and emotional condition to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

“(5) physical condition, including drug dependence;

“(6) previous employment record;

“(7) family ties and responsibilities;

“(8) community ties;

“(9) role in the offense;

“(10) criminal history; and

“(11) degree of dependence upon criminal activity for a livelihood.

The Commission shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders.

“(e) The Commission shall assure that the guidelines and policy statements, in recommending a term of imprisonment or length of a term of imprisonment, reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant.

“(f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

“(g) The Commission, in promulgating guidelines pursuant to subsection (a)(1) to meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code, shall take into account the nature and capacity of the penal, correctional, and other facilities and services available, and

shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter.

The sentencing guidelines prescribed under this chapter shall be formulated to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons, as determined by the Commission. *italic*

“(h) The Commission shall assure that the guidelines will specify a sentence to a term of imprisonment at or near the maximum term authorized by section 3581(b) of title 18, United States Code, for categories of defendants in which the defendant is eighteen years old or older and—

“(1) has been convicted of a felony that is—

“(A) a crime of violence; or

“(B) an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, and 959), and section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); and

“(2) has previously been convicted of two or more prior felonies, each of which is—

“(A) a crime of violence; or

“(B) an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act (21

454

*don't
Page 454
are different
in format.*

"(2) section 3142 if the person has not been sentenced to a term of imprisonment."

(g) Section 3147, as amended by this Act, is amended—

(1) in paragraph (1), by deleting "not less than two years and"; and

(2) in paragraph (2), by deleting "not less than ninety days and".

(h) Section 3156(b)(2) is amended by deleting "petty offense as defined in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(i) Section 3172(2) is amended by deleting "petty offense as defined in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(j) Section 3401 is amended—

(1) by repealing subsection (g) and redesignating (h) to (g); and

(2) in subsection (h), by deleting "petty offense case" and substituting "Class B or C misdemeanor case, or infraction case,".

(k) Section 3670 (formerly section 3619) is amended by deleting "3617" and "3618" and substituting "3668" and "3669", respectively.

(l) Section 4004 is amended by deleting "record clerks, and parole officers" and substituting "and record clerks".

(m) Chapter 306 is amended as follows:

(1) Section 4101 is amended—

(A) in subsection (f), by adding “, including a term of supervised release pursuant to section 3583” after “supervision”; and

(B) in subsection (g), by deleting “to a penalty of imprisonment the execution of which is suspended and” and substituting “under which”, and by deleting “the suspended” and substituting “a”.

(2) Section 4105(c) is amended—

(A) in paragraph (1), by deleting “for good time” the second place it appears and substituting “toward service of sentence for satisfactory behavior”;

(B) in paragraphs (1) and (2), by deleting “section 4161” and substituting “section 3624(b)”;

(C) in paragraph (1), by deleting “section 4164” and substituting “section 3624(a)”;

(D) by repealing paragraph (3);

(E) by amending paragraph (4) to read as follows:

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

(F) by redesignating paragraphs accordingly.

(3) Section 4106 is amended—

(A) in subsection (a), by deleting "Parole Commission" and substituting "Probation System";

(B) by amending subsection (b) to read as follows:

"(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."; and

(C) by repealing subsection (c).

(4) Section 4108(a) is amended by adding " , 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".

(n) Section 4321 is amended by deleting "parole or".

(o) Section 4351(b) is amended by deleting "Parole Board" and substituting "Sentencing Commission".

(p) Section 5002 is amended by deleting "Board of Parole, the Chairman of the Youth Division," and substituting "United States Sentencing Commission,".

SEC. 224. The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended as follows:

(a) Section 401 (21 U.S.C. 841) is amended—

(1) in subsection (b)(1)(A), by deleting the last sentence;

(2) in subsection (b)(1)(B), by deleting the last sentence;

(3) in subsection (b)(2), by deleting the last sentence;

(4) in subsection (b)(4), by deleting "subsections (a) and (b) of", and by adding "and section 3607 of title 18, United States Code" after "404";

(5) in subsection (b)(5), by deleting the last sentence; and

(6) by repealing subsection (c).

(b) Section 405 (21 U.S.C. 845) is amended—

(1) in subsection (a), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least twice any special parole term authorized by section

401(b), for a first offense involving the same controlled substance and schedule"; and

(2) in subsection (b), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule".

(c) Section 408(c) (21 U.S.C. 848(c)) is amended by deleting "and section 4202 of title 18 of the United States Code".

SEC. 225. The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended as follows:

(a) Section 1010 (21 U.S.C. 960) is amended—

(1) in subsection (b)(1), by deleting the last sentence;

(2) in subsection (b)(2), by deleting the last sentence; and

(3) by repealing subsection (c).

(b) Section 1012(a) (21 U.S.C. 962(a)) is amended by deleting the last sentence.

SEC. 226. Section 114(b) of title 23, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 227. Section 5871 of the Internal Revenue Code of 1954 (26 U.S.C. 5871) is amended by deleting ", and shall

become eligible for parole as the Board of Parole shall determine". ✓

SEC. 228. Title 28 of the United States Code is amended as follows:

(a) Section 509 is amended—

(1) by adding "and" after paragraph (2) and, in ✓
paragraph (3), by deleting "; and" and substituting a
period; and

(2) by repealing paragraph (4). ✓

(b) Section 591(a) is amended by deleting "petty offense" and substituting "Class B or C misdemeanor or an ✓
infraction".

(c) Section 2901 is amended—

(1) in subsection (e), by deleting "section 1" and ✓
substituting "section 3581"; and

(2) in subsection (g)(3), by adding ", supervised ✓
release," after "parole", and by adding "supervised release," after "parole,".

SEC. 229. Section 504(a) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504(a)) and section 411(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)) are amended—

(a) by deleting "the Board of Parole of the United States Department of Justice" and substituting "if the offense is a Federal offense, the sentencing judge or, if

the offense is a State or local offense, on motion of the United States Department of Justice, the district court of the United States for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements issued pursuant to 28 U.S.C. 994(a),";

(b) by deleting "Board" and "Board's" and substituting "court" and "court's", respectively; and

(c) by deleting "an administrative" and substituting "a".

SEC. 230. Section 411(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(c)(3)) is amended by adding "or supervised release" after "parole".

SEC. 231. Section 425(b) of the Job Training and Partnership Act is amended by deleting "or parole" the first place it appears and substituting ", parole, or supervised release".

SEC. 232. The Public Health Service Act (42 U.S.C. 201 et seq.) is amended as follows:

(a) Section 341(a) (42 U.S.C. 257(a)) is amended by deleting "or convicted of offenses against the United States and sentenced to treatment" and "addicts who are committed to the custody of the Attorney General pursuant to provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code),".

(b) Section 343(d) (42 U.S.C. 259(d)) is amended by adding "or supervised release" after "parole".

SEC. 232A. Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended by inserting "notwithstanding the provisions of 18 U.S.C. 3559(b)," before the term "if" in paragraphs (i)(1)(B) and (n)(1)(B).

SEC. 233. Section 11507 of title 49, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 234. Section 10(b)(7) of the Military Selective Service Act (50 U.S.C. App. 460(b)(7)) is amended by deleting "parole" and substituting "release".

EFFECTIVE DATE

SEC. 235. (a)(1) This chapter shall take effect on the first day of the first calendar month beginning ^(10/12/84) twenty-four months after the date of enactment, ^{effective} except that ^{11/1/86} ^{OK}

(A) the repeal of chapter 402 of title 18, United

States Code, shall take effect on the date of enactment; ^(10/12/84)

(B)(i) ^{within Sec. 217 of Chapter II} chapter 58 of title 28, United States Code,

shall take effect on the ^{10/12/84} date of enactment of this Act ^{date approved} or October 1, 1988, whichever occurs later, and the

United States Sentencing Commission shall submit the initial sentencing guidelines promulgated to section

994(a)(1) of title 28 to the Congress ⁽³⁸⁾ within eighteen months of the effective date of the chapter; and

Not "after", etc.)

OK Chapter 58

Can NOT Chapter II)

the "Sentencing Reform Act of '84" Cp. 37 which covers sections 211 thru 237.

U.S. Sentencing Comm. 10/1/86 10/12/84 ①

So then, the Act was enacted 10/12/84, but except for certain provisions, is effective 11/1/86. ②

by 4/17/86 (latest possible date)

* change made during final reading on 12/5/84. The 12th would not be within 18 mos., but would be a day over.

(ii) the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, shall not go into effect until the day after

(I) the United States Sentencing Commission has submitted the initial set of sentencing guidelines to the Congress pursuant to subparagraph (B)(i), along with a report stating the reasons for the Commission's recommendations;

(II) the General Accounting Office has undertaken a study of the guidelines, and their potential impact in comparison with the operation of the existing sentencing and parole release system, and has, ^{150 days} within one hundred and fifty days of submission of the guidelines, reported to the Congress the results of its study; and

(III) the Congress has had six months after the date described in subclause (I) in which to examine the guidelines and consider the reports; and

OK (IV) the provisions of sections 227 and 228 (Don't effect anything) shall take effect on the date of enactment.

(2) For the purposes of section 992(a) of title 28, the terms of the first members of the United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to paragraph (1)(B)(ii).

(not later than)

Cby 4/12/86
(Saturday)
Friday

not later than
9/8/86 (Monday)

C: f "(I)" above
is done on latest
possible date) - (8
1st day counted is
day of submission -
latest possible 1st
day is 4/12/86)

10/13/86
(Congress' 6mo. period
+ (plus)

one day =

10/13/86
(guidelines latest
eff. date)

check this out - off

(b)(1) The following provisions of law in effect on the day before the effective date of this Act shall remain in effect for five years after the effective date ~~as to an individual~~

~~committed of an offense adjudicated to be a juvenile delinquent~~

before the effective date and as to a term of imprisonment during the period described in subsection (a)(1)(B):

(A) Chapter 311 of title 18, United States Code. *Parole*

(B) Chapter 309 of title 18, United States Code. *Good Time Allowances*

(C) Sections 4251 through 4255 of title 18, *Narcotic Addicts*

United States Code.

(D) Sections 5041 and 5042 of title 18, United *Parole/revocation of* States Code.

(E) Sections 5017 through 5020 of title 18, *Release of Youth Offenders* United States Code, as to a sentence imposed before the date of enactment.

(F) The maximum term of imprisonment in effect on the effective date for an offense committed before the effective date.

(G) Any other law relating to a violation of a condition of release or to arrest authority with regard to a person who violates a condition of release.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commis-

11/1/86

18 U.S.C. 4202

"Sentencing Reform..."

Chapter II
the "Sentencing Reform Act of '84"
eff., generally,
on 11/1/86
+ 5 years after:
11/1/91

U.S. Parole Comm.

464

Must ^{note} ~~am~~
U.S. Parole Commission
authorities.

^(11/1/85)
sioner who is in office on the effective date is extended to the
end of the five-year period after the effective date of this Act.

(3) The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction the day before the expiration of five years after the effective date of this Act, that is within the range that applies to the prisoner under the applicable parole guideline. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of five years following the effective date of this Act.

(4) Notwithstanding the other provisions of this subsection, all laws in effect on the day before the effective date of this Act pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1); and

(B)(i) subject to supervision on the day before the expiration of the five-year period following the effective date of this Act; or

(ii) released on a date set pursuant to paragraph (3);

including laws pertaining to terms and conditions of release, revocation of release, provision of counsel, and payment of transportation costs, shall remain in effect as to the individual until the expiration of his sentence, except that the district

^{11/1/91}
extended thru ~~11/1/89~~ --
~~but several existing~~
~~terms currently are due~~
~~to expire in 1990. So th~~
~~is not in all cases an~~
~~extension.~~

^{see p. 519}
Note: (Later on
in this resolution
The US Parole Com.
is terminated
eff. 11/1/86.
So, this is in
fact an extasio

court shall determine, in accord with the Federal Rules of Criminal Procedure, whether release should be revoked or the conditions of release amended for violation of a condition of release.

(5) Notwithstanding the provisions of section 991 of title 28, United States Code, and sections 4351 and 5002 of title 18, United States Code, the Chairman of the United States Parole Commission or his designee shall be a member of the National Institute of Corrections, and the [REDACTED]

United States and a member of the
Advisory Corrections Council and a ne [redacted]

exemption of the five-year period following the effective date

of this Act. Notwithstanding the provisions of section 4351 of title 18, during the five-year period the National Institute of Corrections shall have seventeen members, including seven ex officio members. Notwithstanding the provisions of section 991 of title 28, during the five-year period the United States Sentencing Commission shall consist of nine members, including two ex officio, nonvoting members.

SEC. 236. (a)(1) Four years after the sentencing guide-
lines promulgated pursuant to section 994(a)(1), and the pro-
visions of sections 3581, 3583, and 3624 of title 18, United
States Code, go into effect, the General Accounting Office
shall undertake a study of the guidelines in order to deter-

thru 11/1/91
until ~~10/13/89~~

thru 11/1/91
~~10/13/89~~

Latest date
4/11/89

mine their impact and compare the guidelines system with the operation of the previous sentencing and parole release system, and, within six months of the undertaking of such study, report to the Congress the results of its study.

latest date
10/10/89, if
sentencing guidelines
go into eff. on
4/1/86.

(2) Within one month of the start of the study required under subsection (a), the United States Sentencing Commission shall submit a report to the General Accounting Office, all appropriate courts, the Department of Justice, and the Congress detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed. The report shall include an evaluation of the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration, and shall be issued by affirmative vote of a majority of the voting members ⁽⁴⁾ of the Commission.

(b) The Congress shall review the study submitted pursuant to subsection (a) in order to determine—

(1) whether the sentencing guideline system has been effective;

(2) whether any changes should be made in the sentencing guideline system; and

(3) whether the parole system should be reinstated in some form and the life of the Parole Commission extended.

report on whether

→ because they are not due
to expire until conclusion
of 11/1/89.

SEC. 237. (a)(1) Except as provided in paragraph (2), for each criminal fine for which the unpaid balance exceeds \$100 as of the effective date of this Act, the Attorney General shall, within one hundred and twenty days, notify the person by certified mail of his obligation, within thirty days after notification, to—

(A) pay the fine in full;

(B) specify, and demonstrate compliance with, an installment schedule established by a court before enactment of the amendments made by this Act, specifying the dates on which designated partial payments will be made; or

(C) establish with the concurrence of the Attorney General, a new installment schedule of a duration not exceeding two years, except in special circumstances, and specifying the dates on which designated partial payments will be made.

(2) This subsection shall not apply in cases in which—

(A) the Attorney General believes the likelihood of collection is remote; or

(B) criminal fines have been stayed pending appeal.

(b) The Attorney General shall, within one hundred and eighty days after the effective date of this Act, declare all fines for which this obligation is unfulfilled to be in criminal

default, subject to the civil and criminal remedies established by amendments made by this Act. No interest or monetary penalties shall be charged on any fines subject to this section.

(c) Not later than one year following the effective date of this Act, the Attorney General shall include in the annual crime report steps taken to implement this Act and the progress achieved in criminal fine collection, including collection data for each judicial district.

SEC. 238. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

**“CHAPTER 228—IMPOSITION, PAYMENT, AND
COLLECTION OF FINES**

“Sec.

“3591. Imposition of a fine.

“3592. Payment of a fine, delinquency and default.

“3593. Modification or remission of fine.

“3594. Certification and notification.

“3595. Interest, monetary penalties for delinquency, and default.

“3596. Civil remedies for satisfaction of an unpaid fine.

“3597. Resentencing upon failure to pay a fine.

“3598. Statute of limitations.

“3599. Criminal default.

“§ 3591. Imposition of a fine

“(a) **FACTORS TO BE CONSIDERED IN IMPOSING A FINE.**—The court, in determining whether to impose a fine, the amount of any fine, the time for payment, and the method of payment, shall consider—

“(1) the ability of the defendant to pay the fine in view of the income of the defendant, earning capacity

and financial resources, and, if the defendant is an organization, the size of the organization;

“(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent on the defendant, relative to the burden which alternative punishments would impose;

“(3) any restitution or reparation made by the defendant in connection with the offense and any obligation imposed upon the defendant to make such restitution or reparation;

“(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to ensure against a recurrence of such an offense; and

“(5) any other pertinent consideration.

“(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

“(1) modified or remitted pursuant to the provisions of section 3592;

“(2) corrected pursuant to the provisions of rule 35; or

“(3) appealed;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

“§ 3592. Payment of a fine, delinquency and default

“(a) TIME AND METHOD OF PAYMENT.—Payment of a fine is due immediately unless the court, at the time of sentencing—

“(1) requires payment by a date certain; or

“(2) establishes an installment schedule, the specific terms of which shall be fixed by the court.

“(b) INDIVIDUAL RESPONSIBILITIES FOR PAYMENT.—

If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization. If a fine is imposed on an agent or shareholder of an organization, the fine shall not be paid, directly or indirectly, out of the assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

“(c) RESPONSIBILITY TO PROVIDE CURRENT ADDRESS.—At the time of imposition of the fine, the court shall order the person fined to provide the Attorney General with a current mailing address for the entire period that any part of the fine remains unpaid. Failure to provide the Attorney General with a current address or a change in address shall be punishable as a contempt of court.

“(d) **STAY OF FINE PENDING APPEAL.**—Unless exceptional circumstances exist, if a sentence to pay a fine is stayed pending appeal, the court granting the stay shall include in such stay—

“(1) a requirement that the defendant, pending appeal, to deposit the entire fine amount, or the amount due under an installment schedule, during the pendency of an appeal, in an escrow account in the registry of the district court, or to give bond for the payment thereof; or

“(2) an order restraining the defendant from transferring or dissipating assets found to be sufficient, if sold, to meet the defendant’s fine obligation.

“(e) **DELINQUENT FINE.**—A fine is delinquent if any portion of such fine is not paid within thirty days of when it is due, including any fines to be paid pursuant to an installment schedule.

“(f) **DEFAULT.**—A fine is in default if any portion of such fine is more than ninety days delinquent. When a criminal fine is in default, the entire amount is due within thirty days of notification of the default, notwithstanding any installment schedule.

“§ 3593. Modification or remission of fine

“(a) **PETITION FOR MODIFICATION OR REMISSION.**—

A person who has been sentenced to pay a fine, and who—