

(5) LIMITATION ON RELIEF.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial. A victim may make a motion to re-open a plea or sentence only if—

(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

(B) the victim petitions the court of appeals for a writ of mandamus within 14 days; and

(C) in the case of a plea, the accused has not pled to the highest offense charged.

This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.

(6) NO CAUSE OF ACTION.—Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

(e) DEFINITIONS.—For the purposes of this chapter, the term "crime victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

(f) PROCEDURES TO PROMOTE COMPLIANCE.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

(2) CONTENTS.—The regulations promulgated under paragraph (1) shall—

(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.

(Added Pub. L. 108-405, title I, §102(a), Oct. 30, 2004, 118 Stat. 2261; amended Pub. L. 109-248, title II, §212, July 27, 2006, 120 Stat. 616; Pub. L. 111-16, §3(12), May 7, 2009, 123 Stat. 1608.)

REFERENCES IN TEXT

The Federal Rules of Appellate Procedure, referred to in subsec. (d)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The date of enactment of this chapter, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 108-405, which was approved Oct. 30, 2004.

PRIOR PROVISIONS

A prior section 3771, acts June 25, 1948, ch. 645, 62 Stat. 846; May 24, 1949, ch. 139, §59, 63 Stat. 98; May 10, 1950, ch. 174, §1, 64 Stat. 158; July 7, 1958, Pub. L. 85-508, §12(k), 72 Stat. 348; Mar. 18, 1959, Pub. L. 86-3, §14(g), 73 Stat. 11; Oct. 17, 1968, Pub. L. 90-578, title III, §301(a)(2), 82 Stat. 1115, related to procedure to and including 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.

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

2009—Subsec. (d)(5)(B). Pub. L. 111-16 substituted "14 days" for "10 days".

2006—Subsec. (b). Pub. L. 109-248 designated existing provisions as par. (1), inserted heading, and added par. (2).

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."

PART III—PRISONS AND PRISONERS

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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

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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.

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).

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’.”

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