

222(c), title VII, § 733, Mar. 9, 2006, 120 Stat. 231, 232, 270.)

REFERENCES IN TEXT

Act of July 15, 1932 (D.C. Code, secs. 24-203—24-207), referred to in subsec. (d), is act July 15, 1932, ch. 492, 47 Stat. 696, as amended, which is not classified to the Code.

AMENDMENTS

2006—Subsec. (e)(2). Pub. L. 109-177, § 221(1), substituted “(1)(B)” for “(1)(b)”.

Subsecs. (g) to (p). Pub. L. 109-177, § 221(2), struck out subsecs. (g) to (p) which related to hearing and sentencing procedures in death penalty cases and sentencing in capital cases in which the death penalty is not sought or imposed.

Subsec. (q). Pub. L. 109-177, §§ 221(4), 222(c), struck out subsec. (q) which related to appeal in capital cases and counsel for financially unable defendants.

Subsec. (r). Pub. L. 109-177, § 221(3), struck out subsec. (r) which provided for refusal by State and Federal correctional employees to participate in executions.

Subsec. (s). Pub. L. 109-177, § 733, added subsec. (s).

1996—Subsec. (q)(9). Pub. L. 104-132, § 108, amended par. (9) generally. Prior to amendment, par. (9) read as follows: “Upon a finding in *ex parte* proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant’s attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (10). Upon a finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of and payment for such services *nunc pro tunc*.”

Subsec. (q)(10). Pub. L. 104-132, § 903(b), amended par. (10) generally. Prior to amendment, par. (10) read as follows: “Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of paragraphs (4) through (9).”

1994—Subsec. (b)(2)(A). Pub. L. 103-322, § 330003(e), substituted “subsection (c)(1) of this section” for “subsection (d)(1) of this section”.

Subsec. (n)(11). Pub. L. 103-322, § 330014, made technical amendment to reference to section 859 of this title to correct reference to corresponding section of original act.

Subsec. (q)(8). Pub. L. 103-322, § 330009(d), substituted “applications for writ” for “applications, for writ”.

1988—Subsec. (a). Pub. L. 100-690, § 6481(a), increased minimum term of imprisonment for first violations to 20 from 10 years and for subsequent violations to 30 from 20 years.

Subsecs. (c), (d). Pub. L. 100-690, § 6481(b), redesignated subsecs. (d) and (e) as (c) and (d), respectively.

Subsec. (e). Pub. L. 100-690, § 7001(a)(2), added subsec. (e). Former subsec. (e) redesignated (d).

Pub. L. 100-690, § 7001(a)(1), which directed redesignation of former subsec. (e) as (f), could not be executed because of prior redesignation of former subsec. (e) as (d) by Pub. L. 100-690, § 6481(b), which resulted in there not being a subsec. (f).

Subsecs. (g) to (r). Pub. L. 100-690, § 7001(b), added subsecs. (g) to (r).

1986—Subsec. (a). Pub. L. 99-570, § 1252, substituted “to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual,” for “to a

fine of not more than \$100,000,” and “to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual,” for “to a fine of not more than \$200,000.”

Subsecs. (b) to (e). Pub. L. 99-570, § 1253, added subsec. (b) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively, which resulted in there not being a subsec. (c).

1984—Subsec. (a). Pub. L. 98-473, § 305, struck out par. (1) designation, substituted references to section 853 of this title for references to paragraph (2) in two places, and struck out par. (2) which related to forfeitures to the United States by any person convicted under par. (1).

Subsec. (d). Pub. L. 98-473, § 305(b), struck out subsec. (d) relating to jurisdiction of courts of the United States.

Subsec. (e). Pub. L. 98-473, § 224(b), as renumbered by Pub. L. 99-570, § 1005(b)(2), which directed the amendment of subsec. (c) of this section by striking out “and section 4202 of title 18 of the United States Code”, was executed by striking out that language in subsec. (e) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 99-570, § 1253, which redesignated subsec. (c) as (e). See 1986 Amendment note above.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 903(b) of Pub. L. 104-132 effective as to cases commenced or appeals perfected on or after Apr. 24, 1996, see section 903(c) of Pub. L. 104-132, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 224(b) of 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 Title 18, Crimes and Criminal Procedure.

GAO STUDY OF COST OF EXECUTIONS

Section 7002 of title VII of Pub. L. 100-690, directed Comptroller General to conduct a study of cost of executions and report to Congress, prior to repeal by Pub. L. 104-66, title I, § 1091(d), Dec. 21, 1995, 109 Stat. 722.

§ 849. Transportation safety offenses

(a) Definitions

In this section—

“safety rest area” means a roadside facility with parking facilities for the rest or other needs of motorists.

“truck stop” means a facility (including any parking lot appurtenant thereto) that—

(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49), operating in commerce (as defined in that section); and

(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

(b) First offense

A person who violates section 841(a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)¹ of this section) subject to—

¹ So in original. Probably should be subsection “(c)”.

(1) twice the maximum punishment authorized by section 841(b) of this title; and

(2) twice any term of supervised release authorized by section 841(b) of this title for a first offense.

(c) Subsequent offense

A person who violates section 841(a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a)² of this section have become final is subject to—

(1) 3 times the maximum punishment authorized by section 841(b) of this title; and

(2) 3 times any term of supervised release authorized by section 841(b) of this title for a first offense.

(Pub. L. 91-513, title II, §409, as added Pub. L. 103-322, title XVIII, §180201(b)(1), Sept. 13, 1994, 108 Stat. 2046.)

PRIOR PROVISIONS

A prior section 849, Pub. L. 91-513, title II, §409, Oct. 27, 1970, 84 Stat. 1266; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, related to dangerous special drug offender sentencing, prior to repeal by Pub. L. 98-473, title II, §§219(a), 235(a)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, eff. Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal.

§ 850. Information for sentencing

Except as otherwise provided in this subchapter or section 242a(a)¹ of title 42, no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence under this subchapter or subchapter II of this chapter.

(Pub. L. 91-513, title II, §410, Oct. 27, 1970, 84 Stat. 1269.)

REFERENCES IN TEXT

Section 242a of title 42, referred to in text, was repealed by Pub. L. 106-310, div. B, title XXXII, §3201(b)(1), Oct. 17, 2000, 114 Stat. 1190.

§ 851. Proceedings to establish prior convictions

(a) Information filed by United States Attorney

(1) No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information

may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

(b) Affirmation or denial of previous conviction

If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(c) Denial; written response; hearing

(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1) of this section. The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

(d) Imposition of sentence

(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise

² So in original. Probably should be subsection "(b)".

¹ See References in Text note below.