

tion 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

(2) payment of the tax is excused under a specific provision of title 11.

(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

(1) the tax was not incurred by a trustee duly appointed or elected under chapter 7 of title 11; or

(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.

(June 25, 1948, ch. 646, 62 Stat. 927; Pub. L. 109–8, title VII, §712(a), Apr. 20, 2005, 119 Stat. 127.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §124a (June 18, 1934, ch. 585, 48 Stat. 993).

A proviso in section 124a of title 28, U.S.C., 1940 ed., relating to taxes accruing prior to the effective date of the 1934 act, was omitted as obsolete.

References in section 124a of title 28, U.S.C., 1940 ed., to specific officers was omitted as covered by the words “Any officers.”

Word “Federal” was added before “State” in recognition of the liability of such officers for Federal taxes under the revenue laws.

Changes in phraseology were made.

#### AMENDMENTS

2005—Pub. L. 109–8 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109–8, set out as a note under section 101 of Title 11.

### § 961. Office expenses of clerks

Each clerk of court shall be allowed his necessary office expenses when authorized by the Director of the Administrative Office of the United States Courts.

(June 25, 1948, ch. 646, 62 Stat. 927.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§544, 563 (Mar. 3, 1891, ch. 517, §2, 26 Stat. 826; Feb. 26, 1919, ch. 49, §5, 40 Stat. 1182; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates parts of sections 544 and 563 of title 28, U.S.C., 1940 ed. For remainder of such sections, see Distribution Table.

Changes were made in phraseology.

### [§962. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 663]

Section, act June 25, 1948, ch. 646, 62 Stat. 927, related to traveling expenses and subsistence for officers and employees of the courts of the United States and of the Administrative Office of the United States Courts.

### § 963. Courts defined

As used in this chapter, unless the context indicates otherwise, the words “court” and “courts” include the Supreme Court of the United States and the courts enumerated in section 610 of this title.

(June 25, 1948, ch. 646, 62 Stat. 927.)

#### HISTORICAL AND REVISION NOTES

This section was included to embrace the Supreme Court and all courts under the supervision of the Administrative Office of the United States Courts. See section 610 of this title and reviser’s note thereunder.

### 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 Chair.
994.	Duties of the Commission.
995.	Powers of the Commission.
996.	Director and staff.
997.	Annual report.
998.	Definitions.

#### AMENDMENTS

1994—Pub. L. 103–322, title XXVIII, §280005(c)(1), Sept. 13, 1994, 108 Stat. 2097, substituted “Chair” for “Chairman” in item 993.

### § 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 nonvoting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chair and three of whom shall be designated by the President as Vice Chairs. At least 3 of the members shall be Federal judges selected after considering a list of six judges recommended to the President by the Judicial Conference of the United States. Not more than four of the members of the Commission shall be members of the same political party, and of the three Vice Chairs, no more than two shall be members of the same political party. The Attorney General, or the Attorney General’s designee, shall be an ex officio, nonvoting member of the Commission. The Chair, Vice Chairs, and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.

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

(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.

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2017; amended Pub. L. 99-22, §1(1), Apr. 15, 1985, 99 Stat. 46; Pub. L. 103-322, title XXVIII, §280005(a), (c)(1), (2), Sept. 13, 1994, 108 Stat. 2096, 2097; Pub. L. 104-294, title VI, §604(b)(11), Oct. 11, 1996, 110 Stat. 3507; Pub. L. 108-21, title IV, §401(n)(1), Apr. 30, 2003, 117 Stat. 675; Pub. L. 110-406, §16, Oct. 13, 2008, 122 Stat. 4295.)

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-406 substituted “At least” for “Not more than” in third sentence.

2003—Subsec. (a). Pub. L. 108-21 substituted “Not more than 3” for “At least three” in third sentence.

1996—Subsec. (a). Pub. L. 104-294 made technical correction to directory language of Pub. L. 103-322. See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103-322, §280005(c)(1), (2), in second sentence, substituted “Chair” for “Chairman” and in fifth sentence, substituted “the Attorney General’s designee” for “his designee”.

Pub. L. 103-322, §280005(a), as amended by Pub. L. 104-294, in second sentence, substituted “and three of whom shall be designated by the President as Vice Chairs.” for the period at end, in fourth sentence, substituted “, and of the three Vice Chairs, no more than two shall be members of the same political party.” for the period at end, and in last sentence, substituted “Chair, Vice Chairs,” for “Chairman”.

1985—Subsec. (a). Pub. L. 99-22 struck out “in regular active service” after “Federal judges”.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-21, title IV, §401(n)(2), Apr. 30, 2003, 117 Stat. 676, provided that: “The amendment made under paragraph (1) [amending this section] shall not apply to any person who is serving, or who has been nominated to serve, as a member of the Sentencing Commission on the date of enactment of this Act [Apr. 30, 2003].”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of Title 18, Crimes and Criminal Procedure.

#### EFFECTIVE DATE

Chapter effective Oct. 12, 1984, see section 235(a)(1)(B)(i) of Pub. L. 98-473, set out as a note under section 3551 of Title 18, Crimes and Criminal Procedure.

#### COMPOSITION OF MEMBERS OF COMMISSION DURING FIRST FIVE-YEAR PERIOD

For provisions directing that, notwithstanding the provisions of this section, during the five-year period

following Oct. 12, 1984, the United States Sentencing Commission shall consist of nine members, including two ex officio, nonvoting members, see section 235(b)(5) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

#### § 992. Terms of office; compensation

(a) The voting members of the United States Sentencing Commission shall be appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

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

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

(3) two members serve terms of two years.

(b)(1) Subject to paragraph (2)—

(A) no voting member of the Commission may serve more than two full terms; and

(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of such term.

(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

(A) the date on which a successor has taken office; or

(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member’s term expired.

(c) The Chair and Vice Chairs of the Commission shall hold full-time positions and shall be compensated during their terms 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 Chair and Vice Chairs, shall hold full-time positions until the end of the first six years after the sentencing guidelines go into effect pursuant to section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984, 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 Chair and Vice Chairs,<sup>1</sup> 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 member of the Commission without resigning the judge’s appointment as a Federal judge.

(d) Sections 44(c) and 134(b) of this title (relating to the residence of judges) do not apply to any judge holding a full-time position on the Commission under subsection (c) of this section.

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2018; amended Pub. L. 99-646, §§4, 6(a), Nov. 10, 1986, 100 Stat. 3592; Pub. L. 102-349, §1, Aug. 26, 1992, 106 Stat. 933; Pub. L. 103-322, title XXVIII, §280005(b), (c)(1), (3), Sept. 13, 1994, 108 Stat. 2096, 2097.)

#### REFERENCES IN TEXT

Section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984, referred to in subsec. (c), is section

<sup>1</sup> So in original.