

the court may not impose an alternative sentence to be carried out if the fine is not paid.

(f) **RESPONSIBILITY FOR PAYMENT OF MONETARY OBLIGATION RELATING TO ORGANIZATION.**—If a sentence includes a fine, special assessment, restitution or other monetary obligation (including interest) with respect to an organization, each individual authorized to make disbursements for the organization has a duty to pay the obligation from assets of the organization. If such an obligation is imposed on a director, officer, shareholder, employee, or agent of an organization, payments may not be made, directly or indirectly, from assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

(g) **SECURITY FOR STAYED FINE.**—If a sentence imposing a fine is stayed, the court shall, absent exceptional circumstances (as determined by the court)—

(1) require the defendant to deposit, in the registry of the district court, any amount of the fine that is due;

(2) require the defendant to provide a bond or other security to ensure payment of the fine; or

(3) restrain the defendant from transferring or dissipating assets.

(h) **DELINQUENCY.**—A fine or payment of restitution is delinquent if a payment is more than 30 days late.

(i) **DEFAULT.**—A fine or payment of restitution is in default if a payment is delinquent for more than 90 days. Notwithstanding any installment schedule, when a fine or payment of restitution is in default, the entire amount of the fine or restitution is due within 30 days after notification of the default, subject to the provisions of section 3613A.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 1995; amended Pub. L. 100-185, §7, Dec. 11, 1987, 101 Stat. 1280; Pub. L. 101-647, title XXXV, §3587, Nov. 29, 1990, 104 Stat. 4930; Pub. L. 103-322, title II, §20403(a), Sept. 13, 1994, 108 Stat. 1825; Pub. L. 104-132, title II, §207(b), Apr. 24, 1996, 110 Stat. 1236.)

#### REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (c)(2), are set out in the Appendix to this title.

#### PRIOR PROVISIONS

For a prior section 3572, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3551 of this title.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-132, §207(b)(1), inserted “other than the United States,” after “offense.”

Subsec. (d). Pub. L. 104-132, §207(b)(2)(A), (B), substituted “(1) A person sentenced to pay a fine or other monetary penalty, including restitution,” for “A person sentenced to pay a fine or other monetary penalty” and struck out at end “If the judgment permits other than immediate payment, the period provided for shall not exceed five years, excluding any period served by the defendant as imprisonment for the offense.”

Subsec. (d)(2), (3). Pub. L. 104-132, §207(b)(2)(C), added pars. (2) and (3).

Subsec. (f). Pub. L. 104-132, §207(b)(3), inserted “restitution” after “special assessment.”

Subsec. (h). Pub. L. 104-132, §207(b)(4), inserted “or payment of restitution” after “A fine”.

Subsec. (i). Pub. L. 104-132, §207(b)(5), inserted “or payment of restitution” after “A fine” in first sentence and amended second sentence generally. Prior to amendment, second sentence read as follows: “When a fine is in default, the entire amount of the fine is due within 30 days after notification of the default, notwithstanding any installment schedule.”

1994—Subsec. (a)(6) to (8). Pub. L. 103-322 added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

1990—Subsec. (c)(2). Pub. L. 101-647 inserted “of the Federal Rules of Criminal Procedure” after “rule 35”.

1987—Pub. L. 100-185 inserted “and related matters” in section catchline and amended text generally, revising and restating as subssecs. (a) to (i) provisions formerly contained in subssecs. (a) to (j).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

#### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

### § 3573. Petition of the Government for modification or remission

Upon petition of the Government showing that reasonable efforts to collect a fine or assessment are not likely to be effective, the court may, in the interest of justice—

(1) remit all or part of the unpaid portion of the fine or special assessment, including interest and penalties;

(2) defer payment of the fine or special assessment to a date certain or pursuant to an installment schedule; or

(3) extend a date certain or an installment schedule previously ordered.

A petition under this subsection shall be filed in the court in which sentence was originally imposed, unless the court transfers jurisdiction to another court. This section shall apply to all fines and assessments irrespective of the date of imposition.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 1997; amended Pub. L. 100-185, §8(a), Dec. 11, 1987, 101 Stat. 1282; Pub. L. 100-690, title VII, §7082(a), Nov. 18, 1988, 102 Stat. 4407.)

#### PRIOR PROVISIONS

For a prior section 3573, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3551 of this title.

#### AMENDMENTS

1988—Pub. L. 100-690 inserted at end “This section shall apply to all fines and assessments irrespective of the date of imposition.”

1987—Pub. L. 100-185 substituted “Petition of the Government for modification or remission” for “Modification or remission of fine” in section catchline and amended text generally, revising and restating as a single paragraph with three numbered clauses provisions formerly contained in subssecs. (a) and (b).

#### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this sec-

tion, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

#### § 3574. Implementation of a sentence of fine

The implementation of a sentence to pay a fine is governed by the provisions of subchapter B of chapter 229.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 1997.)

##### PRIOR PROVISIONS

For prior sections 3574 to 3580, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3551 of this title.

##### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

#### SUBCHAPTER D—IMPRISONMENT

##### SUBCHAPTER D—IMPRISONMENT<sup>1</sup>

Sec.	
3581.	Sentence of imprisonment.
3582.	Imposition of a sentence of imprisonment.
3583.	Inclusion of a term of supervised release after imprisonment.
3584.	Multiple sentences of imprisonment.
3585.	Calculation of a term of imprisonment.
3586.	Implementation of a sentence of imprisonment.

##### AMENDMENTS

1994—Pub. L. 103-322, title XXXIII, §330010(3), Sept. 13, 1994, 108 Stat. 2143, transferred analysis of this subchapter to follow heading for this subchapter.

#### § 3581. Sentence of imprisonment

(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

(b) AUTHORIZED TERMS.—The authorized terms of imprisonment are—

- (1) for a Class A felony, the duration of the defendant's life or any period of time;
- (2) for a Class B felony, not more than twenty-five years;
- (3) for a Class C felony, not more than twelve years;
- (4) for a Class D felony, not more than six years;
- (5) for a Class E felony, not more than three years;
- (6) for a Class A misdemeanor, not more than one year;
- (7) for a Class B misdemeanor, not more than six months;
- (8) for a Class C misdemeanor, not more than thirty days; and
- (9) for an infraction, not more than five days.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 1998.)

##### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

<sup>1</sup> So in original. Probably should not appear.

#### § 3582. Imposition of a sentence of imprisonment

(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF IMPRISONMENT.—The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in section 3553(a) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation. In determining whether to make a recommendation concerning the type of prison facility appropriate for the defendant, the court shall consider any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2).

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

- (1) modified pursuant to the provisions of subsection (c);
- (2) corrected pursuant to the provisions of rule 35 of the Federal Rules of Criminal Procedure and section 3742; or
- (3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

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

(c) MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.—The court may not modify a term of imprisonment once it has been imposed except that—

(1) in any case—

(A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—

- (i) extraordinary and compelling reasons warrant such a reduction; or
- (ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g);

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

(B) the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure; and

(2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the de-