

“was imposed for an offense for which no sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and is plainly unreasonable or greater than the sentence specified in a plea agreement under Rule 11(e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure.”

Subsec. (b). Pub. L. 100-690, §7103(a)(5), inserted “, with the personal approval of the Attorney General or the Solicitor General.” after “The Government” in introductory provisions, and struck out concluding provisions which read as follows: “and the Attorney General or the Solicitor General personally approves the filing of the notice of appeal.”

Subsec. (b)(2). Pub. L. 100-690, §7103(a)(1), struck out “issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)” after “guidelines”.

Subsec. (b)(3). Pub. L. 100-690, §7103(a)(3), added par. (3) and struck out former par. (3) which read as follows: “was imposed for an offense for which a sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), and the sentence is less than—

“(A) the sentence specified in the applicable guideline to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline, or includes a less limiting condition of probation or supervised release under section 3563(b)(6) or (b)(11) than the minimum established in the guideline; and

“(B) the sentence specified in a plea agreement, if any, under Rule 11(e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure; or”.

Subsec. (b)(4). Pub. L. 100-690, §7103(a)(5)(A), added par. (4) and struck out former par. (4) which read as follows: “was imposed for an offense for which no sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and is plainly unreasonable or less than the sentence specified in a plea agreement under Rule 11(e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure;”.

Subsec. (c). Pub. L. 100-690, §7103(a)(8), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-690, §7103(a)(8), redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 100-690, §7103(a)(6), (7), substituted “applicable guideline range” for “range of the applicable sentencing guideline” in par. (3) and inserted “and shall give due deference to the district court’s application of the guidelines to the facts” after “are clearly erroneous” in concluding provisions.

Subsec. (e). Pub. L. 100-690, §7103(a)(8), redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(2). Pub. L. 100-690, §7103(a)(6), substituted “applicable guideline range” for “range of the applicable sentencing guideline”.

Subsecs. (f), (g). Pub. L. 100-690, §7103(a)(8), redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

Subsec. (h). Pub. L. 100-690, §7103(a)(9), added subsec. (h).

1987—Subsec. (a)(4). Pub. L. 100-182, §5(1), substituted “and is plainly unreasonable or greater than the sentence specified in a plea agreement under” for “and is greater than the sentence specified in a plea agreement, if any, under”.

Subsec. (b)(4). Pub. L. 100-182, §5(2), substituted “and is plainly unreasonable or less than the sentence specified in a plea agreement under” for “and is less than the sentence specified in a plea agreement, if any, under”.

Subsec. (d)(4). Pub. L. 100-182, §5(3), added par. (4).

Subsec. (e)(2). Pub. L. 100-182, §5(4), inserted “or was imposed for an offense for which there is no applicable sentencing guideline and is plainly unreasonable” in introductory provisions.

Subsec. (e)(2)(A), (B). Pub. L. 100-182, §5(5), substituted “and” for “the court shall” before “remand”.

Subsec. (e)(3). Pub. L. 100-182, §6, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “was not imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, and is not unreasonable, it shall affirm the sentence.”

Subsec. (f). Pub. L. 100-182, §4, added subsec. (f).

1986—Subsec. (e)(1). Pub. L. 99-646, §73(a)(1), substituted provision directing the court to remand the case for further sentencing proceedings with such instructions as the court considers appropriate, for provision directing the court to remand the case for further sentencing proceedings or correct the sentence.

Subsec. (e)(2)(A). Pub. L. 99-646, §73(a)(2), substituted provision directing the court to remand the case for further sentencing proceedings with such instructions as the court considers appropriate for provision directing the court to remand the case for imposition of a lesser sentence, remand the case for further sentencing proceedings, or impose a lesser sentence.

Subsec. (e)(2)(B). Pub. L. 99-646, §73(a)(2), substituted provision directing the court to remand the case for further sentencing proceedings with such instructions as the court considers appropriate, for provision directing the court to remand the case for imposition of a greater sentence, remand the case for further sentencing proceedings, or impose a greater sentence.

#### CHANGE OF NAME

Words “Magistrate Judge” and “United States magistrate judge” substituted for “Magistrate” and “United States magistrate”, respectively, in subsec. (g) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100-182, set out as a note under section 3006A 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.

### CHAPTER 237—CRIME VICTIMS’ RIGHTS

Sec.

3771. Crime victims’ rights.

#### PRIOR PROVISIONS

A prior chapter 237, consisting of sections 3771 and 3772, related to criminal procedure, prior to repeal by Pub. L. 100-702, title IV, §§404(a), 407, Nov. 19, 1988, 102 Stat. 4651, 4652, effective Dec. 1, 1988. See sections 2071 to 2074 of Title 28, Judiciary and Judicial Procedure.

#### § 3771. Crime victims’ rights

(a) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be reasonably protected from the accused.

(2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.

(3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

(4) The right to be reasonably heard at any public proceeding in the district court involv-