

try for time served as of the time of the transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits toward service of sentence for satisfactory behavior, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 3624(b) of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 3624(a) of this title.

(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 3624(b) of this title.

(3) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.

(4) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1215; amended Pub. L. 98-473, title II, §223(m)(2), Oct. 12, 1984, 98 Stat. 2029.)

AMENDMENTS

1984—Subsec. (c)(1). Pub. L. 98-473 substituted “toward service of sentence for satisfactory behavior” for “for good time”, “3624(b)” for “4161”, and “3624(a)” for “4164”.

Subsec. (c)(2). Pub. L. 98-473 substituted “3624(b)” for “4161”.

Subsec. (c)(3), (4). Pub. L. 98-473 redesignated par. (4) as (3) and amended it generally, and struck out former par. (3). Prior to redesignation and amendment, former pars. (3) and (4) read as follows:

“(3) A transferred offender may earn extra good time deductions, as authorized in section 4162 of this title, from the time of transfer.

“(4) All credits toward service of the sentence, other than the credit for time in custody before sentencing, may be forfeited as provided in section 4165 of this title and may be restored by the Attorney General as provided in section 4166 of this title.”

Subsec. (c)(5). Pub. L. 98-473 redesignated par. (5) as (4).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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 this title.

§ 4106. Transfer of offenders on parole; parole of offenders transferred

(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an of-

fender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4215; and 4218¹ of this title shall be applicable.

(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

(d) This section shall apply only to offenses committed before November 1, 1987, and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1216; amended Pub. L. 98-473, title II, §223(m)(3), Oct. 12, 1984, 98 Stat. 2029; Pub. L. 100-182, §14, Dec. 7, 1987, 101 Stat. 1268; Pub. L. 100-690, title VII, §7072(c), Nov. 18, 1988, 102 Stat. 4405.)

REFERENCES IN TEXT

Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4215; and 4218 of this title, referred to in subsec. (b), were repealed effective Nov. 1, 1987, by Pub. L. 98-473, title II, §§218(a)(5), 235(a)(1), (b)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, 2032, subject to remaining effective for five years after Nov. 1, 1987, in certain circumstances.

Section 235 of the Comprehensive Crime Control Act of 1984, referred to in subsec. (d), is set out as an Effective Date note under section 3551 of this title.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-690 substituted “4215” for “4216”.

1987—Pub. L. 100-182 amended section generally. Prior to amendment, section read as follows:

“(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Probation System for supervision.

“(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence to a term of imprisonment under this subsection, and the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States has jurisdiction to review the period of imprisonment as though it had been imposed by the United States district court.”

1984—Subsec. (a). Pub. L. 98-473 substituted “Probation System” for “Parole Commission”.

Subsec. (b). Pub. L. 98-473 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.”

¹ See References in Text note below.

Subsec. (c). Pub. L. 98-473 struck out subsec. (c) which read as follows: "An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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 this title.

§ 4106A. Transfer of offenders on parole; parole of offenders transferred

(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

(b)(1)(A) The United States Parole Commission shall, without unnecessary delay, determine a release date and a period and conditions of supervised release for an offender transferred to the United States to serve a sentence of imprisonment, as though the offender were convicted in a United States district court of a similar offense.

(B) In making such determination, the United States Parole Commission shall consider—

(i) any recommendation of the United States Probation Service, including any recommendation as to the applicable guideline range; and

(ii) any documents provided by the transferring country;

relating to that offender.

(C) The combined periods of imprisonment and supervised release that result from such determination shall not exceed the term of imprisonment imposed by the foreign court on that offender.

(D) The duties conferred on a United States probation officer with respect to a defendant by section 3552 of this title shall, with respect to an offender so transferred, be carried out by the United States Probation Service.

(2)(A) A determination by the United States Parole Commission under this subsection may be appealed to the United States court of appeals for the circuit in which the offender is imprisoned at the time of the determination of such Commission. Notice of appeal must be filed not later than 45 days after receipt of notice of such determination.

(B) The court of appeals shall decide and dispose of the appeal in accordance with section 3742 of this title as though the determination appealed had been a sentence imposed by a United States district court.

(3) During the supervised release of an offender under this subsection, the United States district court for the district in which the offender resides shall supervise the offender.

(c) This section shall apply only to offenses committed on or after November 1, 1987.

(Added Pub. L. 100-690, title VII, §7101(a), Nov. 18, 1988, 102 Stat. 4415; amended Pub. L. 101-647, title XXXV, §§3599B, 3599C, Nov. 29, 1990, 104 Stat. 4931, 4932.)

AMENDMENTS

1990—Pub. L. 101-647, §3599B, inserted "of" before second reference to "offenders" in section catchline.

Subsec. (b)(1)(C). Pub. L. 101-647, §3599C, inserted period at end.

§ 4107. Verification of consent of offender to transfer from the United States

(a) Prior to the transfer of an offender from the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified by a United States magistrate judge or a judge as defined in section 451 of title 28, United States Code.

(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

(1) only the appropriate courts in the United States may modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in such courts;

(2) the sentence shall be carried out according to the laws of the country to which he is to be transferred and that those laws are subject to change;

(3) if a court in the country to which he is transferred should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of that country, he may be returned to the United States for the purpose of completing the sentence if the United States requests his return; and

(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1216; amended Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CHANGE OF NAME

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