

United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

"(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews."

CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES

Pub. L. 104-294, title III, § 301(c), Oct. 11, 1996, 110 Stat. 3495, provided that: "The amendments made by this section [amending this section and enacting provisions set out as notes above] shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section."

§ 4244. Hospitalization of a convicted person suffering from mental disease or defect

(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c). In addition to the information required to be included in the psychiatric or psychological report pursuant to the provisions of section 4247(c), if the report includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best accord the defendant the kind of treatment he does need.

(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to imprisonment, be committed to a suitable facility for care or treatment, the court shall commit

the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence of imprisonment to the maximum term authorized by law for the offense for which the defendant was found guilty.

(e) DISCHARGE.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing and may modify the provisional sentence.

(Added Sept. 7, 1949, ch. 535, § 1, 63 Stat. 686; amended Pub. L. 98-473, title II, § 403(a), Oct. 12, 1984, 98 Stat. 2061.)

AMENDMENTS

1984—Pub. L. 98-473 amended section generally, substituting "Hospitalization of a convicted person suffering from mental disease or defect" for "Mental incompetency after arrest and before trial" in section catchline, and substituting provisions relating to motion, examination and report, hearing, etc., to determine present mental condition of convicted defendant, for provisions relating to motion, examination, etc., to determine the mental competency of a person after arrest and before trial.

SEPARABILITY

Act Sept. 7, 1949, ch. 535, § 4, 63 Stat. 688, provided that: "If any provision of Title 18, United States Code, sections 4244 to 4248, inclusive, or the application thereof to any person or circumstance shall be held invalid, the remainder of the said sections and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby."

USE OF APPROPRIATIONS

Act Sept. 7, 1949, ch. 535, § 3, 63 Stat. 688, provided that: "The Attorney General may authorize the use of any unexpended balance of the appropriation for 'Support of United States prisoners' for carrying out the purposes of Title 18, United States Code, sections 4244 to 4248, inclusive, or in payment of any expenses incidental thereto and not provided for by other specific appropriations."

§ 4245. Hospitalization of an imprisoned person suffering from mental disease or defect

(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF IMPRISONED PERSON.—If a person serving a sentence of imprisonment objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment, an attorney for the Government, at the request of the director of the facility in which the person is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the person. The court shall grant the motion if there is reasonable cause to