

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

Section effective Oct. 12, 1984, see section 235(a)(1)(B)(i) of Pub. L. 98-473, set out as an Effective Date; Savings Provision 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,¹ 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 235(a)(1)(B)(ii) of Pub. L. 98-473, which is set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-322, §280005(c)(1), substituted “Chair” for “Chairman”.

Subsec. (c). Pub. L. 103-322, §280005(b), (c)(3), amended first sentence generally, substituting “The Chair and Vice Chairs of the Commission shall hold full-time positions and shall be compensated during their terms” for “The Chairman of the Commission shall hold a full-time position and shall be compensated during the term”, in second sentence, substituted “Chair and Vice Chairs” for “Chairman”, in third sentence, substituted “Chair and Vice Chairs,” for “Chairman”, and in last sentence, substituted “the judge’s appointment” for “his appointment”.

1992—Subsec. (b). Pub. L. 102-349 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “No voting member may serve more than two full terms. A voting member appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.”

1986—Subsec. (c). Pub. L. 99-646, §4, substituted “section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984” for “section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983”.

Subsec. (d). Pub. L. 99-646, §6(a), added subsec. (d).

EFFECTIVE DATE

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

COMMENCEMENT OF TERMS OF FIRST MEMBERS OF COMMISSION

For provisions directing that, for purposes of subsec. (a) of this section, the terms of the first members of the

¹ So in original.

United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to section 235(a)(1)(B)(ii) of Pub. L. 98-473, see section 235(a)(2) of Pub. L. 98-473, both of which are set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

§ 993. Powers and duties of Chair

The Chair shall—

- (a) call and preside at meetings of the Commission, which shall be held for at least two weeks in each quarter after the members of the Commission hold part-time positions; and
- (b) direct—
 - (1) the preparation of requests for appropriations for the Commission; and
 - (2) the use of funds made available to the Commission.

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2019; amended Pub. L. 99-22, §1(2), Apr. 15, 1985, 99 Stat. 46; Pub. L. 99-646, §5, Nov. 10, 1986, 100 Stat. 3592; Pub. L. 103-322, title XXVIII, §280005(c)(1), Sept. 13, 1994, 108 Stat. 2097.)

AMENDMENTS

1994—Pub. L. 103-322 substituted “Chair” for “Chairman” in section catchline and introductory provisions.

1986—Subsec. (b)(2). Pub. L. 99-646 struck out provision that, before appointment of first Chairman, Administrative Office of the United States Courts may make requests for appropriations for Commission.

1985—Subsec. (b)(2). Pub. L. 99-22 inserted provision authorizing the Administrative Office of the United States Courts to make requests for appropriations for the Commission before the appointment of the first Chairman of the Commission.

EFFECTIVE DATE

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

§ 994. Duties of the Commission

(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of any Federal statute shall promulgate and distribute to all courts of the United States and to the United States Probation System—

- (1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—
 - (A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;
 - (B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;
 - (C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term;
 - (D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively; and

(E) a determination under paragraphs (6) and (11)¹ of section 3563(b) of title 18;

(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

- (A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;
- (B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;
- (C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, and 3582(c) of title 18;
- (D) the fine imposition provisions set forth in section 3572 of title 18;
- (E) the authority granted under rule 11(e)(2) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and
- (F) the temporary release provisions set forth in section 3622 of title 18, and the pre-release custody provisions set forth in section 3624(c) of title 18; and

(3) guidelines or general policy statements regarding the appropriate use of the provisions for revocation of probation set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of supervised release and revocation of supervised release set forth in section 3583(e) of title 18.

(b)(1) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code.

(2) If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than the greater of 25 percent or 6 months, except that, if the minimum term of the range is 30 years or more, the maximum may be life imprisonment.

(c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents² of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

- (1) the grade of the offense;
- (2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

¹ See References in Text note below.

² So in original. Probably should be “incidence”.