

(3) if a United States court 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 the United States, he may be returned to the country which imposed the sentence for the purpose of completing the sentence if that country 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. 1217; amended Pub. L. 98-473, title II, §223(m)(4), Oct. 12, 1984, 98 Stat. 2030; Pub. L. 100-690, title VII, §7101(b), Nov. 18, 1988, 102 Stat. 4415; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-690 struck out “including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 944(a)(1),” after “consequences thereof.”

1984—Subsec. (a). Pub. L. 98-473 inserted “, including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1),” after “consequences thereof”.

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.

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.

§ 4109. Right to counsel, appointment of counsel

(a) In proceedings to verify consent of an offender for transfer, the offender shall have the right to advice of counsel. If the offender is financially unable to obtain counsel—

(1) counsel for proceedings conducted under section 4107 shall be appointed in accordance with section 3006A of this title. Such appoint-

ment shall be considered an appointment in a misdemeanor case for purposes of compensation under the Act;¹

(2) counsel for proceedings conducted under section 4108 shall be appointed by the verifying officer pursuant to such regulations as may be prescribed by the Director of the Administrative Office of the United States Courts. The Secretary of State shall make payments of fees and expenses of the appointed counsel, in amounts approved by the verifying officer, which shall not exceed the amounts authorized under section 3006A of this title for representation in a misdemeanor case. Payment in excess of the maximum amount authorized may be made for extended or complex representation whenever the verifying officer certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the chief judge of the United States court of appeals for the appropriate circuit. Counsel from other agencies in any branch of the Government may be appointed: *Provided*, That in such cases the Secretary of State shall pay counsel directly, or reimburse the employing agency for travel and transportation expenses. Notwithstanding section 3324(a) and (b) of title 31, the Secretary may make advance payments of travel and transportation expenses to counsel appointed under this subsection.

(b) Guardians ad litem appointed by the verifying officer under section 4100 of this title to represent offenders who are financially unable to provide for compensation and travel expenses of the guardian ad litem shall be compensated and reimbursed under subsection (a)(1) of this section.

(c) The offender shall have the right to advice of counsel in proceedings before the United States Parole Commission under section 4106A of this title and in an appeal from a determination of such Commission under such section. If the offender is financially unable to obtain counsel, counsel for such proceedings and appeal shall be appointed under section 3006A of this title.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1218; amended Pub. L. 97-258, §3(e)(2), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 100-690, title VII, §7101(d), Nov. 18, 1988, 102 Stat. 4416; Pub. L. 101-647, title XXXV, §3598, Nov. 29, 1990, 104 Stat. 4931.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-647 substituted “section 3006A of this title” for “the Criminal Justice Act (18 U.S.C. 3006A)” in par. (1) and for “the Criminal Justice Act (18 U.S.C. 3006(a))” in par. (2).

1988—Pub. L. 100-690 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1982—Par. (2). Pub. L. 97-258 substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes as amended (31 U.S.C. 529)”.

§ 4110. Transfer of juveniles

An offender transferred to the United States because of an act which would have been an act

¹So in original. Probably should be “section 3006A of this title;”. See 1990 Amendment note below.