

tencing guidelines for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, required the Department of Justice to submit to Congress, no later than May 1, 1996, a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering, and required the Commission to submit to Congress comments on the Department of Justice study.

EMERGENCY GUIDELINES PROMULGATION AUTHORITY

Section 21 of Pub. L. 100-182 provided that:

“(a) IN GENERAL.—In the case of—

“(1) an invalidated sentencing guideline;

“(2) the creation of a new offense or amendment of an existing offense; or

“(3) any other reason relating to the application of a previously established sentencing guideline, and determined by the United States Sentencing Commission to be urgent and compelling;

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 title 28 and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System a temporary guideline or amendment to an existing guideline, to remain in effect until and during the pendency of the next report to Congress under section 994(p) of title 28, United States Code.

“(b) EXPIRATION OF AUTHORITY.—The authority of the Commission under paragraphs (1) and (2) of subsection (a) shall expire on November 1, 1989. The authority of the Commission to promulgate and distribute guidelines under paragraph (3) of subsection (a) shall expire on May 1, 1988.”

SUBMISSION TO CONGRESS OF INITIAL SENTENCING GUIDELINES

Provisions directing that the United States Sentencing Commission submit to Congress within 30 months of Oct. 12, 1984, the initial sentencing guidelines promulgated pursuant to subsec. (a)(1) of this section, see section 235(a)(1)(B)(i) of Pub. L. 98-473, as amended, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF SENTENCING GUIDELINES

Sentencing guidelines promulgated pursuant to this section effective when U.S. Sentencing Commission has submitted the initial set of sentencing guidelines to Congress, the General Accounting Office has studied and reported to Congress on the guidelines, Congress has examined the guidelines, and section 212(a)(2) of Pub. L. 98-473 takes effect [Nov. 1, 1987], see section 235(a)(1)(B)(ii) of Pub. L. 98-473, as amended, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

STUDIES OF IMPACT AND OPERATION OF SENTENCING GUIDELINE SYSTEM; REPORTING REQUIREMENTS

Pub. L. 98-473, title II, § 236, Oct. 12, 1984, 98 Stat. 2033, provided that, four years after the sentencing guidelines promulgated pursuant to section 994(a)(1) of this title and sections 3581, 3583, and 3624 of title 18 went into effect, the General Accounting Office was to undertake a study of the guidelines to determine their impact and compare the guidelines system with the operation of the previous sentencing and parole release system, and, within six months of such undertaking, report the results to Congress; provided that, within one month of the start of the study, the United States Sentencing Commission was to submit a report detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed; and provided that Congress was to review the study.

§ 995. Powers of the Commission

(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382);

(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chair;

(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(6) without regard to 31 U.S.C. 3324, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or non-profit organization;

(7) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services, notwithstanding the provisions of 31 U.S.C. 1342, however, individuals providing such services shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims;

(8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

(11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

(12) establish a research and development program within the Commission for the purpose of—

(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

(14) publish data concerning the sentencing process;

(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3553(a) of title 18, United States Code;

(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy;

(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties;

(22) perform such other functions as are required to permit Federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the Federal criminal justice system to meet their related responsibilities;

(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and

(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.

(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines

pursuant to section 994(a)(1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b). The Commission shall, with respect to its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, utilize existing resources of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2024; amended Pub. L. 100-690, title VII, §§7104, 7105, 7106(b), Nov. 18, 1988, 102 Stat. 4418; Pub. L. 101-650, title III, §325(b)(5), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 103-322, title XXVIII, §280005(c)(1), Sept. 13, 1994, 108 Stat. 2097; Pub. L. 110-177, title V, §501(a), Jan. 7, 2008, 121 Stat. 2541.)

Editorial Notes

AMENDMENTS

2008—Subsec. (f). Pub. L. 110-177, §501, temporarily added subsec. (f). See Termination Date of 2008 Amendment note below.

1994—Subsec. (a)(3). Pub. L. 103-322 substituted “Chair” for “Chairman”.

1990—Subsec. (a)(22). Pub. L. 101-650 struck out “and” after semicolon at end.

1988—Subsec. (a)(2). Pub. L. 100-690, §7105, substituted “Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382)” for “grade 18 of the General Schedule pay rates (5 U.S.C. 5332)”.

Subsec. (a)(23). Pub. L. 100-690, §7104, added par. (23).

Subsec. (a)(24). Pub. L. 100-690, §7106(b), added par. (24).

Statutory Notes and Related Subsidiaries

TERMINATION DATE OF 2008 AMENDMENT

Pub. L. 110-177, title V, §501(b), Jan. 7, 2008, 121 Stat. 2542, provided that: “The amendment made by subsection (a) [amending this section] shall cease to have force and effect on September 30, 2010.”

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.

§ 996. Director and staff

(a) The Staff Director shall supervise the activities of persons employed by the Commission