

**(b) Direct or indirect payment of fines**

No labor organization or employer shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this chapter.

**(c) Penalty for violations**

Any person who willfully violates this section shall be fined not more than \$5,000 or imprisoned for not more than one year, or both.

(Pub. L. 86-257, title V, § 503, Sept. 14, 1959, 73 Stat. 536.)

**§ 504. Prohibition against certain persons holding office****(a) Membership in Communist Party; persons convicted of robbery, bribery, etc.**

No person who is or has been a member of the Communist Party or who has been convicted of, or served any part of a prison term resulting from his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of subchapter III or IV of this chapter<sup>1</sup> any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a consultant or adviser to any labor organization,

(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or

(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

(5) in any capacity, other than in his capacity as a member of such labor organization, that involves decisionmaking authority concerning, or decisionmaking authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of thirteen years after such conviction or after the end of such impris-

onment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28, determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this chapter. Prior to making any such determination the court shall hold a hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The court's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.

**(b) Penalty for violations**

Any person who willfully violates this section shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

**(c) Definitions**

For the purpose of this section—

(1) A person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

(2) A period of parole shall not be considered as part of a period of imprisonment.

**(d) Salary of person barred from labor organization office during appeal of conviction**

Whenever any person—

(1) by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and

(2) has filed an appeal of that conviction,

any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute<sup>2</sup> from

<sup>1</sup> So in original. Probably should be followed by a comma.

<sup>2</sup> So in original. Probably should be "section".

assuming any position from which such person was previously barred.

(Pub. L. 86-257, title V, § 504, Sept. 14, 1959, 73 Stat. 536; Pub. L. 98-473, title II, §§ 229, 803, Oct. 12, 1984, 98 Stat. 2031, 2133; Pub. L. 100-182, § 15(a), Dec. 7, 1987, 101 Stat. 1269.)

#### Editorial Notes

##### CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of section 504 of Pub. L. 86-257, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

##### AMENDMENTS

1987—Subsec. (a). Pub. L. 100-182, in concluding provisions, substituted “if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28,” for “the United States Parole Commission”, “court” and “courts” for “Commission” and “Commission’s”, respectively, and “a hearing” for “an administrative hearing”.

1984—Subsec. (a). Pub. L. 98-473, § 229, which directed substitution of “if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, on motion of the United States Department of Justice, the district court of the United States for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements issued pursuant to section 994(a) of title 28,” for “the Board of Parole of the United States Justice Department”, “court” and “courts” for “Board” and “Board’s”, respectively, and “a” for “an administrative”, was (except for the last substitution) incapable of execution in view of the previous amendment by section 803(a) of Pub. L. 98-473 which became effective prior to the effective date of the amendment by section 229. See note below.

Pub. L. 98-473, § 803(a), in amending provisions after “or a violation of subchapter III or IV of this chapter” generally, inserted provisions relating to abuse or misuse of employment in a labor organization or employee benefit plan, substituted “conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element” for “conspiracy to commit any such crimes”, added par. (1), redesignated former par. (1) as (2) and in par. (2) as so redesignated substituted “employee, or representative in any capacity of any labor organization” for “or other employee (other than as an employee performing exclusively clerical or custodial duties) of any labor organization, or”, redesignated former par. (2) as (3) and in par. (3) as so redesignated inserted “or advisor” after “consultant”, struck out “(other than as an employee performing exclusively clerical or custodial duties)” after “employee”, and inserted “or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce, or”, added pars. (4) and (5), struck out “or for five years after the termination of his membership in the Communist Party,” substituted “the period of thirteen years” for “five years”, inserted “whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later, or”, substituted in cl. (B) “United States Parole Commission” for “Board of Parole of the United States Department of Justice”, and in the provisions following cl. (B) substituted

“Commission” and “Commission’s” for “Board” and “Board’s”, respectively, inserted provision of notice to the Secretary of Labor, and substituted “No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection” for “No labor organization or officer thereof shall knowingly permit any person to assume or hold any office or paid position in violation of this subsection”.

Subsec. (b). Pub. L. 98-473, § 803(b), amended subsec. (b) generally, substituting “five years” for “one year”.

Subsec. (c). Pub. L. 98-473, § 803(c), designated existing provisions as par. (1), substituted provisions defining conviction as from date of judgment of trial court, regardless of appeal, for former provisions defining it as from date of judgment of trial court or date of final sustaining of judgment on appeal, whichever is later, regardless of whether such conviction occurred before or after Sept. 14, 1959, and added par. (2).

Subsec. (d). Pub. L. 98-473, § 803(d), added subsec. (d).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100-182, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 229 of 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 Title 18, Crimes and Criminal Procedure.

Pub. L. 98-473, title II, § 804, Oct. 12, 1984, 98 Stat. 2134, provided that:

“(a) The amendments made by section 802 [amending section 1111 of this title] and section 803 [amending this section] of this title shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this title [Oct. 12, 1984], except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this title if a right of appeal or an appeal from such judgment is pending on the date of enactment of this title.

“(b) Subject to subsection (a) the amendments made by sections 803 and 804 [probably should be sections 802 and 803] shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 [section 1111 of this title] or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 [this section] in effect on the date of enactment of this title [Oct. 12, 1984].”

#### SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

#### § 521. Investigations by Secretary; applicability of other laws

(a) The Secretary shall have power when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this chapter (except subchapter II of this chapter) to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto. The Secretary may report to interested persons or officials concerning the facts required to be shown in any report required by this chapter and concerning the reasons for failure or refusal to file such a report or