

the United States district court in the district where the person holding the judgment (hereinafter in this subsection referred to as the "petitioner") resides. Such action shall be brought within one hundred and twenty days after the petitioner requested the Attorney General to disclose the identity and location of the protected person. The complaint in such action shall contain statements that the petitioner holds a valid judgment of a Federal or State court against a person provided protection under this chapter and that the petitioner sought to enforce the judgment by requesting the Attorney General to disclose the identity and location of the protected person.

(2) The petitioner in an action described in paragraph (1) shall notify the Attorney General of the action at the same time the action is brought. The Attorney General shall appear in the action and shall affirm or deny the statements in the complaint that the person against whom the judgment is allegedly held is provided protection under this chapter and that the petitioner requested the Attorney General to disclose the identity and location of the protected person for the purpose of enforcing the judgment.

(3) Upon a determination (A) that the petitioner holds a judgment entered by a Federal or State court and (B) that the Attorney General has declined to disclose to the petitioner the current identity and location of the protected person against whom the judgment was entered, the court shall appoint a guardian to act on behalf of the petitioner to enforce the judgment. The clerk of the court shall forthwith furnish the guardian with a copy of the order of appointment. The Attorney General shall disclose to the guardian the current identity and location of the protected person and any other information necessary to enable the guardian to carry out his or her duties under this subsection.

(4) It is the duty of the guardian to proceed with all reasonable diligence and dispatch to enforce the rights of the petitioner under the judgment. The guardian shall, however, endeavor to carry out such enforcement duties in a manner that maximizes, to the extent practicable, the safety and security of the protected person. In no event shall the guardian disclose the new identity or location of the protected person without the permission of the Attorney General, except that such disclosure may be made to a Federal or State court in order to enforce the judgment. Any good faith disclosure made by the guardian in the performance of his or her duties under this subsection shall not create any civil liability against the United States or any of its officers or employees.

(5) Upon appointment, the guardian shall have the power to perform any act with respect to the judgment which the petitioner could perform, including the initiation of judicial enforcement actions in any Federal or State court or the assignment of such enforcement actions to a third party under applicable Federal or State law. The Federal Rules of Civil Procedure shall apply in any action brought under this subsection to enforce a Federal or State court judgment.

(6) The costs of any action brought under this subsection with respect to a judgment, including

any enforcement action described in paragraph (5), and the compensation to be allowed to a guardian appointed in any such action shall be fixed by the court and shall be apportioned among the parties as follows: the petitioner shall be assessed in the amount the petitioner would have paid to collect on the judgment in an action not arising under the provisions of this subsection; the protected person shall be assessed the costs which are normally charged to debtors in similar actions and any other costs which are incurred as a result of an action brought under this subsection. In the event that the costs and compensation to the guardian are not met by the petitioner or by the protected person, the court may, in its discretion, enter judgment against the United States for costs and fees reasonably incurred as a result of the action brought under this subsection.

(7) No officer or employee of the Department of Justice shall in any way impede the efforts of a guardian appointed under this subsection to enforce the judgment with respect to which the guardian was appointed.

(c) The provisions of this section shall not apply to a court order to which section 3524 of this title applies.

(Added Pub. L. 98-473, title II, §1208, Oct. 12, 1984, 98 Stat. 2157.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1984, see section 1210 of Pub. L. 98-473, set out as a note under section 3521 of this title.

§ 3524. Child custody arrangements

(a) The Attorney General may not relocate any child in connection with protection provided to a person under this chapter if it appears that a person other than that protected person has legal custody of that child.

(b) Before protection is provided under this chapter to any person (1) who is a parent of a child of whom that person has custody, and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, the Attorney General shall obtain and examine a copy of such order for the purpose of assuring that compliance with the order can be achieved. If compliance with a visitation order cannot be achieved, the Attorney General may provide protection under this chapter to the person only if the parent being relocated initiates legal action to modify the existing court order under subsection (e)(1) of this section. The parent being relocated must agree in writing before being provided protection to abide by any ensuing court orders issued as a result of an action to modify.

(c) With respect to any person provided protection under this chapter (1) who is the parent of

a child who is relocated in connection with such protection and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a State court order, the Attorney General shall, as soon as practicable after the person and child are so relocated, notify in writing the child's parent who is not so relocated that the child has been provided protection under this chapter. The notification shall also include statements that the rights of the parent not so relocated to visitation or custody, or both, under the court order shall not be infringed by the relocation of the child and the Department of Justice responsibility with respect thereto. The Department of Justice will pay all reasonable costs of transportation and security incurred in insuring that visitation can occur at a secure location as designated by the United States Marshals Service, but in no event shall it be obligated to pay such costs for visitation in excess of thirty days a year, or twelve in number a year. Additional visitation may be paid for, in the discretion of the Attorney General, by the Department of Justice in extraordinary circumstances. In the event that the unrelocated parent pays visitation costs, the Department of Justice may, in the discretion of the Attorney General, extend security arrangements associated with such visitation.

(d)(1) With respect to any person provided protection under this chapter (A) who is the parent of a child who is relocated in connection with such protection and (B) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, an action to modify that court order may be brought by any party to the court order in the District Court for the District of Columbia or in the district court for the district in which the child's parent resides who has not been relocated in connection with such protection.

(2) With respect to actions brought under paragraph (1), the district courts shall establish a procedure to provide a reasonable opportunity for the parties to the court order to mediate their dispute with respect to the order. The court shall provide a mediator for this purpose. If the dispute is mediated, the court shall issue an order in accordance with the resolution of the dispute.

(3) If, within sixty days after an action is brought under paragraph (1) to modify a court order, the dispute has not been mediated, any party to the court order may request arbitration of the dispute. In the case of such a request, the court shall appoint a master to act as arbitrator, who shall be experienced in domestic relations matters. Rule 53 of the Federal Rules of Civil Procedure shall apply to masters appointed under this paragraph. The court and the master shall, in determining the dispute, give substantial deference to the need for maintaining parent-child relationships, and any order issued by the court shall be in the best interests of the child. In actions to modify a court order brought under this subsection, the court and the master shall apply the law of the State in which the court order was issued or, in the case of the modification of a court order issued by a district court under this section, the law of the State in

which the parent resides who was not relocated in connection with the protection provided under this chapter. The costs to the Government of carrying out a court order may be considered in an action brought under this subsection to modify that court order but shall not outweigh the relative interests of the parties themselves and the child.

(4) Until a court order is modified under this subsection, all parties to that court order shall comply with their obligations under that court order subject to the limitations set forth in subsection (c) of this section.

(5) With respect to any person provided protection under this chapter who is the parent of a child who is relocated in connection with such protection, the parent not relocated in connection with such protection may bring an action, in the District Court for the District of Columbia or in the district court for the district in which that parent resides, for violation by that protected person of a court order with respect to custody or visitation of that child. If the court finds that such a violation has occurred, the court may hold in contempt the protected person. Once held in contempt, the protected person shall have a maximum of sixty days, in the discretion of the Attorney General, to comply with the court order. If the protected person fails to comply with the order within the time specified by the Attorney General, the Attorney General shall disclose the new identity and address of the protected person to the other parent and terminate any financial assistance to the protected person unless otherwise directed by the court.

(6) The United States shall be required by the court to pay litigation costs, including reasonable attorneys' fees, incurred by a parent who prevails in enforcing a custody or visitation order; but shall retain the right to recover such costs from the protected person.

(e)(1) In any case in which the Attorney General determines that, as a result of the relocation of a person and a child of whom that person is a parent in connection with protection provided under this chapter, the implementation of a court order with respect to custody or visitation of that child would be substantially impossible, the Attorney General may bring, on behalf of the person provided protection under this chapter, an action to modify the court order. Such action may be brought in the district court for the district in which the parent resides who would not be or was not relocated in connection with the protection provided under this chapter. In an action brought under this paragraph, if the Attorney General establishes, by clear and convincing evidence, that implementation of the court order involved would be substantially impossible, the court may modify the court order but shall, subject to appropriate security considerations, provide an alternative as substantially equivalent to the original rights of the nonrelocating parent as feasible under the circumstances.

(2) With respect to any State court order in effect to which this section applies, and with respect to any district court order in effect which is issued under this section, if the parent who is not relocated in connection with protection pro-

vided under this chapter intentionally violates a reasonable security requirement imposed by the Attorney General with respect to the implementation of that court order, the Attorney General may bring an action in the district court for the district in which that parent resides to modify the court order. The court may modify the court order if the court finds such an intentional violation.

(3) The procedures for mediation and arbitration provided under subsection (d) of this section shall not apply to actions for modification brought under this subsection.

(f) In any case in which a person provided protection under this chapter is the parent of a child of whom that person has custody and has obligations to another parent of that child concerning custody and visitation of that child which are not imposed by court order, that person, or the parent not relocated in connection with such protection, may bring an action in the district court of the district in which that parent not relocated resides to obtain an order providing for custody or visitation, or both, of that child. In any such action, all the provisions of subsection (d) of this section shall apply.

(g) In any case in which an action under this section involves court orders from different States with respect to custody or visitation of the same child, the court shall resolve any conflicts by applying the rules of conflict of laws of the State in which the court is sitting.

(h)(1) Subject to paragraph (2), the costs of any action described in subsection (d), (e), or (f) of this section shall be paid by the United States.

(2) The Attorney General shall insure that any State court order in effect to which this section applies and any district court order in effect which is issued under this section are carried out. The Department of Justice shall pay all costs and fees described in subsections (c) and (d) of this section.

(i) As used in this section, the term "parent" includes any person who stands in the place of a parent by law.

(Added Pub. L. 98-473, title II, § 1208, Oct. 12, 1984, 98 Stat. 2159.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (d)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1984, see section 1210 of Pub. L. 98-473, set out as a note under section 3521 of this title.

§ 3525. Victims Compensation Fund

(a) The Attorney General may pay restitution to, or in the case of death, compensation for the death of any victim of a crime that causes or threatens death or serious bodily injury and that is committed by any person during a period in which that person is provided protection under this chapter.

(b) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a detailed report on payments made under this section for such year.

(c) There are authorized to be appropriated for the fiscal year 1985 and for each fiscal year thereafter, \$1,000,000 for payments under this section.

(d) The Attorney General shall establish guidelines and procedures for making payments under this section. The payments to victims under this section shall be made for the types of expenses provided for in section 3579(b)¹ of this title, except that in the case of the death of the victim, an amount not to exceed \$50,000 may be paid to the victim's estate. No payment may be made under this section to a victim unless the victim has sought restitution and compensation provided under Federal or State law or by civil action. Such payments may be made only to the extent the victim, or the victim's estate, has not otherwise received restitution and compensation, including insurance payments, for the crime involved. Payments may be made under this section to victims of crimes occurring on or after the date of the enactment of this chapter.¹ In the case of a crime occurring before the date of the enactment of this chapter,¹ a payment may be made under this section only in the case of the death of the victim, and then only in an amount not exceeding \$25,000, and such a payment may be made notwithstanding the requirements of the third sentence of this subsection.

(e) Nothing in this section shall be construed to create a cause of action against the United States.

(Added Pub. L. 98-473, title II, § 1208, Oct. 12, 1984, 98 Stat. 2162.)

Editorial Notes

REFERENCES IN TEXT

Section 3579(b) of this title, referred to in subsec. (d), was renumbered section 3663(b) of this title by Pub. L. 98-473, title II, § 212(a)(1), Oct. 12, 1984, 98 Stat. 1987.

The date of the enactment of this chapter, referred to in subsec. (d), is the date of enactment of Pub. L. 98-473, which was approved Oct. 12, 1984.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1984, see section 1210 of Pub. L. 98-473, set out as a note under section 3521 of this title.

RESTITUTION TO ESTATE OF VICTIMS KILLED BEFORE OCTOBER 12, 1984; LIMITATION

Pub. L. 99-180, title II, § 200, Dec. 13, 1985, 99 Stat. 1142, provided: "That restitution of not to exceed \$25,000 shall be paid to the estate of victims killed before October 12, 1984 as a result of crimes committed by persons who have been enrolled in the Federal witness protection program, if such crimes were committed within two years after protection was terminated, notwithstanding any limitations contained in part (a) of section 3525 of title 18 of the United States Code."

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:

¹ See References in Text note below.