

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91-513, set out as a note under section 801 of this title.

**§ 848. Continuing criminal enterprise**

**(a) Penalties; forfeitures**

Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title; except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 30 years and which may be up to life imprisonment, to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title.

**(b) Life imprisonment for engaging in continuing criminal enterprise**

Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a), if—

(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

(2)(A) the violation referred to in subsection (c)(1) involved at least 300 times the quantity of a substance described in subsection 841(b)(1)(B) of this title, or

(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received \$10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 841(b)(1)(B) of this title.

**(c) "Continuing criminal enterprise" defined**

For purposes of subsection (a), a person is engaged in a continuing criminal enterprise if—

(1) he violates any provision of this subchapter or subchapter II the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of this subchapter or subchapter II—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

**(d) Suspension of sentence and probation prohibited**

In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and the Act of July 15, 1932 (D.C. Code, secs. 24-203—24-207), shall not apply.

**(e) Death penalty**

(1) In addition to the other penalties set forth in this section—

(A) any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A)<sup>1</sup> of this title or section 960(b)(1)<sup>1</sup> of this title who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

(B) any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this subchapter or subchapter II who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

(2) As used in paragraph (1)(B), the term "law enforcement officer" means a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.

**(g)<sup>2</sup> to (p) Repealed. Pub. L. 109-177, title II, § 221(2), Mar. 9, 2006, 120 Stat. 231**

**(q) Repealed. Pub. L. 109-177, title II, §§ 221(4), 222(c), Mar. 9, 2006, 120 Stat. 231, 232**

**(r) Repealed. Pub. L. 109-177, title II, § 221(3), Mar. 9, 2006, 120 Stat. 231**

**(s) Special provision for methamphetamine**

For the purposes of subsection (b), in the case of continuing criminal enterprise involving methamphetamine or its salts, isomers, or salts of isomers, paragraph (2)(A) shall be applied by substituting "200" for "300", and paragraph (2)(B) shall be applied by substituting "\$5,000,000" for "\$10 million dollars".

(Pub. L. 91-513, title II, § 408, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 98-473, title II, §§ 224(b), formerly § 224(c), 305, Oct. 12, 1984, 98 Stat. 2030, 2050; Pub. L. 99-570, title I, §§ 1005(b)(2), 1252, 1253, Oct. 27, 1986, 100 Stat. 3207-6, 3207-14; Pub. L.

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Section does not contain a subsec. (f), see 1988 Amendment note below.

100-690, title VI, §6481, title VII, §7001, Nov. 18, 1988, 102 Stat. 4382, 4387; Pub. L. 103-322, title XXXIII, §§330003(e), 330009(d), 330014, Sept. 13, 1994, 108 Stat. 2141, 2143, 2146; Pub. L. 104-132, title I, §108, title IX, §903(b), Apr. 24, 1996, 110 Stat. 1226, 1318; Pub. L. 109-177, title II, §§221, 222(c), title VII, §733, Mar. 9, 2006, 120 Stat. 231, 232, 270.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 841(b)(1)(A), referred to in subsec. (e)(1)(A), was in the original a reference to "section 841(b)(1)(A)" but probably should be a reference to "section 401(b)(1)(A)", meaning section 401(b)(1)(A) of Pub. L. 91-513, title II, Oct. 27, 1970, 84 Stat. 1260.

Section 960(b)(1), referred to in subsec. (e)(1)(A), was in the original a reference to "section 960(b)(1)" but probably should be a reference to "section 1010(b)(1)", meaning section 1010(b)(1) of Pub. L. 91-513, title III, Oct. 27, 1970, 84 Stat. 1290.

Act of July 15, 1932 (D.C. Code, secs. 24-203—24-207), referred to in subsec. (d), is act July 15, 1932, ch. 492, 47 Stat. 696, as amended, which is not classified to the Code.

#### AMENDMENTS

2006—Subsec. (e)(2). Pub. L. 109-177, §221(1), substituted "(1)(B)" for "(1)(b)".

Subsecs. (g) to (p). Pub. L. 109-177, §221(2), struck out subsecs. (g) to (p) which related to hearing and sentencing procedures in death penalty cases and sentencing in capital cases in which the death penalty is not sought or imposed.

Subsec. (q). Pub. L. 109-177, §§221(4), 222(c), struck out subsec. (q) which related to appeal in capital cases and counsel for financially unable defendants.

Subsec. (r). Pub. L. 109-177, §221(3), struck out subsec. (r) which provided for refusal by State and Federal correctional employees to participate in executions.

Subsec. (s). Pub. L. 109-177, §733, added subsec. (s).

1996—Subsec. (q)(9). Pub. L. 104-132, §108, amended par. (9) generally. Prior to amendment, par. (9) read as follows: "Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (10). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc."

Subsec. (q)(10). Pub. L. 104-132, §903(b), amended par. (10) generally. Prior to amendment, par. (10) read as follows: "Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of paragraphs (4) through (9)."

1994—Subsec. (b)(2)(A). Pub. L. 103-322, §330003(e), substituted "subsection (c)(1)" for "subsection (d)(1)".

Subsec. (n)(11). Pub. L. 103-322, §330014, made technical amendment to reference to section 859 of this title to correct reference to corresponding section of original act.

Subsec. (q)(8). Pub. L. 103-322, §330009(d), substituted "applications for writ" for "applications, for writ".

1988—Subsec. (a). Pub. L. 100-690, §6481(a), increased minimum term of imprisonment for first violations to

20 from 10 years and for subsequent violations to 30 from 20 years.

Subsecs. (c), (d). Pub. L. 100-690, §6481(b), redesignated subsecs. (d) and (e) as (c) and (d), respectively.

Subsec. (e). Pub. L. 100-690, §7001(a)(2), added subsec. (e). Former subsec. (e) redesignated (d).

Pub. L. 100-690, §7001(a)(1), which directed redesignation of former subsec. (e) as (f), could not be executed because of prior redesignation of former subsec. (e) as (d) by Pub. L. 100-690, §6481(b), which resulted in there not being a subsec. (f).

Subsecs. (g) to (r). Pub. L. 100-690, §7001(b), added subsecs. (g) to (r).

1986—Subsec. (a). Pub. L. 99-570, §1252, substituted "to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual," for "to a fine of not more than \$100,000," and "to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual," for "to a fine of not more than \$200,000."

Subsecs. (b) to (e). Pub. L. 99-570, §1253, added subsec. (b) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively, which resulted in there not being a subsec. (c).

1984—Subsec. (a). Pub. L. 98-473, §305, struck out par. (1) designation, substituted references to section 853 of this title for references to paragraph (2) in two places, and struck out par. (2) which related to forfeitures to the United States by any person convicted under par. (1).

Subsec. (d). Pub. L. 98-473, §305(b), struck out subsec. (d) relating to jurisdiction of courts of the United States.

Subsec. (e). Pub. L. 98-473, §224(b), as renumbered by Pub. L. 99-570, §1005(b)(2), which directed the amendment of subsec. (c) of this section by striking out "and section 4202 of title 18 of the United States Code", was executed by striking out that language in subsec. (e) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 99-570, §1253, which redesignated subsec. (c) as (e). See 1986 Amendment note above.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 903(b) of Pub. L. 104-132 effective as to cases commenced or appeals perfected on or after Apr. 24, 1996, see section 903(c) of Pub. L. 104-132, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 224(b) 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.

#### EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91-513, set out as a note under section 801 of this title.

#### GAO STUDY OF COST OF EXECUTIONS

Pub. L. 100-690, title VII, §7002, Nov. 18, 1988, 102 Stat. 4395, directed Comptroller General to conduct a study of cost of executions and report to Congress, prior to repeal by Pub. L. 104-66, title I, §1091(d), Dec. 21, 1995, 109 Stat. 722.

### § 849. Transportation safety offenses

#### (a) Definitions

In this section—