

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 522**

[BOP-1092-F]

RIN 1120-AA87

Civil Contempt of Court Commitments**AGENCY:** Bureau of Prisons, Justice.**ACTION:** Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its regulations on civil contempt of court commitments to note the statutory distinction between the order of service of a sentence for offenses committed before November 1, 1987, and those committed on or after November 1, 1987. This amendment merely describes the various dispositions of the court under the appropriate statutes and is intended to be informational in nature.

EFFECTIVE DATE: June 26, 2000.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Civil Contempt of Court Commitments (28 CFR part 522, subpart B). A final rule on this subject was published in the **Federal Register** on June 29, 1979 (44 FR 38244), and was amended April 6, 1994 (59 FR 16406).

Current provisions on civil contempt of court commitments in § 522.11 describe a court's discretion pertaining to offenses committed before November 1, 1987. Section 522.11 (d) and (e) are being revised to reflect a court's discretion pertaining to offenses committed on or after November 1, 1987. More specifically, federal criminal sentences of imprisonment might not commence immediately upon being imposed for several reasons. For example, the defendant may be granted bail pending appeal, or the sentencing court may order the defendant to self-surrender at a later scheduled date. Consequently, § 522.11(d) is revised to apply in those situations where a person receives a federal sentence of imprisonment and, prior to commencing service of the sentence, is the subject of a civil contempt commitment order. In such circumstances, the rule indicates credit toward service of the criminal sentence is delayed or suspended for the

duration of the contempt commitment, unless the committing judge orders otherwise. The rule still applies to those defendants serving criminal sentences of imprisonment who subsequently become the subject of a civil contempt commitment order.

Pursuant to federal caselaw decisions, multiple federal sentences of imprisonment imposed pursuant to 18 U.S.C. Chapter 227, as applicable to offenses committed before November 1, 1987, are presumed to run concurrently unless ordered to run consecutively by the sentencing judge. To the contrary, as applied to offenses committed on or after November 1, 1987, 18 U.S.C. 3584 requires that multiple federal sentences of imprisonment imposed at different times run consecutively unless ordered to run concurrently by the sentencing judge or statutory directive. Revised § 522.11 (e)(1) and (2) reflect these differences in cases where a civil contempt commitment order is in effect and a criminal sentence of imprisonment is subsequently imposed. In the case of a criminal sentence of imprisonment imposed pursuant to 18 U.S.C. Chapter 227, as applicable to offenses committed before November 1, 1987, the criminal sentence runs concurrently with the commitment order unless the sentencing judge orders otherwise. In the case of a criminal sentence of imprisonment imposed pursuant to 18 U.S.C. Chapter 227, as applicable to offenses committed on or after November 1, 1987, the criminal sentence runs consecutively to the commitment order unless the sentencing judge orders otherwise.

Because this amendment merely describes the various dispositions of the court under the appropriate statute, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First St., NW., Washington, DC 20534; telephone (202) 514-6655.

List of Subjects in 28 CFR Part 522

Prisoners.

Kathleen Hawk Sawyer,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 522 in 28 CFR, chapter V, subchapter B, is amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER**PART 522—ADMISSION TO INSTITUTION**

1. The authority citation for 28 CFR part 522 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 522.11, paragraphs (d) and (e) are revised to read as follows:

§ 522.11 Procedures.

* * * * *

(d) If a federal criminal sentence of imprisonment (including a Narcotic Addict Rehabilitation Act or Youth Corrections Act commitment) exists when a civil contempt commitment is ordered, credit towards service of the criminal sentence is delayed or suspended for the duration of the contempt commitment unless the committing judge orders otherwise.

(e)(1) If a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed under 18 U.S.C. Chapter 227 (as applicable to offenses committed before November 1, 1987), the criminal sentence runs concurrently with the commitment order unless the sentencing judge orders otherwise.

(2) If a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed under 18 U.S.C. Chapter 227 (as applicable to offenses committed on or after November 1, 1987), the criminal sentence runs consecutively to the commitment order unless the sentencing judge orders otherwise.

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[FR Doc. 00–13301 Filed 5–25–00; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 543**

[BOP–1098–F]

RIN 1120–AA94

Federal Tort Claims Act

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document adopts as final the proposed rule pertaining to the Federal Tort Claims Act in accordance with the mandate to use plain language. The amendment is intended to provide clearer instructions for filing and processing a claim with the Bureau for money damages for personal injury or death and/or damage to or loss of property.

EFFECTIVE DATE: June 26, 2000.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is revising its regulations in 28 CFR 543, subpart C, on the Federal Tort Claims Act. A proposed rule on this subject was published in the **Federal Register** on June 14, 1999 (64 FR 32172). The Bureau received comment from three respondents.

One commenter filed a tort claim alleging that the proposed rule and various other Bureau policies were vague and unclear. No specifics, however, were provided as to the proposed tort claim procedures. This commenter's claim is being processed in accordance with the existing procedures for tort claims. The second commenter stated that the proposed revision was plain and concise. This commenter also expressed the opinion that the current procedures were cumbersome and slow. As noted above, the intent of the revision is to provide clearer instructions for filing and processing a claim with the Bureau for money damages for personal injury or death and/or damage to or loss of property. The Bureau believes that revising the procedures for clarity will also serve to help expedite the process. The third commenter was seeking guidance whether to submit a warranty claim or to file a tort claim for damaged property. The tort claim procedures are available for use. It would be a conflict of interest

for the Bureau to advise an inmate on the question of using the tort claim procedures or other available avenues of redress in any specific instance.

With due consideration to the comments received, the Bureau has determined to adopt the proposed rule as final. In adopting the proposed rule as final, the Bureau is amending proposed § 543.32(d) to reflect the role of the Department of Justice's Torts Branch in deciding administrative claims for amounts beyond delegated settlement authority. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were