

Public Law 100-185
100th Congress

An Act

To amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes.

Dec. 11, 1987

[H.R. 3483]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Criminal Fine
Improvements
Act of 1987.
18 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Fine Improvements Act of 1987".

SEC. 2. DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS IN RELATION TO FINES.

Section 604(a) of title 28, United States Code, is amended—

- (1) by redesignating paragraph (17) as paragraph (18); and
- (2) by inserting after paragraph (16) the following new paragraph:

"(17) Establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments;"

SEC. 3. SPECIAL ASSESSMENTS.

Section 3013 of title 18, United States Code, is amended by adding at the end the following:

"(c) The obligation to pay an assessment ceases five years after the date of the judgment.

"(d) For the purposes of this section, an offense under section 13 of this title is an offense against the United States."

SEC. 4. DEFINITION OF PETTY OFFENSE.

(a) **IN GENERAL.**—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 19. Petty offense defined

18 USC 19.

"As used in this title, the term 'petty offense' means a Class B misdemeanor, a Class C misdemeanor, or an infraction."

(b) **TECHNICAL AMENDMENT.**—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"19. Petty offense defined."

(c) **CLARIFYING AMENDMENT TO EARLIER TECHNICAL PROVISION.**—Section 38(a) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking out "section 23" and inserting in lieu thereof "section 34(a)".

18 USC 18.

SEC. 5. ELIMINATION OF OBSOLETE PROVISION.

Subsection (b) of section 3559 of title 18, United States Code, is amended by striking out "except that:" and all that follows through the end of the subsection and inserting in lieu thereof "except that

the maximum term of imprisonment is the term authorized by the law describing the offense.”.

SEC. 6. AUTHORIZED FINES.

Section 3571 of title 18, United States Code, is amended to read as follows:

“§ 3571. Sentence of fine

“(a) **IN GENERAL.**—A defendant who has been found guilty of an offense may be sentenced to pay a fine.

“(b) **FINES FOR INDIVIDUALS.**—Except as provided in subsection (e) of this section, an individual who has been found guilty of an offense may be fined not more than the greatest of—

“(1) the amount specified in the law setting forth the offense;

“(2) the applicable amount under subsection (d) of this section;

“(3) for a felony, not more than \$250,000;

“(4) for a misdemeanor resulting in death, not more than \$250,000;

“(5) for a Class A misdemeanor that does not result in death, not more than \$100,000;

“(6) for a Class B or C misdemeanor that does not result in death, not more than \$5,000; or

“(7) for an infraction, not more than \$5,000.

“(c) **FINES FOR ORGANIZATIONS.**—Except as provided in subsection (e) of this section, an organization that has been found guilty of an offense may be fined not more than the greatest of—

“(1) the amount specified in the law setting forth the offense;

“(2) the applicable amount under subsection (d) of this section;

“(3) for a felony, not more than \$500,000;

“(4) for a misdemeanor resulting in death, not more than \$500,000;

“(5) for a Class A misdemeanor that does not result in death, not more than \$200,000;

“(6) for a Class B or C misdemeanor that does not result in death, not more than \$10,000; and

“(7) for an infraction, not more than \$10,000.

“(d) **ALTERNATIVE FINE BASED ON GAIN OR LOSS.**—If any person derives pecuniary gain from the offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

“(e) **SPECIAL RULE FOR LOWER FINE SPECIFIED IN SUBSTANTIVE PROVISION.**—If a law setting forth an offense specifies no fine or a fine that is lower than the fine otherwise applicable under this section and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under this section, the defendant may not be fined more than the amount specified in the law setting forth the offense.”.

SEC. 7. IMPOSITION OF A SENTENCE OF FINE AND RELATED MATTERS.

Section 3572 of title 18, United States Code, is amended to read as follows:

“§ 3572. Imposition of a sentence of fine and related matters

“(a) **FACTORS TO BE CONSIDERED.**—In determining whether to impose a fine, and the amount, time for payment, and method of

payment of a fine, the court shall consider, in addition to the factors set forth in section 3553(a)—

“(1) the defendant's income, earning capacity, and financial resources;

“(2) the burden that the fine will impose upon the defendant, any person who is financially dependent on the defendant, or any other person (including a government) that would be responsible for the welfare of any person financially dependent on the defendant, relative to the burden that alternative punishments would impose;

“(3) any pecuniary loss inflicted upon others as a result of the offense;

“(4) whether restitution is ordered or made and the amount of such restitution;

“(5) the need to deprive the defendant of illegally obtained gains from the offense;

“(6) whether the defendant can pass on to consumers or other persons the expense of the fine; and

“(7) if the defendant is an organization, the size of the organization and any measure taken by the organization to discipline any officer, director, employee, or agent of the organization responsible for the offense and to prevent a recurrence of such an offense.

“(b) FINE NOT TO IMPAIR ABILITY TO MAKE RESTITUTION.—If, as a result of a conviction, the defendant has the obligation to make restitution to a victim of the offense, the court shall impose a fine or other monetary penalty only to the extent that such fine or penalty will not impair the ability of the defendant to make restitution.

“(c) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

“(1) modified or remitted under section 3573;

“(2) corrected under rule 35 and section 3742; or

“(3) appealed and modified under section 3742;

a judgment that includes such a sentence is a final judgment for all other purposes.

“(d) TIME, METHOD OF PAYMENT, AND RELATED ITEMS.—A person sentenced to pay a fine or other monetary penalty shall make such payment immediately, unless, in the interest of justice, the court provides for payment on a date certain or in installments. If the court provides for payment in installments, the installments shall be in equal monthly payments over the period provided by the court, unless the court establishes another schedule. If the judgment permits other than immediate payment, the period provided for shall not exceed five years, excluding any period served by the defendant as imprisonment for the offense.

“(e) ALTERNATIVE SENTENCE PRECLUDED.—At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be carried out if the fine is not paid.

“(f) RESPONSIBILITY FOR PAYMENT OF MONETARY OBLIGATION RELATING TO ORGANIZATION.—If a sentence includes a fine, special assessment, or other monetary obligation (including interest) with respect to an organization, each individual authorized to make disbursements for the organization has a duty to pay the obligation from assets of the organization. If such an obligation is imposed on a director, officer, shareholder, employee, or agent of an organization, payments may not be made, directly or indirectly, from assets of the

State and local governments.

organization, unless the court finds that such payment is expressly permissible under applicable State law.

“(g) **SECURITY FOR STAYED FINE.**—If a sentence imposing a fine is stayed, the court shall, absent exceptional circumstances (as determined by the court)—

“(1) require the defendant to deposit, in the registry of the district court, any amount of the fine that is due;

“(2) require the defendant to provide a bond or other security to ensure payment of the fine; or

“(3) restrain the defendant from transferring or dissipating assets.

“(h) **DELINQUENCY.**—A fine is delinquent if a payment is more than 30 days late.

“(i) **DEFAULT.**—A fine is in default if a payment is delinquent for more than 90 days. When a fine is in default, the entire amount of the fine is due within 30 days after notification of the default, notwithstanding any installment schedule.”.

SEC. 8. REVISION OF MODIFICATION OR REMISSION PROVISION.

(a) **OFFENSE.**—Section 3573 of title 18, United States Code, is amended to read as follows:

“§ 3573. Petition of the Government for modification or remission

“Upon petition of the Government showing that reasonable efforts to collect a fine or assessment are not likely to be effective, the court may, in the interest of justice—

“(1) remit all or part of the unpaid portion of the fine or special assessment, including interest and penalties;

“(2) defer payment of the fine or special assessment to a date certain or pursuant to an installment schedule; or

“(3) extend a date certain or an installment schedule previously ordered.

A petition under this subsection shall be filed in the court in which sentence was originally imposed, unless the court transfers jurisdiction to another court.”.

(b) **TECHNICAL AMENDMENT.**—The table of sections for subchapter C of chapter 227 of title 18, United States Code, is amended by striking out the item for section 3573 and insert in lieu thereof the following:

“3573. Petition of the Government for modification or revision.”.

SEC. 9. RECEIPT OF FINES—INTERIM PROVISIONS.

(a) **NOVEMBER 1, 1987, TO APRIL 30, 1988.**—Notwithstanding section 3611 of title 18, United States Code, a person who, during the period beginning on November 1, 1987, and ending on April 30, 1988, is sentenced to pay a fine or assessment shall pay the fine or assessment (including any interest or penalty) to the clerk of the court, with respect to an offense committed on or before December 31, 1984, and to the Attorney General, with respect to an offense committed after December 31, 1984.

(b) **MAY 1, 1988, TO OCTOBER 31, 1988.**—(1) Notwithstanding section 3611 of title 18, United States Code, a person who during the period beginning on May 1, 1988, and ending on October 31, 1988, is sentenced to pay a fine or assessment shall pay the fine or assessment in accordance with this subsection.

(2) In a case initiated by citation or violation notice, such person shall pay the fine or assessment (including any interest or penalty),

as specified by the Director of the Administrative Office of the United States Courts. Such Director may specify that such payment be made to the clerk of the court or in the manner provided for under section 604(a)(17) of title 28, United States Code.

(3) In any other case, such person shall pay the fine or assessment (including any interest or penalty) to the clerk of the court, with respect to an offense committed on or before December 31, 1984, and to the Attorney General, with respect to an offense committed after December 31, 1984.

SEC. 10. RECEIPT OF FINES—PERMANENT PROVISION.

(a) **IN GENERAL.**—Section 3611 of title 18, United States Code, is amended to read as follows:

“§ 3611. Payment of a fine

“A person who is sentenced to pay a fine or assessment shall pay the fine or assessment (including any interest or penalty), as specified by the Director of the Administrative Office of the United States Courts. Such Director may specify that such payment be made to the clerk of the court or in the manner provided for under section 604(a)(17) of title 28, United States Code.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to any fine imposed after October 31, 1988. Such amendment shall also apply with respect to any fine imposed on or before October 31, 1988, if the fine remains uncollected as of February 1, 1989, unless the Director of the Administrative Office of the United States Courts determines further delay is necessary. If the Director so determines, the amendment made by this section shall apply with respect to any such fine imposed on or before October 31, 1988, if the fine remains uncollected as of May 1, 1989.

18 USC 3611
note.

SEC. 11. COLLECTION AMENDMENTS.

(a) **NOTIFICATION OF RECEIPT AND RELATED MATTERS.**—Section 3612(a) of title 18, United States Code, is amended to read as follows:

“(a) **NOTIFICATION OF RECEIPT AND RELATED MATTERS.**—The clerk or the person designated under section 604(a)(17) of title 28 shall notify the Attorney General of each receipt of a payment with respect to which a certification is made under subsection (b), together with other appropriate information relating to such payment. The notification shall be provided—

“(1) in such manner as may be agreed upon by the Attorney General and the Director of the Administrative Office of the United States Courts; and

“(2) within 15 days after the receipt or at such other time as may be determined jointly by the Attorney General and the Director of the Administrative Office of the United States Courts.

If the fifteenth day under paragraph (2) is a Saturday, Sunday, or legal public holiday, the clerk, or the person designated under section 604(a)(17) of title 28, shall provide notification not later than the next day that is not a Saturday, Sunday, or legal public holiday.”.

(b) **INFORMATION TO BE INCLUDED IN JUDGMENT.**—Section 3612(b) of title 18, United States Code, is amended to read as follows:

“(b) **INFORMATION TO BE INCLUDED IN JUDGMENT; JUDGMENT TO BE TRANSMITTED TO ATTORNEY GENERAL.**—(1) A judgment or order

imposing, modifying, or remitting a fine of more than \$100 shall include—

“(A) the name, social security account number, mailing address, and residence address of the defendant;

“(B) the docket number of the case;

“(C) the original amount of the fine and the amount that is due and unpaid;

“(D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));

“(E) a description of any modification or remission; and

“(F) if other than immediate payment is permitted, a requirement that, until the fine is paid in full, the defendant notify the Attorney General of any change in the mailing address or residence address of the defendant not later than thirty days after the change occurs.

“(2) Not later than ten days after entry of the judgment or order, the court shall transmit a certified copy of the judgment or order to the Attorney General.”.

(c) TECHNICAL AMENDMENTS.—

(1) Section 3612(d) of title 18, United States Code, is amended by striking out “section 3572(i)” and inserting in lieu thereof “section 3572(h)”.

(2) Section 3612(e) of title 18, United States Code, is amended by striking out “section 3572(j)” and inserting in lieu thereof “section 3572(i)”.

(d) INTEREST ON FINES.—Section 3612(f) of title 18, United States Code, is amended to read as follows:

“(f) INTEREST ON FINES.—

“(1) IN GENERAL.—The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of the judgment. If that day is a Saturday, Sunday, or legal public holiday, the defendant shall be liable for interest beginning with the next day that is not a Saturday, Sunday, or legal public holiday.

“(2) COMPUTATION.—Interest on a fine shall be computed—

“(A) daily (from the first day on which the defendant is liable for interest under paragraph (1)); and

“(B) at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled before the first day on which the defendant is liable for interest under paragraph (1).

“(3) MODIFICATION OF INTEREST BY COURT.—If the court determines that the defendant does not have the ability to pay interest under this subsection, the court may—

“(A) waive the requirement for interest;

“(B) limit the total of interest payable to a specific dollar amount; or

“(C) limit the length of the period during which interest accrues.”.

(e) PENALTY FOR DELINQUENT FINE; WAIVER OF INTEREST OR FINE BY ATTORNEY GENERAL.—Section 3612 of title 18, United States Code, is amended by adding at the end the following new subsections:

“(g) PENALTY FOR DELINQUENT FINE.—If a fine becomes delinquent, the defendant shall pay, as a penalty, an amount equal to 10

percent of the principal amount that is delinquent. If a fine becomes in default, the defendant shall pay, as a penalty, an additional amount equal to 15 percent of the principal amount that is in default.

“(h) **WAIVER OF INTEREST OR PENALTY BY ATTORNEY GENERAL.**—The Attorney General may waive all or part of any interest or penalty under this section if, as determined by the Attorney General, reasonable efforts to collect the interest or penalty are not likely to be effective.

“(i) **APPLICATION OF PAYMENTS.**—Payments relating to fines shall be applied in the following order: (1) to principal; (2) to costs; (3) to interest; and (4) to penalties.”.

SEC. 12. RECEIPT OF RESTITUTION PAYMENTS BY COURTS.

Section 3663(f)(4) of title 18, United States Code, is amended by inserting “or the person designated under section 604(a)(17) of title 28” after “Attorney General”.

Approved December 11, 1987.

LEGISLATIVE HISTORY—H.R. 3483:

HOUSE REPORTS: No. 100-390 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 133 (1987):

Oct. 27, considered and passed House.

Oct. 30, considered and passed Senate, amended.

Nov. 16, House concurred in Senate amendments with an amendment.

Nov. 20, Senate concurred in House amendment with amendments.

Dec. 2, House concurred in certain Senate amendments, in another with an amendment, and disagreed to another.

Dec. 3, Senate concurred in House amendment and receded from another.