

rectional facility, proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which the prisoner is confined.

(Added Pub. L. 104-132, title II, §207(c)(4), Apr. 24, 1996, 110 Stat. 1239.)

#### EFFECTIVE DATE

Section to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which the defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as an Effective Date of 1996 Amendment note under section 2248 of this title.

### § 3614. Resentencing upon failure to pay a fine or restitution

(a) RESENTENCING.—Subject to the provisions of subsection (b), if a defendant knowingly fails to pay a delinquent fine or restitution the court may resentence the defendant to any sentence which might originally have been imposed.

(b) IMPRISONMENT.—The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that—

(1) the defendant willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or

(2) in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.

(c) EFFECT OF INDIGENCY.—In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 2006; amended Pub. L. 104-132, title II, §207(c)(5), Apr. 24, 1996, 110 Stat. 1240.)

#### PRIOR PROVISIONS

For a prior section 3614, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3601 of this title.

#### AMENDMENTS

1996—Pub. L. 104-232, §207(c)(5)(A), inserted “or restitution” after “fine” in section catchline.

Subsec. (a). Pub. L. 104-232, §207(c)(5)(B), inserted “or restitution” after “fine”.

Subsec. (c). Pub. L. 104-232, §207(c)(5)(C), added subsec. (c).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

#### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

### § 3615. Criminal default

Whoever, having been sentenced to pay a fine, willfully fails to pay the fine, shall be fined not more than twice the amount of the unpaid bal-

ance of the fine or \$10,000, whichever is greater, imprisoned not more than one year, or both.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 2006.)

#### PRIOR PROVISIONS

For prior sections 3615 to 3620, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3601 of this title.

#### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

## SUBCHAPTER C—IMPRISONMENT

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#### Sec.

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| 3621. | Imprisonment of a convicted person.                     |
| 3622. | Temporary release of a prisoner.                        |
| 3623. | Transfer of a prisoner to State authority.              |
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#### AMENDMENTS

1996—Pub. L. 104-134, title I, §101[(a)] [title VIII, §802(c)], Apr. 26, 1996, 110 Stat. 1321, 1321-70; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, which directed that table of sections at beginning of subchapter C of this chapter be amended generally to read “3626. Appropriate remedies with respect to prison conditions.”, was executed by making amendment in item 3626 to reflect the probable intent of Congress. Prior to amendment, item 3626 read as follows: “3626. Appropriate remedies with respect to prison crowding.”

1994—Pub. L. 103-322, title II, §20409(c), title XXXIII, §330010(3), Sept. 13, 1994, 108 Stat. 1828, 2143, transferred analysis of this subchapter to follow heading for this subchapter and added item 3626.

### § 3621. Imprisonment of a convicted person

(a) COMMITMENT TO CUSTODY OF BUREAU OF PRISONS.—A person who has been sentenced to a term of imprisonment pursuant to the provisions of subchapter D of chapter 227 shall be committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 3624.

(b) PLACE OF IMPRISONMENT.—The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, whether maintained by the Federal Government or otherwise and whether within or without the judicial district in which the person was convicted, that the Bureau determines to be appropriate and suitable, considering—

(1) the resources of the facility contemplated;

(2) the nature and circumstances of the offense;

(3) the history and characteristics of the prisoner;

(4) any statement by the court that imposed the sentence—

<sup>1</sup> So in original. Probably should not appear.

(A) concerning the purposes for which the sentence to imprisonment was determined to be warranted; or

(B) recommending a type of penal or correctional facility as appropriate; and

(5) any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28.

In designating the place of imprisonment or making transfers under this subsection, there shall be no favoritism given to prisoners of high social or economic status. The Bureau may at any time, having regard for the same matters, direct the transfer of a prisoner from one penal or correctional facility to another. The Bureau shall make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable condition of substance addiction or abuse. Any order, recommendation, or request by a sentencing court that a convicted person serve a term of imprisonment in a community corrections facility shall have no binding effect on the authority of the Bureau under this section to determine or change the place of imprisonment of that person.

(c) DELIVERY OF ORDER OF COMMITMENT.—When a prisoner, pursuant to a court order, is placed in the custody of a person in charge of a penal or correctional facility, a copy of the order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original order, with the return endorsed thereon, shall be returned to the court that issued it.

(d) DELIVERY OF PRISONER FOR COURT APPEARANCES.—The United States marshal shall, without charge, bring a prisoner into court or return him to a prison facility on order of a court of the United States or on written request of an attorney for the Government.

(e) SUBSTANCE ABUSE TREATMENT.—

(1) PHASE-IN.—In order to carry out the requirement of the last sentence of subsection (b) of this section, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall, subject to the availability of appropriations, provide residential substance abuse treatment (and make arrangements for appropriate after-care)—

(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1995, with priority for such treatment accorded based on an eligible prisoner's proximity to release date;

(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1996, with priority for such treatment accorded based on an eligible prisoner's proximity to release date; and

(C) for all eligible prisoners by the end of fiscal year 1997 and thereafter, with priority for such treatment accorded based on an eligible prisoner's proximity to release date.

(2) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

(A) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of

Prisons, has successfully completed a program of residential substance abuse treatment provided under paragraph (1) of this subsection, shall remain in the custody of the Bureau under such conditions as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for substance abuse and discontinue such conditions on determining that substance abuse has recurred.

(B) PERIOD OF CUSTODY.—The period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.

(3) REPORT.—The Bureau of Prisons shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives on January 1, 1995, and on January 1 of each year thereafter, a report. Such report shall contain—

(A) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

(B) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

(C) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this subsection such sums as may be necessary for each of fiscal years 2007 through 2011.

(5) DEFINITIONS.—As used in this subsection—

(A) the term "residential substance abuse treatment" means a course of individual and group activities and treatment, lasting at least 6 months, in residential treatment facilities set apart from the general prison population (which may include the use of pharmacotherapies,<sup>1</sup> where appropriate, that may extend beyond the 6-month period);

(B) the term "eligible prisoner" means a prisoner who is—

(i) determined by the Bureau of Prisons to have a substance abuse problem; and

(ii) willing to participate in a residential substance abuse treatment program; and

(C) the term "aftercare" means placement, case management and monitoring of the participant in a community-based substance abuse treatment program when the participant leaves the custody of the Bureau of Prisons.

(6) COORDINATION OF FEDERAL ASSISTANCE.—The Bureau of Prisons shall consult with the Department of Health and Human Services

<sup>1</sup> So in original. Probably should be "pharmacotherapies."

concerning substance abuse treatment and related services and the incorporation of applicable components of existing comprehensive approaches including relapse prevention and aftercare services.

(f) **SEX OFFENDER MANAGEMENT.**—

(1) **IN GENERAL.**—The Bureau of Prisons shall make available appropriate treatment to sex offenders who are in need of and suitable for treatment, as follows:

(A) **SEX OFFENDER MANAGEMENT PROGRAMS.**—The Bureau of Prisons shall establish non-residential sex offender management programs to provide appropriate treatment, monitoring, and supervision of sex offenders and to provide aftercare during pre-release custody.

(B) **RESIDENTIAL SEX OFFENDER TREATMENT PROGRAMS.**—The Bureau of Prisons shall establish residential sex offender treatment programs to provide treatment to sex offenders who volunteer for such programs and are deemed by the Bureau of Prisons to be in need of and suitable for residential treatment.

(2) **REGIONS.**—At least 1 sex offender management program under paragraph (1)(A), and at least one residential sex offender treatment program under paragraph (1)(B), shall be established in each region within the Bureau of Prisons.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Bureau of Prisons for each fiscal year such sums as may be necessary to carry out this subsection.

(g) **CONTINUED ACCESS TO MEDICAL CARE.**—

(1) **IN GENERAL.**—In order to ensure a minimum standard of health and habitability, the Bureau of Prisons should ensure that each prisoner in a community confinement facility has access to necessary medical care, mental health care, and medicine through partnerships with local health service providers and transition planning.

(2) **DEFINITION.**—In this subsection, the term “community confinement” has the meaning given that term in the application notes under section 5F1.1 of the Federal Sentencing Guidelines Manual, as in effect on the date of the enactment of the Second Chance Act of 2007.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 2007; amended Pub. L. 101-647, title XXIX, §2903, Nov. 29, 1990, 104 Stat. 4913; Pub. L. 103-322, title II, §20401, title III, §32001, Sept. 13, 1994, 108 Stat. 1824, 1896; Pub. L. 109-162, title XI, §1146, Jan. 5, 2006, 119 Stat. 3112; Pub. L. 109-248, title VI, §622, July 27, 2006, 120 Stat. 634; Pub. L. 110-199, title II, §§231(f), 251(b), 252, Apr. 9, 2008, 122 Stat. 687, 693.)

**REFERENCES IN TEXT**

The date of the enactment of the Second Chance Act of 2007, referred to in subsec. (g)(2), is the date of enactment of Pub. L. 110-199, which was approved Apr. 9, 2008.

**PRIOR PROVISIONS**

For a prior section 3621, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3601 of this title.

**AMENDMENTS**

2008—Subsec. (b). Pub. L. 110-199, §251(b), inserted “Any order, recommendation, or request by a sentencing court that a convicted person serve a term of imprisonment in a community corrections facility shall have no binding effect on the authority of the Bureau under this section to determine or change the place of imprisonment of that person.” at end of concluding provisions.

Subsec. (e)(5)(A). Pub. L. 110-199, §252, substituted “means a course of individual and group activities and treatment, lasting at least 6 months, in residential treatment facilities set apart from the general prison population (which may include the use of pharmacotherapies, where appropriate, that may extend beyond the 6-month period);” for “means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

“(i) directed at the substance abuse problems of the prisoner;

“(ii) intended to develop the prisoner’s cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner’s substance abuse and related problems; and

“(iii) which may include the use of pharmacotherapies, if appropriate, that may extend beyond the treatment period;”.

Subsec. (g). Pub. L. 110-199, §231(f), added subsec. (g). 2006—Subsec. (e)(4). Pub. L. 109-162, §1146(1), added par. (4) and struck out heading and text of former par. (4). Text read as follows: “There are authorized to be appropriated to carry out this subsection—

“(A) \$13,500,000 for fiscal year 1996;

“(B) \$18,900,000 for fiscal year 1997;

“(C) \$25,200,000 for fiscal year 1998;

“(D) \$27,000,000 for fiscal year 1999; and

“(E) \$27,900,000 for fiscal year 2000.”

Subsec. (e)(5)(A)(iii). Pub. L. 109-162, §1146(2), added cl. (iii).

Subsec. (f). Pub. L. 109-248 added subsec. (f).

1994—Subsec. (b). Pub. L. 103-322, §32001(1), struck out “, to the extent practicable,” after “The Bureau shall” in concluding provisions.

Pub. L. 103-322, §20401, inserted “In designating the place of imprisonment or making transfers under this subsection, there shall be no favoritism given to prisoners of high social or economic status.” after subsec. (b)(5).

Subsec. (e). Pub. L. 103-322, §32001(2), added subsec. (e).

1990—Subsec. (b). Pub. L. 101-647 inserted at end “The Bureau shall, to the extent practicable, make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable condition of substance addiction or abuse.”

**EFFECTIVE DATE**

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this section, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

**CONSTRUCTION OF 2008 AMENDMENT**

For construction of amendments by Pub. L. 110-199 and requirements for grants made under such amendments, see section 17504 of Title 42, The Public Health and Welfare.

**§ 3622. Temporary release of a prisoner**

The Bureau of Prisons may release a prisoner from the place of his imprisonment for a limited period if such release appears to be consistent with the purpose for which the sentence was imposed and any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2), if such release otherwise appears