

(E) the term “State” has the meaning given that term in subsection (c)(2).

(3) **NONQUALIFYING FELONIES.**—An offense described in section 2422(b) or 2423(a) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

(A) the sexual act or activity was consensual and not for the purpose of commercial or pecuniary gain;

(B) the sexual act or activity would not be punishable by more than one year in prison under the law of the State in which it occurred; or

(C) no sexual act or activity occurred.

(f) **MANDATORY MINIMUM TERMS OF IMPRISONMENT FOR VIOLENT CRIMES AGAINST CHILDREN.**—A person who is convicted of a Federal offense that is a crime of violence against the person of an individual who has not attained the age of 18 years shall, unless a greater mandatory minimum sentence of imprisonment is otherwise provided by law and regardless of any maximum term of imprisonment otherwise provided for the offense—

(1) if the crime of violence is murder, be imprisoned for life or for any term of years not less than 30, except that such person shall be punished by death or life imprisonment if the circumstances satisfy any of subparagraphs (A) through (D) of section 3591(a)(2) of this title;

(2) if the crime of violence is kidnapping (as defined in section 1201) or maiming (as defined in section 114), be imprisoned for life or any term of years not less than 25; and

(3) if the crime of violence results in serious bodily injury (as defined in section 1365), or if a dangerous weapon was used during and in relation to the crime of violence, be imprisoned for life or for any term of years not less than 10.

(g)(1) If a defendant who is convicted of a felony offense (other than offense of which an element is the false registration of a domain name) knowingly falsely registered a domain name and knowingly used that domain name in the course of that offense, the maximum imprisonment otherwise provided by law for that offense shall be doubled or increased by 7 years, whichever is less.

(2) As used in this section—

(A) the term “falsely registers” means registers in a manner that prevents the effective identification of or contact with the person who registers; and

(B) the term “domain name” has the meaning given that term is<sup>1</sup> section 45 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes” approved July 5, 1946 (commonly referred to as the “Trademark Act of 1946”) (15 U.S.C. 1127).

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 1991; amended Pub. L. 100-185, §5,

Dec. 11, 1987, 101 Stat. 1279; Pub. L. 100-690, title VII, §7041, Nov. 18, 1988, 102 Stat. 4399; Pub. L. 103-322, title VII, §70001, Sept. 13, 1994, 108 Stat. 1982; Pub. L. 105-314, title V, §501, Oct. 30, 1998, 112 Stat. 2980; Pub. L. 105-386, §1(b), Nov. 13, 1998, 112 Stat. 3470; Pub. L. 108-21, title I, §106(a), Apr. 30, 2003, 117 Stat. 654; Pub. L. 108-482, title II, §204(a), Dec. 23, 2004, 118 Stat. 3917; Pub. L. 109-248, title II, §§202, 206(c), July 27, 2006, 120 Stat. 612, 614.)

#### AMENDMENTS

2006—Subsec. (e)(2)(A). Pub. L. 109-248, §206(c), inserted “1591 (relating to sex trafficking of children),” after “under section”.

Subsecs. (f), (g). Pub. L. 109-248, §202, added subsec. (f) and redesignated former subsec. (f) as (g).

2004—Subsec. (f). Pub. L. 108-482 added subsec. (f).

2003—Subsec. (e). Pub. L. 108-21 added subsec. (e).

1998—Subsec. (c)(2)(F)(i). Pub. L. 105-386 inserted “firearms possession (as described in section 924(c));” after “firearms use.”

Subsec. (d). Pub. L. 105-314 added subsec. (d).

1994—Subsec. (b). Pub. L. 103-322, §70001(1), substituted “Except as provided in subsection (c), an” for “An”.

Subsec. (c). Pub. L. 103-322, §70001(2), added subsec. (c).

1988—Subsec. (a). Pub. L. 100-690, §7041(a)(1), substituted “classified if the maximum term of imprisonment authorized is—” for “classified—

“(1) if the maximum term of imprisonment authorized is—”.

Subsec. (a)(1) to (9). Pub. L. 100-690, §7041(a)(2), (b), redesignated subpars. (A) to (I) as pars. (1) to (9), respectively, and substituted “twenty-five” for “twenty” in pars. (2) and (3).

1987—Subsec. (b). Pub. L. 100-185 substituted “, except that the maximum term of imprisonment is the term authorized by the law describing the offense.” for “except that:

“(1) the maximum fine that may be imposed is the fine authorized by the statute describing the offense, or by this chapter, whichever is the greater; and

“(2) the maximum term of imprisonment is the term authorized by the statute describing the offense.”

#### 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 B—PROBATION

#### SUBCHAPTER B—PROBATION<sup>1</sup>

Sec.	
3561.	Sentence of probation.
3562.	Imposition of a sentence of probation.
3563.	Conditions of probation.
3564.	Running of a term of probation.
3565.	Revocation of probation.
3566.	Implementation of a sentence of probation.

#### AMENDMENTS

1994—Pub. L. 103-322, title XXXIII, §330010(3), Sept. 13, 1994, 108 Stat. 2143, transferred analysis for this subchapter to follow heading for this subchapter.

### § 3561. Sentence of probation

(a) **IN GENERAL.**—A defendant who has been found guilty of an offense may be sentenced to a term of probation unless—

<sup>1</sup> So in original. Probably should be “in”.

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

(1) the offense is a Class A or Class B felony and the defendant is an individual;

(2) the offense is an offense for which probation has been expressly precluded; or

(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense that is not a petty offense.

(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term “domestic violence crime” means a crime of violence for which the defendant may be prosecuted in a court of the United States in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any other relative of the defendant.

(c) AUTHORIZED TERMS.—The authorized terms of probation are—

(1) for a felony, not less than one nor more than five years;

(2) for a misdemeanor, not more than five years; and

(3) for an infraction, not more than one year.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 1992; amended Pub. L. 99-646, §10(a), Nov. 10, 1986, 100 Stat. 3593; Pub. L. 100-182, §7, Dec. 7, 1987, 101 Stat. 1267; Pub. L. 103-322, title XXVIII, §280004, title XXXII, §320921(a), Sept. 13, 1994, 108 Stat. 2096, 2130; Pub. L. 104-294, title VI, §604(c)(1), Oct. 11, 1996, 110 Stat. 3509.)

#### PRIOR PROVISIONS

For a prior section 3561, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3551 of this title.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-294 struck out “or any relative defendant, child, or former child of the defendant,” before “or any other relative of the defendant”.

1994—Subsec. (a)(3). Pub. L. 103-322, §280004, inserted before period at end “that is not a petty offense”.

Subsecs. (b), (c). Pub. L. 103-322, §320921(a), added subsec. (b) and redesignated former subsec. (b) as (c).

1987—Subsec. (a)(1). Pub. L. 100-182 inserted “and the defendant is an individual” after “Class B felony”.

1986—Subsec. (a). Pub. L. 99-646 struck out at end “The liability of a defendant for any unexecuted fine or other punishment imposed as to which probation is granted shall be fully discharged by the fulfillment of the terms and conditions of probation.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100-182, set out as a note under section 3006A of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-646, §10(b), Nov. 10, 1986, 100 Stat. 3593, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the taking effect of such section 3561(a) [Nov. 1, 1987].”

#### EFFECTIVE DATE

Section effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this sec-

tion, see section 235(a)(1) of Pub. L. 98-473, set out as a note under section 3551 of this title.

### § 3562. Imposition of a sentence of probation

(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF PROBATION.—The court, in determining whether to impose a term of probation, and, if a term of probation is to be imposed, in determining the length of the term and the conditions of probation, shall consider the factors set forth in section 3553(a) to the extent that they are applicable.

(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence of probation can subsequently be—

(1) modified or revoked pursuant to the provisions of section 3564 or 3565;

(2) corrected pursuant to the provisions of rule 35 of the Federal Rules of Criminal Procedure and section 3742; or

(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

(Added Pub. L. 98-473, title II, §212(a)(2), Oct. 12, 1984, 98 Stat. 1992; amended Pub. L. 101-647, title XXXV, §3583, Nov. 29, 1990, 104 Stat. 4930.)

#### REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (b)(2), are set out in the Appendix to this title.

#### PRIOR PROVISIONS

For a prior section 3562, applicable to offenses committed prior to Nov. 1, 1987, see note set out preceding section 3551 of this title.

#### AMENDMENTS

1990—Subsec. (b)(2). Pub. L. 101-647 inserted “of the Federal Rules of Criminal Procedure” after “rule 35”.

#### 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.

### § 3563. Conditions of probation

(a) MANDATORY CONDITIONS.—The court shall provide, as an explicit condition of a sentence of probation—

(1) for a felony, a misdemeanor, or an infraction, that the defendant not commit another Federal, State, or local crime during the term of probation;

(2) for a felony, that the defendant also abide by at least one condition set forth in subsection (b)(2) or (b)(12), unless the court has imposed a fine under this chapter, or unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b);

(3) for a felony, a misdemeanor, or an infraction, that the defendant not unlawfully possess a controlled substance;