

government of any citizen or national of the United States being transferred to the United States for the purpose of serving a sentence imposed by the courts of the foreign country, and to convey him to the place designated by the Attorney General. Such agent shall have all the powers of a marshal of the United States in the several districts through which it may be necessary for him to pass with the offender, so far as such power is requisite for the offender's transfer and safekeeping; within the territory of a foreign country such agent shall have such powers as the authorities of the foreign country may accord him;

(11) to delegate the authority conferred by this chapter to officers of the Department of Justice.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1214.)

CHANGE OF NAME

Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

CERTIFICATION BY ATTORNEY GENERAL TO SECRETARY OF STATE FOR REIMBURSEMENT OF EXPENSES INCURRED UNDER TRANSFER TREATY

Pub. L. 95-144, §5(b), Oct. 28, 1977, 91 Stat. 1221, provided that: "The Attorney General shall certify to the Secretary of State the expenses of the United States related to the return of an offender to the foreign country of which the offender is a citizen or national for which the United States is entitled to seek reimbursement from that country under a treaty providing for transfer and reimbursement."

§ 4103. Applicability of United States laws

All laws of the United States, as appropriate, pertaining to prisoners, probationers, parolees, and juvenile offenders shall be applicable to offenders transferred to the United States, unless a treaty or this chapter provides otherwise.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1215.)

§ 4104. Transfer of offenders on probation

(a) Prior to consenting to the transfer to the United States of an offender who is on probation, the Attorney General shall determine that the appropriate United States district court is willing to undertake the supervision of the offender.

(b) Upon the receipt of an offender on probation from the authorities of a foreign country, the Attorney General shall cause the offender to be brought before the United States district court which is to exercise supervision over the offender.

(c) The court shall place the offender under supervision of the probation officer of the court. The offender shall be supervised by a probation officer, under such conditions as are deemed appropriate by the court as though probation had been imposed by the United States district court.

(d) The probation may be revoked in accordance with section 3565 of this title and the applicable provisions of the Federal Rules of Crimi-

nal Procedure. A violation of the conditions of probation shall constitute grounds for revocation. If probation is revoked the suspended sentence imposed by the sentencing court shall be executed.

(e) The provisions of sections 4105 and 4106 of this title shall be applicable following a revocation of probation.

(f) Prior to consenting to the transfer from the United States of an offender who is on probation, the Attorney General shall obtain the assent of the court exercising jurisdiction over the probationer.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1215; amended Pub. L. 107-273, div. B, title IV, §4002(e)(6), Nov. 2, 2002, 116 Stat. 1810.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-273 substituted "section 3565 of this title and the applicable provisions of" for "section 3653 of this title and rule 32(f) of".

§ 4105. Transfer of offenders serving sentence of imprisonment

(a) Except as provided elsewhere in this section, an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General shall remain in the custody of the Attorney General under the same conditions and for the same period of time as an offender who had been committed to the custody of the Attorney General by a court of the United States for the period of time imposed by the sentencing court.

(b) The transferred offender shall be given credit toward service of the sentence for any days, prior to the date of commencement of the sentence, spent in custody in connection with the offense or acts for which the sentence was imposed.

(c)(1) The transferred offender shall be entitled to all credits for good time, for labor, or any other credit toward the service of the sentence which had been given by the transferring country for time served as of the time of the transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits toward service of sentence for satisfactory behavior, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 3624(b) of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 3624(a) of this title.

(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 3624(b) of this title.

(3) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.

(4) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same

manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1215; amended Pub. L. 98-473, title II, §223(m)(2), Oct. 12, 1984, 98 Stat. 2029.)

AMENDMENTS

1984—Subsec. (c)(1). Pub. L. 98-473 substituted “toward service of sentence for satisfactory behavior” for “for good time”, “3624(b)” for “4161”, and “3624(a)” for “4164”.

Subsec. (c)(2). Pub. L. 98-473 substituted “3624(b)” for “4161”.

Subsec. (c)(3), (4). Pub. L. 98-473 redesignated par. (4) as (3) and amended it generally, and struck out former par. (3). Prior to redesignation and amendment, former pars. (3) and (4) read as follows:

“(3) A transferred offender may earn extra good time deductions, as authorized in section 4162 of this title, from the time of transfer.

“(4) All credits toward service of the sentence, other than the credit for time in custody before sentencing, may be forfeited as provided in section 4165 of this title and may be restored by the Attorney General as provided in section 4166 of this title.”

Subsec. (c)(5). Pub. L. 98-473 redesignated par. (5) as (4).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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 this title.

§ 4106. Transfer of offenders on parole; parole of offenders transferred

(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4215; and 4218¹ of this title shall be applicable.

(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

(d) This section shall apply only to offenses committed before November 1, 1987, and the Parole Commission’s performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.

(Added Pub. L. 95-144, §1, Oct. 28, 1977, 91 Stat. 1216; amended Pub. L. 98-473, title II, §223(m)(3), Oct. 12, 1984, 98 Stat. 2029; Pub. L. 100-182, §14, Dec. 7, 1987, 101 Stat. 1268; Pub. L. 100-690, title VII, §7072(c), Nov. 18, 1988, 102 Stat. 4405.)

¹ See References in Text note below.

REFERENCES IN TEXT

Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4215; and 4218 of this title, referred to in subsec. (b), were repealed effective Nov. 1, 1987, by Pub. L. 98-473, title II, §§218(a)(5), 235(a)(1), (b)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, 2032, subject to remaining effective for five years after Nov. 1, 1987, in certain circumstances.

Section 235 of the Comprehensive Crime Control Act of 1984, referred to in subsec. (d), is set out as an Effective Date note under section 3551 of this title.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-690 substituted “4215” for “4216”.

1987—Pub. L. 100-182 amended section generally. Prior to amendment, section read as follows:

“(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Probation System for supervision.

“(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence to a term of imprisonment under this subsection, and the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States has jurisdiction to review the period of imprisonment as though it had been imposed by the United States district court.”

1984—Subsec. (a). Pub. L. 98-473 substituted “Probation System” for “Parole Commission”.

Subsec. (b). Pub. L. 98-473 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205(d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.”

Subsec. (c). Pub. L. 98-473 struck out subsec. (c) which read as follows: “An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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 this title.

§ 4106A. Transfer of offenders on parole; parole of offenders transferred

(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

(b)(1)(A) The United States Parole Commission shall, without unnecessary delay, determine a release date and a period and conditions of supervised release for an offender transferred to the United States to serve a sentence of imprisonment, as though the offender were convicted in a United States district court of a similar offense.