

“(c) DEFINITION.—For purposes of this section, the term ‘victim’ includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.”

1996—Subsec. (a). Pub. L. 104-132, §205(e)(1), inserted “or 3663A” after “3663”.

Subsec. (b)(1). Pub. L. 104-132, §205(e)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court, pursuant to paragraph (3); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.”

Subsec. (b)(2). Pub. L. 104-132, §205(e)(2)(B), struck out “by victim” after “Enforcement” in heading and amended text generally. Prior to amendment, text read as follows: “An order of restitution may be enforced by a victim named in the order to receive the restitution as well as by the United States Attorney, in the same manner as a judgment in a civil action.”

Subsec. (b)(4)(C), (D). Pub. L. 104-132, §205(e)(2)(C), struck out subpars. (C) and (D), which related to court’s consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court’s entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104-132, §205(e)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104-294, which directed substitution of “designee” for “delegee” wherever appearing, could not be executed because of amendment by Pub. L. 104-132, §205(e)(3), (4). See below.

Pub. L. 104-132, §205(e)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104-132, §205(e)(3), struck out subsecs. (d) and (e) which read as follows:

“(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

“(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.”

Subsec. (f). Pub. L. 104-132, §205(e)(4), redesignated subsec. (f) as (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 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.

§ 2328. Mandatory forfeiture

(a) IN GENERAL.—The court, in imposing sentence on a person who is convicted of any offense for which an enhanced penalty is provided under section 2326, shall order that the defendant forfeit to the United States—

(1) any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; and

(2) any equipment, software, or other technology used or intended to be used to commit or to facilitate the commission of such offense.

(b) PROCEDURES.—The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section, and in Rule 32.2 of the Federal Rules of Criminal Procedure, shall apply to all stages of a criminal forfeiture proceeding under this section.

(Added Pub. L. 115-70, title IV, §402(a)(4), Oct. 18, 2017, 131 Stat. 1214.)

Editorial Notes

REFERENCES IN TEXT

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

CHAPTER 113B—TERRORISM

Sec.

- 2331. Definitions.
- 2332. Criminal penalties.
- 2332a. Use of weapons of mass destruction.
- 2332b. Acts of terrorism transcending national boundaries.
- [2332c. Repealed.]
- 2332d. Financial transactions.
- 2332e. Requests for military assistance to enforce prohibition in certain emergencies.
- 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.
- 2332g. Missile systems designed to destroy aircraft.
- 2332h. Radiological dispersal devices.
- 2332i. Acts of nuclear terrorism.
- 2333. Civil remedies.
- 2334. Jurisdiction and venue.
- 2335. Limitation of actions.
- 2336. Other limitations.
- 2337. Suits against Government officials.
- 2338. Exclusive Federal jurisdiction.
- 2339. Harboring or concealing terrorists.
- 2339A. Providing material support to terrorists.
- 2339B. Providing material support or resources to designated foreign terrorist organizations.
- 2339C. Prohibitions against the financing of terrorism.
- 2339D. Receiving military-type training from a foreign terrorist organization.¹

Editorial Notes

CODIFICATION

Pub. L. 101-519, §132, Nov. 5, 1990, 104 Stat. 2250, known as the “Antiterrorism Act of 1990”, amended this chapter by adding sections 2331 and 2333 to 2338 and by amending former section 2331 and renumbering it as section 2332. Pub. L. 102-27, title IV, §402, Apr. 10, 1991, 105 Stat. 155, as amended by Pub. L. 102-136, §126, Oct. 25, 1991, 105 Stat. 643, repealed section 132 of Pub. L. 101-519, effective Nov. 5, 1990, and provided that effective Nov. 5, 1990, this chapter is amended to read as if section 132 of Pub. L. 101-519 had not been enacted.

PRIOR PROVISIONS

Another chapter 113B, consisting of sections 2340 to 2340B, was renumbered chapter 113C.

¹ Editorially supplied. Section 2339D added by Pub. L. 108-458 without corresponding amendment of chapter analysis.