

tion regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

(Added Pub. L. 103-322, title VI, §60002(a), Sept. 13, 1994, 108 Stat. 1964; amended Pub. L. 105-6, §2(c), Mar. 19, 1997, 111 Stat. 12; Pub. L. 107-273, div. B, title IV, §4002(e)(8), Nov. 2, 2002, 116 Stat. 1810.)

### Editorial Notes

#### REFERENCES IN TEXT

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

#### AMENDMENTS

2002—Subsec. (c). Pub. L. 107-273 substituted “rule 32” for “rule 32(c)” in first sentence.

1997—Subsec. (c). Pub. L. 105-6 inserted “For the purposes of the preceding sentence, the fact that a victim, as defined in section 3510, attended or observed the trial shall not be construed to pose a danger of creating unfair prejudice, confusing the issues, or misleading the jury.”

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-6 applicable to cases pending on Mar. 19, 1997, see section 2(d) of Pub. L. 105-6, set out as an Effective Date note under section 3510 of this title.

### § 3594. Imposition of a sentence of death

Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

(Added Pub. L. 103-322, title VI, §60002(a), Sept. 13, 1994, 108 Stat. 1966.)

### § 3595. Review of a sentence of death

(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

- (1) the evidence submitted during the trial;
- (2) the information submitted during the sentencing hearing;
- (3) the procedures employed in the sentencing hearing; and
- (4) the special findings returned under section 3593(d).

(c) DECISION AND DISPOSITION.—

- (1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall con-

sider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

(2) Whenever the court of appeals finds that—

(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death. The court of appeals shall not reverse or vacate a sentence of death on account of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the Government establishes beyond a reasonable doubt that the error was harmless.

(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

(Added Pub. L. 103-322, title VI, §60002(a), Sept. 13, 1994, 108 Stat. 1967.)

### § 3596. Implementation of a sentence of death

(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of the State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

(Added Pub. L. 103-322, title VI, §60002(a), Sept. 13, 1994, 108 Stat. 1967.)

### § 3597. Use of State facilities

(a) IN GENERAL.—A United States marshal charged with supervising the implementation of