

4243, counsel for the person or his legal guardian may, at any time during such person's commitment, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility, but no such motion may be filed within one hundred and eighty days of a court determination that the person should continue to be committed. A copy of the motion shall be sent to the director of the facility in which the person is committed and to the attorney for the Government.

(i) **AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.**—The Attorney General—

(A) may contract with a State, a political subdivision, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter;

(B) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243, 4246, or 4248;

(C) shall, before placing a person in a facility pursuant to the provisions of section 4241, 4243, 4244, 4245, 4246, or 4248, consider the suitability of the facility's rehabilitation programs in meeting the needs of the person; and

(D) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of this chapter and in the establishment of standards for facilities used in the implementation of this chapter.

(j) Sections 4241, 4242, 4243, and 4244 do not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.

(Added Sept. 7, 1949, ch. 535, §1, 63 Stat. 687; amended Pub. L. 98-473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2065; Pub. L. 100-690, title VII, §§7044, 7047(a), Nov. 18, 1988, 102 Stat. 4400, 4401; Pub. L. 103-322, title XXXIII, §330003(d), Sept. 13, 1994, 108 Stat. 2141; Pub. L. 105-33, title XI, §11204(2), (3), Aug. 5, 1997, 111 Stat. 739; Pub. L. 109-248, title III, §302(3), July 27, 2006, 120 Stat. 619.)

Editorial Notes

REFERENCES IN TEXT

Acts of Congress applicable exclusively to the District of Columbia, referred to in subsec. (j), are classified generally to the District of Columbia Code.

The Uniform Code of Military Justice, referred to in subsec. (j), is classified generally to chapter 47 (§801 et seq.) of Title 10, Armed Forces.

AMENDMENTS

2006—Pub. L. 109-248, §302(3)(A), substituted “, 4246, or 4248” for “, or 4246” wherever appearing.

Subsec. (a)(1)(C). Pub. L. 109-248, §302(3)(C)(i), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and”.

Subsec. (a)(4) to (6). Pub. L. 109-248, §302(3)(C)(ii)–(iv), added pars. (4) to (6).

Subsec. (b). Pub. L. 109-248, §302(3)(D), substituted “4245, 4246, or 4248” for “4245 or 4246”.

Subsec. (c)(4)(D) to (F). Pub. L. 109-248, §302(3)(E), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (e). Pub. L. 109-248, §302(3)(F), substituted “committed” for “hospitalized” wherever appearing and “continued commitment” for “continued hospitalization” in par. (1)(B).

Subsec. (g). Pub. L. 109-248, §302(3)(B), substituted “4243, 4246, or 4248” for “4243 or 4246”.

Subsec. (h). Pub. L. 109-248, §302(3)(F), substituted “committed” for “hospitalized” wherever appearing and “person's commitment” for “person's hospitalization”.

Subsec. (i)(B). Pub. L. 109-248, §302(3)(B), substituted “4243, 4246, or 4248” for “4243 or 4246”.

1997—Subsec. (a)(3). Pub. L. 105-33, §11024(2)(C), added par. (3).

Subsec. (j). Pub. L. 105-33, §11024(3), substituted “Sections 4241, 4242, 4243, and 4244 do” for “This chapter does”.

1994—Subsec. (h). Pub. L. 103-322 substituted “subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,” for “subsection (e) of section 4241, 4243, 4244, 4245, or 4246,”.

1988—Subsec. (b). Pub. L. 100-690, §7047(a), substituted “psychologist” for “clinical psychologist” in first sentence.

Subsec. (e)(1)(B). Pub. L. 100-690, §7044, inserted at end “A copy of each such report concerning a person hospitalized after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.”

1984—Pub. L. 98-473 amended section generally, substituting “General provisions for chapter” for “Alternate procedure of expiration of sentence” in section catchline, and substituting provisions relating to definitions, examinations, reports, etc., as applicable to chapter, for provisions relating to powers and duties regarding alternate procedure on expiration of sentence of prisoner.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105-33, see section 11721 of Pub. L. 105-33, set out as a note under section 4246 of this title.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4248. Civil commitment of a sexually dangerous person

(a) **INSTITUTION OF PROCEEDINGS.**—In relation to a person who is in the custody of the Bureau of Prisons, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons relating to the mental condition of the person, the Attorney General or any individual authorized by the Attorney General or the Director of the Bureau of Prisons may certify that the person is a sexually dangerous person, and transmit the certificate to the clerk of the court for the district in which the person is confined. The

clerk shall send a copy of the certificate to the person, and to the attorney for the Government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is a sexually dangerous person. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

(b) **PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.**—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

(c) **HEARING.**—The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) **DETERMINATION AND DISPOSITION.**—If, after the hearing, the court finds by clear and convincing evidence that the person is a sexually dangerous person, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall place the person for treatment in a suitable facility, until—

(1) such a State will assume such responsibility; or

(2) the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment;

whichever is earlier.

(e) **DISCHARGE.**—When the Director of the facility in which a person is placed pursuant to subsection (d) determines that the person's condition is such that he is no longer sexually dangerous to others, or will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court shall order the discharge of the person or, on motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person's condition is such that—

(1) he will not be sexually dangerous to others if released unconditionally, the court shall order that he be immediately discharged; or

(2) he will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the court shall—

(A) order that he be conditionally discharged under a prescribed regimen of medical,

psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the Director of the facility in which he is committed, and that has been found by the court to be appropriate; and

(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

(f) **REVOCATION OF CONDITIONAL DISCHARGE.**—The director of a facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that he is sexually dangerous to others in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

(g) **RELEASE TO STATE OF CERTAIN OTHER PERSONS.**—If the director of the facility in which a person is hospitalized or placed pursuant to this chapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is a sexually dangerous person, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility.

(Added Pub. L. 109-248, title III, §302(4), July 27, 2006, 120 Stat. 620.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4248, act Sept. 7, 1949, ch. 535, §1, 63 Stat. 688, related to the termination of custody by release or transfer, prior to its omission in the general amendment of this chapter by Pub. L. 98-473, title II, §403(a), Oct. 12, 1984, 98 Stat. 2057.

[CHAPTER 314—REPEALED]

[§§ 4251 to 4255. Repealed. Pub. L. 98-473, title II, §218(a)(6), Oct. 12, 1984, 98 Stat. 2027]

Section 4251, added Pub. L. 89-793, title II, §201, Nov. 8, 1966, 80 Stat. 1442; amended Pub. L. 91-513, title III, §1102(s), Oct. 27, 1970, 84 Stat. 1294; Pub. L. 92-420, §3,