

div. W of Pub. L. 117–103, set out as a note under section 6851 of Title 15, Commerce and Trade.

SUBCHAPTER IV—DRUG CONTROL

§ 12521. Increased penalties for drug-dealing in “drug-free” zones

Pursuant to its authority under section 994 of title 28, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement for a defendant convicted of violating section 860 of title 21.

(Pub. L. 103–322, title IX, §90102, Sept. 13, 1994, 108 Stat. 1987.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 14051 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

Section is comprised of section 90102 of Pub. L. 103–322 which is also listed in a table relating to sentencing guidelines set out under section 994 of Title 28, Judiciary and Judicial Procedure.

§ 12522. Enhanced penalties for illegal drug use in Federal prisons and for smuggling drugs into Federal prisons

(a) Declaration of policy

It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation’s Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) Sentencing guidelines

Pursuant to its authority under section 994 of title 28, the United States Sentencing Commission shall amend its sentencing guidelines to appropriately enhance the penalty for a person convicted of an offense—

(1) under section 844 of title 21 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility; or

(2) under section 841(b) of title 21 involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility.

(c) No probation

Notwithstanding any other law, the court shall not sentence a person convicted of an offense described in subsection (b) to probation.

(Pub. L. 103–322, title IX, §90103, Sept. 13, 1994, 108 Stat. 1987.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 14052 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

Section is comprised of section 90103 of Pub. L. 103–322. Subsec. (b) of section 90103 of Pub. L. 103–322 is also listed in a table relating to sentencing guidelines set out under section 994 of Title 28, Judiciary and Judicial Procedure.

§ 12523. Violent crime and drug emergency areas

(a) Definitions

In this section—

“major violent crime or drug-related emergency” means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

“State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) Declaration of violent crime and drug emergency areas

If a major violent crime or drug-related emergency exists throughout a State or a part of a State, the President may declare the State or part of a State to be a violent crime or drug emergency area and may take appropriate actions authorized by this section.

(c) Procedure

(1) In general

A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officer of a State or local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) Finding

A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) Irrelevancy of population density

The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) Requirements

As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alle-