

tion to persons who had compensated victims for their loss as well as offsets for restitution received by victims against amounts later recovered as compensatory damages, court orders that defendant make restitution in specified time period or in specified installments, payment of restitution as condition of probation or of supervised release, enforcement of restitution orders by United States or by victim, and supervision, termination, or restoration of eligibility for Federal benefits of persons delinquent in making restitution, respectively.

1994—Subsec. (a)(1). Pub. L. 103-272 substituted “section 46312, 46502, or 46504 of title 49” for “under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472)”.

Subsec. (b)(2). Pub. L. 103-322, § 40504(1), in introductory provisions, inserted “including an offense under chapter 109A or chapter 110” after “victim”.

Subsec. (b)(3) to (5). Pub. L. 103-322, § 40504(2)–(4), struck out “and” at end of par. (3), added par. (4), and redesignated former par. (4) as (5).

Subsec. (i). Pub. L. 103-322, § 40505, added subsec. (i).

1990—Subsec. (a). Pub. L. 101-647, § 2509, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f)(4). Pub. L. 101-647, § 3595, substituted “604(a)(18)” for “604(a)(17)”.

1988—Subsec. (h). Pub. L. 100-690 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “An order of restitution may be enforced by the United States in the manner provided in sections 3812 and 3813 or in the same manner as a judgment in a civil action, and by the victim named in the order to receive the restitution in the same manner as a judgment in a civil action.”

1987—Subsec. (f)(4). Pub. L. 100-185 inserted “or the person designated under section 604(a)(17) of title 28” after “Attorney General”.

Subsec. (g). Pub. L. 100-182 substituted “revoke probation or a term of supervised release,” for “revoke probation,” in two places and inserted “probation or” after “modify the term or conditions of” in two places.

1986—Subsec. (a). Pub. L. 99-646, § 20(a), which directed that subsec. (a)(1) be amended by inserting “, in the case of a misdemeanor,” after “in addition to or”, was executed to subsec. (a) to reflect the probable intent of Congress and the prior amendment to subsec. (a) by Pub. L. 99-646, § 8(b), below.

Pub. L. 99-646, § 8(b), struck out par. (1) designation, and struck out par. (2) which read as follows: “If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.”

Subsec. (a)(1). Pub. L. 99-646, § 79(a), substituted “such offense” for “the offense”.

Subsec. (d). Pub. L. 99-646, § 77(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.”

Subsec. (h). Pub. L. 99-646, § 78(a), substituted “in the manner provided for the collection of fines and penalties by section 3565 or by a victim” for “or a victim”.

1984—Pub. L. 98-473, § 212(a)(1), renumbered section 3579 of this title as this section.

Subsec. (c). Pub. L. 98-596, § 9(1), substituted “court” for “Court” after “If the”.

Subsec. (f)(4). Pub. L. 98-596, § 9(2), added par. (4).

Subsec. (g). Pub. L. 98-473, § 212(a)(3)(A), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant’s employment status, earning ability, financial resources, the willfulness of the defendant’s failure to pay, and any other special

circumstances that may have a bearing on the defendant’s ability to pay.”

Subsec. (h). Pub. L. 98-473, § 212(a)(3)(B), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “An order of restitution may be enforced by the United States in the manner provided for the collection of fines and penalties by section 3565 or by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 to be 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.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100-182, set out as a note under section 3006A of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 8(b) of Pub. L. 99-646 effective Nov. 1, 1987, see section 8(c) of Pub. L. 99-646, set out as a note under section 3553 of this title.

Amendment by section 20(a) of Pub. L. 99-646 effective Nov. 1, 1987, see section 20(c) of Pub. L. 99-646, set out as a note under section 3556 of this title.

Pub. L. 99-646, § 77(b), Nov. 10, 1986, 100 Stat. 3618, provided that: “The amendment made by this section [amending this section] shall take effect on the 30th day after the date of the enactment of this Act [Nov. 10, 1986].”

Pub. L. 99-646, § 78(b), Nov. 10, 1986, 100 Stat. 3618, provided that: “The amendment made by this section [amending this section] shall take effect on the 30th day after the date of the enactment of this Act [Nov. 10, 1986].”

Pub. L. 99-646, § 79(b), Nov. 10, 1986, 100 Stat. 3619, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1986].”

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-596 applicable to offenses committed after Dec. 31, 1984, see section 10 of Pub. L. 98-596.

Amendment by section 212(a)(3) of 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.

EFFECTIVE DATE

Section effective with respect to offenses occurring after Jan. 1, 1983, see section 9(b)(2) of Pub. L. 97-291, set out as a note under section 1512 of this title.

PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

Pub. L. 97-291, § 7, Oct. 12, 1982, 96 Stat. 1257, required the Attorney General to report, by Oct. 12, 1982, to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

§ 3663A. Mandatory restitution to victims of certain crimes

(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court

shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

(2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, 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, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(b) The order of restitution shall require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

(i) the greater of—

(I) the value of the property on the date of the damage, loss, or destruction; or

(II) the value of the property on the date of sentencing, less

(ii) the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment; (B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

(A) that is—

(i) a crime of violence, as defined in section 16;

(ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)), including any offense committed by fraud or deceit;

(iii) an offense described in section 3 of the Rodchenkov Anti-Doping Act of 2019;

(iv) an offense described in section 1365 (relating to tampering with consumer products); or

(v) an offense under section 670 (relating to theft of medical products); and

(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) or (iii) if the court finds, from facts on the record, that—

(A) the number of identifiable victims is so large as to make restitution impracticable; or

(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

(4) An order of restitution under this section shall be issued and enforced in accordance with section 3664.

(Added Pub. L. 104-132, title II, §204(a), Apr. 24, 1996, 110 Stat. 1227; amended Pub. L. 106-310, div. B, title XXXVI, §3613(d), Oct. 17, 2000, 114 Stat. 1230; Pub. L. 112-186, §6, Oct. 5, 2012, 126 Stat. 1430; Pub. L. 116-206, §5, Dec. 4, 2020, 134 Stat. 1000.)

Editorial Notes

REFERENCES IN TEXT

Section 3 of the Rodchenkov Anti-Doping Act of 2019, referred to in subsec. (c)(1)(A)(iii), is classified to section 2402 of Title 21, Food and Drugs.

AMENDMENTS

2020—Subsec. (c)(1)(A)(iii) to (v). Pub. L. 116-206, §5(1), added cl. (iii) and redesignated former cls. (iii) and (iv) as (iv) and (v), respectively.

Subsec. (c)(3). Pub. L. 116-206, §5(2), inserted "or (iii)" after "paragraph (1)(A)(ii)" in introductory provisions. 2012—Subsec. (c)(1)(A)(iv). Pub. L. 112-186 added cl. (iv).

2000—Subsec. (c)(1)(A)(ii). Pub. L. 106-310 inserted "or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a))," after "under this title,".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section to be 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 an Effective Date of 1996 Amendment note under section 2248 of this title.

§ 3664. Procedure for issuance and enforcement of order of restitution

(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

(A) provide notice to all identified victims of—

(i) the offense or offenses of which the defendant was convicted;

(ii) the amounts subject to restitution submitted to the probation officer;

(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

(iv) the scheduled date, time, and place of the sentencing hearing;

(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other in-

formation that the court requires relating to such other factors as the court deems appropriate.

(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge 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.

(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of—

(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

(B) projected earnings and other income of the defendant; and

(C) any financial obligations of the defendant; including obligations to dependents.

(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.