Pub. L. 103–322, title XI, § 110502, Sept. 13, 1994, 108 Stat. 2015.—Second offense of using explosive to commit felony.

Pub. L. 103–322, title XI, § 110512, Sept. 13, 1994, 108 Stat. 2019.—Using firearm in commission of counterfeiting or forgery.

Pub. L. 103–322, title XI, § 110513, Sept. 13, 1994, 108 Stat. 2019.—Firearms possession by violent felons and serious drug offenders.

Pub. L. 103–322, title XII, § 120004, Sept. 13, 1994, 108 Stat. 2022.—Felonies promoting international terrorism.

Pub. L. 103–322, title XIV, § 140008, Sept. 13, 1994, 108 Stat. 2033.—Solicitation of minor to commit crime.

Pub. L. 103–322, title XVIII, § 180201(c), Sept. 13, 1994, 108 Stat. 2047.—Possession or distribution of drugs at truck stops or safety rest areas.

Pub. L. 103–322, title XXIV, § 240002, Sept. 13, 1994, 108 Stat. 2081.—Crimes against elderly victims.

Pub. L. 103–322, title XXV, § 250003, Sept. 13, 1994, 108 Stat. 2085.—Fraud against older victims.

Pub. L. 103–322, title XXVIII, § 280003, Sept. 13, 1994, 108 Stat. 2096.—Hate crimes.

Pub. L. 102–141, title VI, § 632, Oct. 28, 1991, 105 Stat. 876.—Sexual abuse or exploitation of minors.

Pub. L. 101–647, title III, § 321, Nov. 29, 1990, 104 Stat. 4817.—Sexual crimes against children.

Pub. L. 101–647, title XXV, § 2507, Nov. 29, 1990, 104 Stat. 4862.—Major bank crimes.

Pub. L. 101–647, title XXVII, § 2701, Nov. 29, 1990, 104 Stat. 4912.—Methamphetamine offenses.

Pub. L. 101–73, title IX, § 961(m), Aug. 9, 1989, 103 Stat. 501.—Offenses substantially jeopardizing safety and soundness of federally insured financial institutions.

Pub. L. 100–700, § 2(b), Nov. 19, 1988, 102 Stat. 4631.—Major fraud against the United States.

Pub. L. 100–690, title VI, § 6453, Nov. 18, 1988, 102 Stat. 4371.—Importation of controlled substances by aircraft and other vessels.

Pub. L. 100–690, title VI, § 6454, Nov. 18, 1988, 102 Stat. 4372.—Drug offenses involving children.

Pub. L. 100–690, title VI, § 6468(c), (d), Nov. 18, 1988, 102 Stat. 4376.—Drug offenses within Federal prisons.

Pub. L. 100–690, title VI, § 6482(c), Nov. 18, 1988, 102 Stat. 4382.—Common carrier operation under influence of alcohol or drugs.

COCAINE AND CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND OTHER UNLAWFUL ACTIVITY; REDUCTION OF SENTENCING DISPARITIES

Pub. L. 104–38, Oct. 30, 1995, 109 Stat. 334, disapproved of certain amendments relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity submitted by the United States Sentencing Commission to Congress on May 1, 1995, required the Commission to recommend changes to the statutes and sentencing guidelines for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, required the Department of Justice to submit to Congress, no later than May 1, 1996, a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering, and required the Commission to submit to Congress comments on the Department of Justice study.

EMERGENCY GUIDELINES PROMULGATION AUTHORITY

Section 21 of Pub. L. 100–182 provided that:

''(a) IN GENERAL.—In the case of—

''(1) an invalidated sentencing guideline;

''(2) the creation of a new offense or amendment of an existing offense; or

''(3) any other reason relating to the application of a previously established sentencing guideline, and determined by the United States Sentencing Commission to be urgent and compelling;

the Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of title 28 and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System a temporary guideline or amendment to an existing guideline, to remain in effect until and during the pendency of the next report to Congress under section 994(p) of title 28, United States Code.

''(b) EXPIRATION OF AUTHORITY.—The authority of the Commission under paragraphs (1) and (2) of subsection (a) shall expire on November 1, 1989. The authority of the Commission to promulgate and distribute guidelines under paragraph (3) of subsection (a) shall expire on May 1, 1988.''

SUBMISSION TO CONGRESS OF INITIAL SENTENCING GUIDELINES

Provisions directing that the United States Sentencing Commission submit to Congress within 30 months of Oct. 12, 1984, the initial sentencing guidelines promulgated pursuant to subsec. (a)(1) of this section, see section 235(a)(1)(B)(i) of Pub. L. 98–473, as amended, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF SENTENCING GUIDELINES

Sentencing guidelines promulgated pursuant to this section effective when U.S. Sentencing Commission has submitted the initial set of sentencing guidelines to Congress, the General Accounting Office has studied and reported to Congress on the guidelines, Congress has examined the guidelines, and section 212(a)(2) of Pub. L. 98–473 takes effect [Nov. 1, 1987], see section 235(a)(1)(B)(ii) of Pub. L. 98–473, as amended, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

STUDIES OF IMPACT AND OPERATION OF SENTENCING GUIDELINE SYSTEM; REPORTING REQUIREMENTS

Pub. L. 98–473, title II, § 236, Oct. 12, 1984, 98 Stat. 2033, provided that, four years after the sentencing guidelines promulgated pursuant to section 994(a)(1) of this title and sections 3581, 3583, and 3624 of title 18 went into effect, the General Accounting Office was to undertake a study of the guidelines to determine their impact and compare the guidelines system with the operation of the previous sentencing and parole release system, and, within six months of such undertaking, report the results to Congress; provided that, within one month of the start of the study, the United States Sentencing Commission was to submit a report detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed; and provided that Congress was to review the study.

§ 995. Powers of the Commission

(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382);

(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chair;

(4) procure for the Commission temporary and intermittent services to the same extent

as is authorized by section 3109(b) of title 5, United States Code;

(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(6) without regard to 31 U.S.C. 3324, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(7) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services, notwithstanding the provisions of 31 U.S.C. 1342, however, individuals providing such services shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims;

(8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

(11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

(12) establish a research and development program within the Commission for the purpose of—

(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

(14) publish data concerning the sentencing process;

(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3553(a) of title 18, United States Code;

(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy;

(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties;

(22) perform such other functions as are required to permit Federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the Federal criminal justice system to meet their related responsibilities;

(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and

(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.

(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a)(1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b). The Commission shall, with respect to its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, utilize existing resources of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursu-

ant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(f) The Commission may—

(1) use available funds to enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year, to the same extent as executive agencies may enter into such contracts under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253*l*);

(2) enter into multi-year contracts for the acquisition of property or services to the same extent as executive agencies may enter into such contracts under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c); and

(3) make advance, partial, progress, or other payments under contracts for property or services to the same extent as executive agencies may make such payments under the authority of section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2024; amended Pub. L. 100–690, title VII, §§ 7104, 7105, 7106(b), Nov. 18, 1988, 102 Stat. 4418; Pub. L. 101–650, title III, § 325(b)(5), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 103–322, title XXVIII, § 280005(c)(1), Sept. 13, 1994, 108 Stat. 2097; Pub. L. 110–177, title V, § 501(a), Jan. 7, 2008, 121 Stat. 2541.)

AMENDMENT OF SECTION

For termination of amendment by section 501(b) of Pub. L. 110–177, see Termination Date of 2008 Amendment note below.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–177, § 501, temporarily added subsec. (f). See Termination Date of 2008 Amendment note below.

1994—Subsec. (a)(3). Pub. L. 103–322 substituted ''Chair'' for ''Chairman''.

1990—Subsec. (a)(22). Pub. L. 101–650 struck out ''and'' after semicolon at end.

1988—Subsec. (a)(2). Pub. L. 100–690, § 7105, substituted ''Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382)'' for ''grade 18 of the General Schedule pay rates (5 U.S.C. 5332)''.

Subsec. (a)(23). Pub. L. 100–690, § 7104, added par. (23).

Subsec. (a)(24). Pub. L. 100–690, § 7106(b), added par. (24).

TERMINATION DATE OF 2008 AMENDMENT

Pub. L. 110–177, title V, § 501(b), Jan. 7, 2008, 121 Stat. 2542, provided that: ''The amendment made by subsection (a) [amending this section] shall cease to have force and effect on September 30, 2010.''

§ 996. Director and staff

(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to the Staff Director by the Commission.

(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, except the following: chapters 45 (Incentive Awards), 63 (Leave), 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), and 89 (Health Insurance), and subchapter VI of chapter 55 (Payment for accumulated and accrued leave).

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2026; amended Pub. L. 100–690, title VII, § 7106(c), Nov. 18, 1988, 102 Stat. 4418; Pub. L. 101–650, title III, § 325(b)(6), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 103–322, title XXVIII, § 280005(c)(5), Sept. 13, 1994, 108 Stat. 2097; Pub. L. 106–518, title III, § 302(a), Nov. 13, 2000, 114 Stat. 2416.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–518 substituted ''except the following: chapters 45 (Incentive Awards), 63 (Leave), 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), and 89 (Health Insurance), and subchapter VI of chapter 55 (Payment for accumulated and accrued leave)'' for ''United States Code, except the following chapters: 45 (Incentive Awards), 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), and 89 (Health Insurance)''.

1994—Subsec. (a). Pub. L. 103–322 substituted ''the Staff Director'' for ''him'' after ''assigned to''.

1990—Subsec. (b). Pub. L. 101–650 substituted ''and 89 (Health Insurance)'' for ''89 (Health Insurance), and 91 (Conflicts of Interest)''.

1988—Subsec. (b). Pub. L. 100–690 inserted reference to chapter 45 (Incentive Awards).

SAVINGS PROVISION

Pub. L. 106–518, title III, § 302(b), Nov. 13, 2000, 114 Stat. 2417, provided that: ''Any leave that an individual accrued or accumulated (or that otherwise became available to such individual) under the leave system of the United States Sentencing Commission and that remains unused as of the date of the enactment of this Act [Nov. 13, 2000] shall, on and after such date, be treated as leave accrued or accumulated (or that otherwise became available to such individual) under chapter 63 of title 5, United States Code.''

§ 997. Annual report

The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2026.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to requirement to report annually to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 13 of House Document No. 103–7.

§ 998. Definitions

As used in this chapter—

(a) ''Commission'' means the United States Sentencing Commission;

(b) ''Commissioner'' means a member of the United States Sentencing Commission;