''subsection (b) of'' after ''imposed under'', and substituted ''An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section'' for ''An individual convicted under subsection (b) of this section shall not be eligible for parole under chapter 311 of title 18 until the individual has served the minimum sentence required by such subsection''.

1988—Subsec. (a). Pub. L. 100–690, §§ 6457, 6458(a), inserted '', possessing with intent to distribute,'' after ''distributing'' and '', or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,'' after ''university''.

Subsec. (b). Pub. L. 100–690, §§ 6452(b)(1), 6457, 6458(a), inserted '', possessing with intent to distribute,'' after ''distributing'', and '', or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,'' after ''university'', substituted ''a prior conviction'' for ''a prior conviction or convictions'', and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Subsec. (d). Pub. L. 100–690, § 6458(b), added subsec. (d).

1986—Subsec. (a). Pub. L. 99–570, §§ 1104(a), (b), 1105(c), 1841(b)(1), inserted ''or section 856 of this title'' and ''or manufacturing'', substituted ''a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university'' for ''a public or private elementary or secondary school'', struck out ''involving the same controlled substance and schedule'' after ''for a first offense'', and inserted ''Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.''

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

Subsec. (b). Pub. L. 99–646 which directed that ''parole'' be inserted after ''(2) at least three times any special'' could not be executed in view of prior amendment by Pub. L. 99–570, § 1104(c) below.

Pub. L. 99–570, § 1166(b), which directed that ''term of supervised release'' be substituted for ''special term'' could not be executed in view of prior amendment by Pub. L. 99–570, § 1104(c) below.

Pub. L. 99–570, §§ 1104(a), 1841(b)(2), inserted reference to section 856 of this title, inserted ''or manufacturing'' after ''distributing'' and substituted ''a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university'' for ''a public or private elementary or secondary school''.

Pub. L. 99–570, § 1104(c), amended cls. (1) and (2) generally. Prior to amendment, cls. (1) and (2) read as follows: ''(1) by a term of imprisonment of not less than three years and not more than life imprisonment and (2) at least three times any special term authorized by section 841(b) of this title for a second or subsequent offense involving the same controlled substance and schedule.''

Subsec. (c). Pub. L. 99–570, § 1866(c), substituted reference to chapter 311 of title 18 for reference to section 4202 of that title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99–570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99–570 set out as a note under section 841 of this title.

§ 860a. Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside

Whoever violates section 841(a)(1) of this title by manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine or its salts, isomers or salts of isomers on premises in which an individual who is under the age of 18 years is present or resides, shall, in addition to any other sentence imposed, be imprisoned for a period of any term of years but not more than 20 years, subject to a fine, or both.

(Pub. L. 91–513, title II, § 419a, as added Pub. L. 109–177, title VII, § 734(a), Mar. 9, 2006, 120 Stat. 270.)

§ 861. Employment or use of persons under 18 years of age in drug operations

(a) Unlawful acts

It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this subchapter or subchapter II of this chapter;

(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this subchapter or subchapter II of this chapter by any Federal, State, or local law enforcement official; or

(3) receive a controlled substance from a person under 18 years of age, other than an immediate family member, in violation of this subchapter or subchapter II of this chapter.

(b) Penalty for first offense

Any person who violates subsection (a) of this section is subject to twice the maximum punishment otherwise authorized and at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

(c) Penalty for subsequent offenses

Any person who violates subsection (a) of this section after a prior conviction under subsection (a) of this section has become final, is subject to three times the maximum punishment otherwise authorized and at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(d) Penalty for providing or distributing controlled substance to underage person

Any person who violates subsection (a)(1) or (2) of this section[1]

[1] So in original. Probably should be followed by a dash.

(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

(e) Suspension of sentence; probation; parole

In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18[2] until the individual has served the mandatory term of imprisonment as enhanced by this section.

(f) Distribution of controlled substance to pregnant individual

Except as authorized by this subchapter, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this subchapter. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e) of this section.

(Pub. L. 91–513, title II, § 420, formerly § 405B, as added Pub. L. 99–570, title I, § 1102, Oct. 27, 1986, 100 Stat. 3207–10; amended Pub. L. 100–690, title VI, §§ 6452(b)(1), 6459, 6470(d), Nov. 18, 1988, 102 Stat. 4371, 4373, 4378; renumbered § 420 and amended Pub. L. 101–647, title X, §§ 1002(c), 1003(c), title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4829, 4932.)

REFERENCES IN TEXT

Section 4202 of title 18, referred to in subsec. (e), which, as originally enacted in Title 18, Crimes and Criminal Procedure, related to eligibility of prisoners for parole, was repealed and a new section 4202 enacted as part of the repeal and enactment of a new chapter 311 (§ 4201 et seq.) of Title 18, by Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 219. For provisions relating to the eligibility of prisoners for parole, see section 4205 of Title 18. Pub. L. 98–473, title II, §§ 218(a)(5), 235(a)(1), (b)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, 2032, as amended, provided that, effective on the first day of the first calendar month beginning 36 months after Oct. 12, 1984 (Nov. 1, 1987), chapter 311 of Title 18 is repealed, subject to remaining effective for five years after Nov. 1, 1987, in certain circumstances. See Effective Date note set out under section 3551 of Title 18.

CODIFICATION

Section was classified to section 845b of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–647, § 1003(c)(1), which directed the substitution of ''is subject to twice the maximum punishment otherwise authorized'' for ''is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both,'' was executed by making the substitution for ''is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both,'' to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 101–647, § 3599L, substituted ''has become final'' for ''have become final''.

Pub. L. 101–647, § 1003(c)(2), which directed the substitution of ''is subject to three times the maximum punishment otherwise authorized'' for ''is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both,'' was executed by making the substitution for ''is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both,'' to reflect the probable intent of Congress.

1988—Subsec. (a)(3). Pub. L. 100–690, § 6459, added par. (3).

Subsec. (c). Pub. L. 100–690, § 6452(b)(1), struck out ''or convictions'' after ''a prior conviction'' and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Subsec. (e). Pub. L. 100–690, § 6470(d), struck out ''required by section 841(b) of this title'' after ''mandatory term of imprisonment''.

[2] See References in Text note below.

§ 862. Denial of Federal benefits to drug traffickers and possessors

(a) Drug traffickers

(1) Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances shall—

(A) at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;

(B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

(C) upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(2) The benefits which are denied under this subsection shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(b) Drug possessors

(1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of this subchapter) shall—

(A) upon the first conviction for such an offense and at the discretion of the court—

(i) be ineligible for any or all Federal benefits for up to one year;

(ii) be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;

(iii) be required to perform appropriate community service; or

(iv) any combination of clause (i), (ii), or (iii); and

(B) upon a second or subsequent conviction for such an offense be ineligible for all Federal