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U.S. House of Representatives

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CRIMINAL FINE IMPROVEMENTS ACT OF 1987

OCTOBER 23, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary
submitted the following **NCJRS**

REPORT JAN 12 1988

[To accompany H.R. 3483]

[Including cost estimate of the Congressional Budget Office] **ACQUISITIONS**

The Committee on the Judiciary, to whom was referred the bill (H.R. 3483) to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 9, line 6, strike out "schedule," and insert in lieu thereof "schedule.'".

Page 11, line 21, strike out "Code." and insert in lieu thereof "Code.'".

Page 13, line 4, strike out "holiday." and insert in lieu thereof "holiday.'".

Page 14, line 9, strike out "3572(h)." and insert in lieu thereof "section 3572(h)'".

Page 14, line 12, strike out "3572(i)." and insert in lieu thereof "section 3572(i)'".

PURPOSE

The purpose of H.R. 3483 is to amend the fine provisions of the Sentencing Reform Act of 1984, scheduled to take effect on November 1, 1987, so that those provisions conform, with some modifications, to the fine provisions of current Federal law.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3483 amends the Sentencing Reform Act of 1984¹ in order to effectuate an understanding reached at the end of the 98th Congress that the fine provisions of the Act should be replaced with fine provisions enacted by the Criminal Fine Enforcement Act of 1984.² The legislation is necessitated by the circumstances of the enactment of those two Acts.

At the start of the Second Session of the 98th Congress, the Senate passed and sent to the House S. 1762, a crime package that contained numerous provisions. One part of that package, entitled the "Sentencing Reform Act of 1984," revised Federal sentencing laws, including provisions pertaining to criminal fines. The provisions of S. 1762 cut across committee jurisdictions, and within the Judiciary Committee cut across subcommittee jurisdictions.³ The different parts of the bill were referred to the appropriate subcommittees of the Judiciary Committee. The Sentencing Reform Act portion of S. 1762 was referred to the Subcommittee on Criminal Justice.

The Subcommittee on Criminal Justice, in the First Session of the 98th Congress, had begun considering ways to improve the collection of Federal criminal fines.⁴ The Subcommittee, therefore, studied the fine provisions of the Sentencing Reform Act portion of S. 1762 and worked with the Senate Judiciary and Governmental Affairs Committees, the United States Department of Justice, the Administrative Office of United States Courts, the United States Parole Commission, and others to put together a bill that would improve upon those provisions. These efforts resulted in legislation (H.R. 5846), which was endorsed by all interested parties, that increased maximum fine levels and enhanced the power of the Government to collect fines. The Subcommittee reported H.R. 5846 in May 1984 (3 months after the Senate passed S. 1762), the Committee reported it in June 1984,⁵ and the House passed it in July 1984.⁶

Near the end of the 98th Congress, the House added the provisions of S. 1762 to H.J. Res. 648, a continuing resolution then under consideration.⁷ The House added the text of S. 1762 as passed by the Senate, even though portions of that bill had either been passed separately by the House or separately enacted into law.⁸

¹ Public Law 98-473, 98 Stat. 1987.

² Public Law 98-596, 98 Stat. 3134.

³ Five Judiciary Committee Subcommittees had jurisdiction over parts of the bill. The Subcommittee on Criminal Justice had jurisdiction over several provisions of the bill, but the Subcommittee on Crime, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, the Subcommittee on Civil and Constitutional Rights, and the Subcommittee on Administrative Law and Governmental Relations, also had jurisdiction over parts of the bill.

⁴ See Hearings on Criminal Fine Enforcement before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 98th Cong., 1st and 2d sess. (1983-84).

⁵ See H.R. Rep. No. 906, 98th Cong., 2d sess. (1984).

⁶ 130 CONG. REC. H8020 (daily ed. July 30, 1984).

⁷ 130 CONG. REC. H10130 (daily ed. Sept. 25, 1984). For passage of H.J. Res. 648, see id. at H10131.

⁸ The Child Protection Act of 1984, Public Law 98-292, 98 Stat. 204, which dealt with matters in title XI, part A, of S. 1762, was signed into law on May 21, 1984, some 4 months before the text of S. 1762 was added to the continuing resolution. The Controlled Substances Registrant Protection Act of 1984, Public Law 98-305, 98 Stat. 221, which dealt with matters in title X, part

The Senate then passed H.J. Res. 648 with amendments,⁹ and a conference committee resolved the differences in the two versions of the bill and filed a report on October 10, 1984.¹⁰

Since the fine provisions of S. 1762 that were added to H.J. Res. 648 were not altered by the Senate, those provisions were not within the scope of the conference. While that would not have precluded the conference committee from modifying those provisions, the urgent need to enact the continuing resolution, coupled with the delayed effective date of the fine provisions in the Sentencing Reform Act of 1984,¹¹ resulted in an understanding not to modify those provisions before enactment of the continuing resolution. It was agreed to enact H.R. 5846 and, before the fine provisions of the Sentencing Reform Act would take effect, to amend the Sentencing Reform Act to conform the fine provisions of that Act to the provisions enacted by the Criminal Fine Enforcement Act.

On October 10, 1984 the House agreed to the conference report on the continuing resolution.¹² On October 11, 1984, the Senate agreed to the conference report on the continuing resolution,¹³ and also passed H.R. 5846 with an amendment.¹⁴ The House agreed to the Senate amendment to H.R. 5846 on October 11, 1984,¹⁵ and sent the bill to the President. The President signed the continuing resolution into law on October 12, 1984,¹⁶ and on October 30, 1984 signed the Criminal Fine Enforcement Act into law.¹⁷

The fine provisions of the Sentencing Reform Act were originally scheduled to take effect on November 1, 1986,¹⁸ but Congress extended that date to November 1, 1987.¹⁹ Thus, unless H.R. 3483 is enacted before then, fine provisions that Congress intended to replace will take effect. H.R. 3483 seeks to avoid that result.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 of the bill provides that the short title of the legislation is the "Criminal Fine Improvements Act of 1987".

O, of S. 1762, was signed into law on May 31, 1984, nearly 4 months before the text of S. 1762 was added to the continuing resolution.

The House passed H.R. 5846, which dealt with matters in title II of S. 1762, on July 30, 1984, nearly 2 months before the text of S. 1762 was added to the continuing resolution. The House passed H.R. 5872, the Financial Bribery and Fraud Amendments Act of 1984, which dealt with matters in title XI, parts F and G, of S. 1762, on July 30, 1984, nearly 2 months before the text of S. 1762 was added to the continuing resolution. The House passed H.R. 5526, which dealt with matters in title X, part L, of S. 1762, on July 30, 1984, nearly 2 months before the text of S. 1762 was added to the continuing resolution. The House passed H.R. 5910, which dealt with matters in title XI, part H, of S. 1762, on July 30, 1984, nearly 2 months before the text of S. 1762 was added to the continuing resolution.

⁹ 130 CONG. REC. S13384 (daily ed. Oct. 4, 1984).

¹⁰ H.R. REP. NO. 1159, 98th Cong., 2d sess. (1984).

¹¹ See Sentencing Reform Act of 1984, sec. 235, Public Law 98-473, 98 Stat. 2031. See also Sentencing Reform Amendments Act of 1985, sec. 4, Public Law 99-217, 99 Stat. 1728.

¹² 130 CONG. REC. H12106 (daily ed. Oct. 10, 1984).

¹³ 130 CONG. REC. S14226 (daily ed. Oct. 11, 1984).

¹⁴ 130 CONG. REC. S14360 (daily ed. Oct. 11, 1984).

¹⁵ 130 CONG. REC. H12268 (daily ed. Oct. 11, 1984).

¹⁶ Public Law 98-473, 98 Stat. 1837.

¹⁷ Public Law 98-596, 98 Stat. 3134.

¹⁸ Sentencing Reform Act of 1984, sec. 235, Public Law 98-473, 98 Stat. 2031.

¹⁹ Sentencing Reform Amendments Act of 1985, sec. 4, Public Law 99-217, 99 Stat. 1728.

Section 2

Section 2 of the bill amends 28 U.S.C. 604(a), which sets forth the duties of the Director of the Administrative Office of the United States Courts. Section 2 of the bill provides the Director with the authority necessary to implement the changes made by sections 9 and 10 of the bill.

New 28 U.S.C. 604(a)(17) requires the Director of the Administrative Office to establish procedures and mechanisms for processing fines, restitution, forfeiture of bail bonds and collateral, and special assessments. It is expected that the Director will establish a centralized and highly automated entity, similar to the Central Violations Bureau that currently processes forfeitures of collateral in cases initiated by citation or violation notice. This new fine-processing entity will replace the fragmented system that now exists for receiving fine payments and will enable retrieval of up-to-date information on the status of any obligation covered by the system.

Section 3

Section 3 of the bill amends 18 U.S.C. 3013, which concerns special assessments, by adding two new subsections. New section 3013(c) provides for a five year statute of limitation for special assessments. This period is shorter than the twenty year statute of limitations applicable to fines.²⁰

New section 3013(d) clarifies that judges must impose a special assessment upon persons convicted of an offense under the Assimilative Crimes Act.²¹ Section 3013 currently requires the court to impose a special assessment upon any person convicted of a federal offense. Several courts have held that special assessments are not applicable to convictions under the Assimilative Crimes Act.²² Because the Committee sees no reason to distinguish, for purposes of special assessments, convictions under the Assimilative Crimes Act from convictions under other provisions of Federal law, new section 3013(d) overturns those decisions.

Section 4

Section 4(a) of the bill amends chapter 1 of title 18, United States Code, to carry forward the definition of "petty offense." That term is currently defined in 18 U.S.C. 1(3) to mean any misdemeanor for which the penalty does not exceed imprisonment for six months or a fine of \$5,000 for an individual or \$10,000 for an organization.²³ The Sentencing Reform Act, however, repeals 18 U.S.C. 1 as of November 1, 1987.²⁴ That repeal, together with other provisions enacted by the Sentencing Reform Act that set fine levels for misdemeanors at \$25,000 for an individual and \$100,000 for an organization,²⁵ raises questions about when a jury trial is required for persons charged with minor misdemeanors.

²⁰ 18 U.S.C. 3565(h). The Sentencing Reform Act, secs. 212 (a)(2), 235, Public Law 98-473, 98 Stat. 1987, 2005-06, 2031, repeals this section as of Nov. 1, 1987 and replaces it with 18 U.S.C. 3613(b), which contains an identical 20 year limitation period for fines.

²¹ 18 U.S.C. 13.

²² See *United States v. King*, 824 F. 2d 313 (4th Cir. 1987); *United States v. Mayberry*, 774 F. 2d 1018 (10th Cir. 1985).

²³ See H.R. Rep. No. 906, 98th Cong., 2d sess. (1984).

²⁴ Sentencing Reform Act, Public Law 98-473, secs. 218(a), 235, 98 Stat. 2027, 2031.

²⁵ See 18 U.S.C. 3571(b), as enacted by the Sentencing Reform Act, sec. 212(a)(2), 98 Stat. 1995.

In *Frank v. United States*,²⁶ the Supreme Court held that the constitutional right to trial by jury does not apply to petty offenses. The Constitution does not define a petty offense, so the courts have looked to the severity of the maximum punishment available, or if the statute proscribing the offense does not specify punishment, to the actual punishment imposed.²⁷ The Supreme Court has indicated that 18 U.S.C. 1 is a measure of the seriousness of an offense for purposes of the right to trial by jury.²⁸ Section 4(a) of the bill adds a new section (section 19) to 18 U.S.C. ch. 1 that carries forward the current definition of petty offense.

Section 4(b) of the bill amends the table of sections for chapter 1 of title 18, United States Code, by adding a new entry for the new section added by section 4(a) of the bill. Section 4(c) of the bill clarifies a provision of an earlier enactment.

Section 5

Section 5 of the bill eliminates as obsolete a provision enacted by the Sentencing Reform Act.²⁹ The repealed provision provides that the maximum fine imposable for an offense not identified by letter grade is the greater of the fine authorized by the provision describing the offense or the general fine amounts authorized by title 18. That provision of the Sentencing Reform Act is made obsolete by the amendment made by section 6 of this legislation.

Section 6

Section 6 of the bill amends 18 U.S.C. 3571, as enacted by the Sentencing Reform Act,³⁰ to carry forward the authorized fine levels of current law³¹ with certain modifications. New section 3571(a), which is identical to section 3571 as enacted by the Sentencing Reform Act, is not in current law, but is enacted so that new section 3571 will conform to the drafting style of other provisions enacted by the Sentencing Reform Act. New section 3571(a) states what is essentially a tautology.

New section 3571(b) is identical to current law.³² New section 3571(c) is identical to current law³³ except that new section 3571(c) raises from \$100,000 to \$200,000 the maximum fine for an organization committing a Class A misdemeanor³⁴ not resulting in death. This change is based upon the principle that the maximum fine imposable on an organization should be greater than that imposable on an individual and is consistent with the approach otherwise taken in current law.

New section 3571(c) also provides that the maximum fine for a Class B or C misdemeanor that does not result in death and an in-

²⁶ 395 U.S. 147 (1969).

²⁷ *Id.* at 149.

²⁸ *Id.* at 151; *United States v. Hamdan*, 552 F.2d (9th Cir. 1977).

²⁹ 18 U.S.C. 3559(b)(1), enacted by Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 98 Stat. 1992.

³⁰ Public Law 98-473, sec. 212(a)(2), 98 Stat. 1995.

³¹ 18 U.S.C. 3623.

³² 18 U.S.C. 1(3), 3623(a).

³³ 18 U.S.C. 1(3), 3623(b).

³⁴ A class A misdemeanor is an offense for which the maximum penalty is not more than one year of imprisonment. 18 U.S.C. 3581(b)(6), enacted by the Sentencing Reform Act, Public Law 98-473, 98 Stat. 1998.

fraction is \$5,000 for an individual and \$10,000 for an organization, thereby making them "petty offenses."

New section 3571(d) carries forward, with a modification, the provision of current law authorizing an alternative fine of twice the gross gain or gross loss resulting from an offense.³⁵ Current law authorizes such a fine, notwithstanding the otherwise applicable fine limit, if the defendant derives pecuniary gain from the offense or if the offense results in pecuniary loss to another person. New section 3571(d) amends this provision by authorizing the court to impose such an alternative fine if a person other than the defendant derives pecuniary gain from the offense. Thus, if the defendant knows or intends that his conduct will benefit another person financially, the court can measure the fine imposed based on twice that benefit.

New section 3571(e) establishes that the fine limits set by new section 3571 do not apply if a lesser fine is specified in the section setting forth an offense, provided that such section specifically exempts the offense from the fine otherwise applicable under new section 3571. This provision will assure that future enactments can establish a lower fine level only by express language. A statute that intends to establish a lower fine for an offense must on its face negate the effect of new section 3571.³⁶

Section 7

Section 7 of the bill amends 18 U.S.C. 3572, as enacted by the Sentencing Reform Act,³⁷ to carry forward, with certain modifications, provisions of current law regarding the imposition of a fine. New section 3572(a) sets forth the factors a court must consider in imposing a fine. These factors are identical to seven of the nine factors set forth in current law.³⁸ The two factors not carried forward³⁹ are already carried forward by another provision enacted by the Sentencing Reform Act, which will take effect on November 1, 1987.⁴⁰

New section 3572(b) carries forward 18 U.S.C. 3622(b) of current law, which directs the court to ensure that a fine or other financial penalty imposed does not impair the defendant's ability to make restitution. New section 3572(c), concerning the effect of the finality of a judgment that includes a fine, is retained as enacted by the Sentencing Reform Act⁴¹ with minor modifications. One modification is the deletion of the phrase "if outside the guideline range" in section 3572(c)(3) as enacted by the Sentencing Reform Act. This change is made because a sentence can be appealed and modified under 18 U.S.C. 3742 for reasons other than being outside the guidelines range. The other changes in section 3572(c) are grammatical and do not reflect policy changes.

³⁵ 18 U.S.C. 3623(c).

³⁶ The reenactment in new section 3571 of the higher fine levels in 18 U.S.C. 3623 also assures that any offense enacted since 1984 with lower fine levels cannot be interpreted to have been intended to avoid the higher fine levels established by 18 U.S.C. 3623.

³⁷ Public Law 98-473, sec. 212(a)(2), 98 Stat. 1995-97.

³⁸ 18 U.S.C. 3622(a)(1)-(9).

³⁹ 18 U.S.C. 3622(a)(1), (2).

⁴⁰ 18 U.S.C. 3553(a)(1), enacted by the Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 235(a), 98 Stat. 1989, 2031.

⁴¹ Public Law 98-473, sec. 212(a)(2), 98 Stat. 1996.

New section 3572(d), concerning time and method of payment of a fine, carries forward elements of both section 3572(d), as enacted by the Sentencing Reform Act,⁴² and current law.⁴³ New section 3572(d) provides that a person sentenced to pay a fine must do so immediately, unless the court orders payment on a date certain or in installments.⁴⁴ Unlike current law,⁴⁵ new section 3572(d) indicates that if the court is silent as to the time of payment, payment is due immediately. As in current law,⁴⁶ new section 3572(d) also establishes that a payment schedule may not exceed five years, excluding any period of imprisonment the defendant serves for the offense.⁴⁷ Finally, new section 3572(d) eliminates the Sentencing Reform Act requirement that the specific terms of an installment schedule be fixed by the court. The court is thus able to delegate the responsibility for setting specific terms to a probation officer.

New section 3572(e) reenacts verbatim a provision of the Sentencing Reform Act precluding an alternative sentence to be served in the event that a fine is not paid. New section 3572(f) carries forward a provision of current law⁴⁸ with minor changes. New section 3572(f) adds shareholders to the categories of persons for whom an organization may not pay a fine or other financial penalty imposed by the court. New section 3572(f) also makes certain grammatical changes that do not reflect policy changes.

New section 3572(g) carries forward the provision of current law governing security for a fine stayed on appeal.⁴⁹ New sections 3572(h) and 3572(i) carry forward the Sentencing Reform Act's definitions of delinquency and default, with grammatical modifications not reflecting policy changes. New section 3572(h) provides that a fine is delinquent if a payment is more than thirty days late; new section 3572(i) provides that a fine is in default if a payment is more than one hundred twenty days late.⁵⁰ New section 3572(i) also reenacts the provision of the Sentencing Reform Act that provides that when a fine is in default, the entire amount is due within thirty days, notwithstanding any installment schedule.⁵¹

Section 7 of the bill does not carry forward a provision enacted by the Sentencing Reform Act⁵² and part of current law.⁵³ The de-

⁴²Id.

⁴³ 18 U.S.C. 3565(b)(1), (2).

⁴⁴ Section 3572(d) as enacted by the Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 98 Stat. 1996, is drafted in the passive voice. The Committee redrafted section 3572(d) in the active voice because the Committee believes that the active voice is the preferred drafting technique.

⁴⁵ 18 U.S.C. 3565(b)(1)(A).

⁴⁶ 18 U.S.C. 3565(b)(2).

⁴⁷ The exclusion of any period of imprisonment permits the court to order a payment period that exceeds 5 years if the defendant is imprisoned for the offense. The exclusion does not, however, require the court to exclude a period of imprisonment in setting an installment schedule. Thus, the court can set an installment schedule that requires a defendant to make payments while incarcerated.

⁴⁸ 18 U.S.C. 3565(f).

⁴⁹ 18 U.S.C. 3624.

⁵⁰ These provisions of section 3572 are definitional only, and have no effect themselves without reference to other provisions, such as the provision in section 11(e) of this legislation, which deals with penalties for fines that are delinquent or in default.

⁵¹ 18 U.S.C. 3572(j), as enacted by the Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 98 Stat. 1997.

⁵² Public Law 98-473, sec. 212(a)(2), 98 Stat. 1996.

⁵³ 18 U.S.C. 3623(c)(2).

leted provision limits the aggregate of fines that may be imposed on a defendant at the same time for different offenses that arise from a common scheme or plan and that do not cause separable or distinguishable kinds of harm or damage, to twice the amount imposable for the most serious offense. The Committee believes that, to deter, a fine must exceed the financial benefit to the defendant of committing the crime. The limit on aggregate fines, by setting an artificial limit, unduly restricts the deterrent effect of fines in large-scale cases. Since a court imposing a fine is limited by the defendant's ability to pay,⁵⁴ the Committee decided that the provision was an unjustified windfall for wealthy criminals, and therefore deleted it.

Section 8

Section 8(a) of the bill amends 18 U.S.C. 3573,⁵⁵ which allows a defendant sentenced to pay a fine to petition the court for extension of an installment schedule or remission of all or part of the unpaid portion of the fine. The new subsection authorizes the Government to ask the court to remit all or part of a fine or special assessment upon a showing that reasonable efforts to collect the fine or assessment are not likely to be effective. A court can order such remission "in the interest of justice."⁵⁶ Section 8(b) of the bill amends the caption of section 3573 to reflect the change made by section 8(a) of the bill.

Section 9

Sections 9 and 10 of the bill provide procedures for the receipt of criminal fines and assessments. Section 9(a) of the bill establishes a procedure for the receipt of fines imposed from November 1, 1987 through April 30, 1988. The procedure established by section 9(b) of the bill will be in effect for fines imposed from May 1, 1988 until October 31, 1988. Section 10 of the bill establishes a permanent procedure for the receipt of fines.

Current law establishes a fragmented receipt system. Prior to the enactment of the Criminal Fine Enforcement Act on October 30, 1984, the practice had been for the clerk of court to carry out the cashier function of receiving payment of criminal fines. The Criminal Fine Enforcement Act altered this practice and required the defendant to pay to "the Attorney General any amount due as a fine or penalty" unless the Attorney General and the Director of the Administrative Office of the United States Courts agreed that fines and penalties "for specified categories of offenses" be paid to the clerk of court.⁵⁷ No administrative agreement was reached.

⁵⁴ See 18 U.S.C. 3572(a)(1), as amended by section 7 of this legislation.

⁵⁵ Enacted by Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 98 Stat. 1997.

⁵⁶ Under current law, once the time for filing a motion under Rule 35 of the Federal Rules of Criminal Procedure has expired, only the Government can effectively modify or remit a fine. The Government does so by filing a satisfaction of judgment with the court. 18 U.S.C. 3565(g). However, section 3573(a) as enacted by the Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 98 Stat. 1997, authorizes only the defendant to petition the court for a modification or remission of a fine. The Committee believes that if the court is to be involved in determining whether there should be a remission, the Government should also have the opportunity to petition the court for a remission.

⁵⁷ 18 U.S.C. 3565(d).

The Criminal Fine Enforcement Act provision applies only to offenses committed after December 31, 1984; the clerks of court are continuing to receive criminal fine payments for offenses committed on or before that date. The Criminal Fine Enforcement Act provision will be repealed on November 1, 1987, the effective date of the Sentencing Reform Act. The Sentencing Reform Act section scheduled to take effect requires payment of a fine to the clerk of court with respect to fines imposed after the Sentencing Reform Act takes effect.⁵⁸

The change in responsibility for receiving payment of criminal fines under the Criminal Fine Enforcement Act has resulted in some difficulties. The Department of Justice and the Administrative Office of the United States Courts have fashioned an agreement to facilitate the receipt of criminal fines in a cost-effective manner. Sections 2 and 9 through 12 of this legislation reflect this agreement and provide for the receipt of criminal fines, assessments, and restitution ultimately to be carried out by the judicial branch through a centralized, automated system.

Section 9 of the bill provides two sets of interim procedures for the receipt of criminal fines and assessments and will enable the judicial branch to prepare for the eventual receipt of all payments. The first, reflected in section 9(a) of the bill, applies to fines imposed from November 1, 1987, through April 30, 1988, and preserves the status quo for this period. Section 9(a) provides that notwithstanding 18 U.S.C. 3611 a person sentenced to pay a fine or assessment must pay that fine or assessment (including any interest or penalty) to the clerk of the court if the offense was committed on or before December 31, 1984, and to the Attorney General if the offense was committed thereafter.

Section 9(b) of the bill provides interim procedures for the period May 1, 1988, through October 31, 1988, and establishes a category of cases for which the judicial branch will assume receipt responsibility. Specifically, section 9(b) requires payment of fines and assessments imposed during this period (including interest and penalties) to the judicial branch in cases initiated by a citation or violation notice, such as a traffic ticket. Payment in these cases will be as specified by the Director of the Administrative Office of the United States Courts. Processing of fines and assessments by the judicial branch will build upon information presently maintained by the Central Violations Bureau, which currently handles the forfeiture of collateral in cases initiated by citation or violation notice. Payment of fines and assessments imposed during this second interim period in cases not initiated by citation or violation notice will depend upon the date the offense was committed. If it was committed on or before December 31, 1984, payment will be to the clerk of court, as was the traditional practice; if the offense was committed after that date, payment will be to the Attorney General, as under the Criminal Fine Enforcement Act. Thus, section 9(b) preserves the status quo for cases not initiated by citation or violation notice.

⁵⁸ 18 U.S.C. 3611.

Section 10

Section 10 of the bill establishes permanent provisions for the receipt of criminal fines and other monetary penalties. Section 10(a) of the bill amends 18 U.S.C. 3611, enacted by the Sentencing Reform Act,⁵⁹ and provides for payment of all fines or assessment (including interest and penalties) in the manner specified by the Director of the Administrative Office of the United States Courts. The Committee expects that a fine-processing mechanism much like the Central Violations Bureau will perform the receipt function. The mechanism should operate efficiently because it will be computerized and will build upon docket information currently maintained by the courts.

Section 10(b) of the bill establishes effective dates for the permanent receipt provision and provides that 18 U.S.C. 3611 applies to fines and assessments imposed after October 31, 1988 and to fines and assessments imposed prior to November 1, 1988, which remain uncollected, in whole or in part, after February 1, 1989. Because the exact period of time required by the Administrative Office of the United States Courts to prepare for its full responsibilities under new section 3611 cannot presently be determined with precision, section 10(b) of the bill authorizes the Director of the Administrative Office to extend by three months (until May 1, 1989) the date after which section 10(a) of the bill governs receipt of payment. Coverage of old fines and assessments will allow for centralization of the receipt of fines after the new fine-processing entity is fully operational, regardless of the date the fine was imposed.

Section 11

Section 11 of the bill amends 18 U.S.C. 3612 as enacted by the Sentencing Reform Act⁶⁰ to make numerous revisions in the interest and collection provisions of that section. Section 11(a) amends 18 U.S.C. 3612(a) to require the clerk or other person designated by the Director of the Administrative Office under 28 U.S.C. 604(a)(17), if the fine imposed exceeds \$100, to notify the Attorney General within fifteen days of the receipt of any payment on that fine. Section 11(b) amends 18 U.S.C. 3612(b), as enacted by the Sentencing Reform Act, to detail the information to be included in a judgment or order imposing, modifying, or remitting a fine of more than \$100, and requires the court to send a certified copy of the judgment or order to the Attorney General within ten days of entry.⁶¹ Section 11(b) of the bill adds the defendant's social security number to the information to be included in such a judgment or order. Section 11(c) of the bill corrects two cross-references.

Section 11(d) of the bill amends 18 U.S.C. 3612(f) to modify the way in which interest is charged on fines. Current law imposes interest automatically on every deferred or late fine payment, at the rate of 1.5 percent per month on the unpaid balance.⁶² The Sen-

⁵⁹ Public Law 98-473, sec. 212(a)(2), 98 Stat. 2004.

⁶⁰ Public Law 98-473, sec. 212(a)(2), 98 Stat. 2004-05.

⁶¹ Section 3612(b) as enacted by the Sentencing Reform Act, Public Law 98-473, section 212(a)(2), 98 Stat. 2004, is substantially similar to 18 U.S.C. 3565(b) of current law.

⁶² 18 U.S.C. 3565(c)(1).

tencing Reform Act, however, does not impose interest for every court-ordered deferred payment or past due amount, but rather provides for court-ordered interest on past due amounts, at a rate of one percent per month, if the court determines that there has been willful nonpayment.⁶³ Imposition of interest, moreover, is at the court's discretion.

New section 3612(d) provides for automatic interest whenever a fine or more than \$2,500 is imposed, unless the court, upon a finding that the defendant does not have the ability to pay interest, exempts the fine from interest or alters the amount of interest. Interest begins to accrue on the fifteenth day after a fine is imposed and applies to any unpaid portion of the fine. Interest is computed in a manner similar to that used for civil judgments under 28 U.S.C. 1961.

Section 11(e) of the bill adds three new subsections to 18 U.S.C. 3612 as enacted by the Sentencing Reform Act. The first, new section 3612(g), imposes an automatic 10 percent penalty for any amount of the principal portion of a fine that has become delinquent⁶⁴ and an additional 15 percent penalty for any amount of the principal portion of a fine that is in default.⁶⁵ The Sentencing Reform Act provides for a 10 percent penalty upon a court determination of willful nonpayment once a fine becomes delinquent.⁶⁶ By contrast, current law establishes an automatic 25 percent penalty after a fine is past due for more than 90 days.⁶⁷ New section 3612(g) is a compromise between these two positions.

New section 3612(h) authorizes the Attorney General to waive, without court order, all or any part of interest and penalties owed if reasonable efforts to collect such sums are not likely to be effective. New section 3612(i) rejects for criminal fines the "U.S. Rule" for the application of payments of civil judgments, under which payments are applied first to costs, then to interest, and finally to the principal.⁶⁸ Under new section 3612(i), payments of criminal fines will be applied first to principal, then to costs, and finally to interest and penalties.

Section 12

Section 12 of the bill amends 18 U.S.C. 3663(f)(4) to authorize a person designated by the Director of the Administrative Office of the United States Courts to receive payment of court-ordered restitution. This amendment is intended to facilitate the collection of restitution payments.

Section 13

Section 13 of the bill provides that the legislation takes effect on the date of enactment, except that section 10 takes effect as provid-

⁶³ 18 U.S.C. 3612(f)(1), enacted by Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 98 Stat. 2005.

⁶⁴ See 18 U.S.C. 2572(h), as amended by section 7 of this legislation.

⁶⁵ See 18 U.S.C. 3572(i), as amended by section 7 of this legislation.

⁶⁶ 18 U.S.C. 3612(f)(2), enacted by Sentencing Reform Act, Public Law 98-473, sec. 212(a)(2), 98 Stat. 2005.

⁶⁷ 18 U.S.C. 3565(c)(2).

⁶⁸ See 28 U.S.C. 1961.

ed in that section and sections 4, 5, 6, 7, 8, 11 and 12 take effect when the Sentencing Reform Act takes effect (November 1, 1987).⁶⁹

COMMITTEE ACTION

On October 20, 1987, by voice vote, a quorum being present, the Committee ordered the bill, H.R. 3483, reported favorably, as amended.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

STATEMENT ON BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that the bill does not provide new budget authority or new or increased tax expenditures and no statement under section 308(a)(1) of the Congressional Budget Act of 1974 is required.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3483, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 23, 1987.

Hon. PETER W. RODINO, Jr.,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3483, the Criminal Fine Improvements Act of 1987, as ordered reported by the House Committee on the Judiciary, October 20, 1987.

CBO estimates that enacting H.R. 3483 would not result in any significant costs to the federal government, and would not significantly affect the revenues generated by criminal fine collections. The bill would establish a one-year transition period for the transfer of collections of criminal fines from the Department of Justice (DOJ) to the federal courts, and would make a number of other changes affecting the laws governing criminal fines and collections. Under this bill, the courts would assume full responsibility for these collections on November 1, 1988, rather than on November 1, 1987, as required under current law.

⁶⁹ Sentencing Reform Act, Public Law 98-473, section 235(a), 98 Stat. 2031.

Based on information from the DOJ and the Administrative Office of the United States Courts (AOUSC), we expect that the courts would collect criminal fines using existing resources, and that relinquishing this activity would have no significant effect on the expenses of the DOJ. Furthermore, we do not expect that enacting this bill would significantly affect the revenues from fines.

Additionally, H.R. 3483 would authorize the AOUSC to develop a centralized process for tracking and collecting fines. If implemented, this process could result in additional administrative expenses to the AOUSC of about \$3 million, subject to future appropriations. CBO expects that the AOUSC would not implement a centralized fine collection process unless such a system would generate sufficient additional receipts to cover its costs.

Enacting this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we would be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

OVERSIGHT FINDINGS OF COMMITTEE ON GOVERNMENT OPERATIONS

In accordance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that, with respect to the subject matter of the bill, the Committee on Government Operations did not submit to the Committee findings or recommendations based on investigations under clause 4(c)(2) of rule X of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the bill will have no inflationary impact on prices and costs in the operation of the national economy.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee concurs in the estimate provided by the Congressional Budget Office and adopts that estimate as the cost estimate of the Committee.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 604 OF TITLE 28, UNITED STATES CODE

§ 604. Duties of Director generally

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

(1) * * *

* * * * *

(17) Establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments;

[(17)] (18) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

* * * * *

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 1—GENERAL PROVISIONS

Sec.

1. Offenses classified.

* * * * *

19. *Petty offense defined.*

* * * * *

§ 19. *Petty offense defined*

As used in this title, the term "petty offense" means a Class B misdemeanor, a Class C misdemeanor, or an infraction.

* * * * *

PART II—CRIMINAL PROCEDURE

* * * * *

CHAPTER 201—GENERAL PROVISIONS

* * * * *

§ 3013. Special assessment on convicted persons

(a) The court shall assess on any person convicted of an offense against the United States—

- (1) in the case of a misdemeanor—
 - (A) the amount of \$25 if the defendant is an individual; and
 - (B) the amount of \$100 if the defendant is a person other than an individual; and
- (2) in the case of a felony—
 - (A) the amount of \$50 if the defendant is an individual; and
 - (B) the amount of \$200 if the defendant is a person other than an individual.

(b) Such amount so assessed shall be collected in the manner that fines are collected in criminal cases.

(c) *The obligation to pay an assessment ceases five years after the date of the judgment.*

(d) *For the purposes of this section, an offense under section 13 of this title is an offense against the United States.*

* * * * *

CHAPTER 227—SENTENCES

* * * * *

Subchapter A—General Provisions

* * * * *

§ 3559. Sentencing classification of offenses

(a) * * *

(b) Effect of classification

An offense classified under subsection (a) carries all the incidents assigned to the applicable letter designation [except that:

[(1) the maximum fine that may be imposed is the fine authorized by the statute describing the offense, or by this chapter, whichever is the greater; and

[(2) the maximum term of imprisonment is the term authorized by the statute describing the offense.], *except that the maximum term of imprisonment is the term authorized by the law describing the offense.*

* * * * *

Subchapter C—Fines

[[§ 3571. Sentence of fine

[[a) In general

[A defendant who has been found guilty of an offense may be sentenced to pay a fine.

[[b) Authorized fines

[Except as otherwise provided in this chapter, the authorized fines are—

[(1) if the defendant is an individual—

- [(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than \$250,000;
- [(B) for any other misdemeanor, not more than \$25,000; and
- [(C) for an infraction, not more than \$1,000; and
- [(2) if the defendant is an organization—
- [(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than \$500,000;
- [(B) for any other misdemeanor, not more than \$100,000; and
- [(C) for an infraction, not more than \$10,000.]

§ 3571. Sentence of fine

(a) *IN GENERAL.*—A defendant who has been found guilty of an offense may be sentenced to pay a fine.

(b) *FINES FOR INDIVIDUALS.*—Except as provided in subsection (e) of this section, an individual who has been found guilty of an offense may be fined not more than the greatest of—

- (1) the amount specified in the law setting forth the offense;
- (2) the applicable amount under subsection (d) of this section;
- (3) for a felony, not more than \$250,000;
- (4) for a misdemeanor resulting in death, not more than \$250,000;
- (5) for a Class A misdemeanor that does not result in death, not more than \$100,000;
- (6) for a Class B or C misdemeanor that does not result in death, not more than \$5,000; or
- (7) for an infraction, not more than \$5,000.

(c) *FINES FOR ORGANIZATIONS.*—Except as provided in subsection (e) of this section, an organization that has been found guilty of an offense may be fined not more than the greatest of—

- (1) the amount specified in the law setting forth the offense;
- (2) the applicable amount under subsection (d) of this section;
- (3) for a felony, not more than \$500,000;
- (4) for a misdemeanor resulting in death, not more than \$500,000;
- (5) for a Class A misdemeanor that does not result in death, not more than \$200,000;
- (6) for a Class B or C misdemeanor that does not result in death, not more than \$10,000; and
- (7) for an infraction, not more than \$10,000.

(d) *ALTERNATIVE FINE BASED ON GAIN OR LOSS.*—If any person derives pecuniary gain from the offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

(e) *SPECIAL RULE FOR LOWER FINE SPECIFIED IN SUBSTANTIVE PROVISION.*—If a law setting forth an offense specifies a fine that is lower than the fine otherwise applicable under this section and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under this section, the defendant may not be fined more than the amount specified in the law setting forth the offense.

§ 3572. Imposition of a sentence of fine

(a) Factors to be considered in imposing fine

The court, in determining whether to impose a fine, and, if a fine is to be imposed, in determining the amount of the fine, the time for payment, and the method of payment, shall consider—

(1) the factors set forth in section 3553(a), to the extent they are applicable, including, with regard to the characteristics of the defendant under section 3553(a), the ability of the defendant to pay the fine in view of the defendant's income, earning capacity, and financial resources and, if the defendant is an organization, the size of the organization;

(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent upon the defendant, relative to the burden which alternative punishments would impose;

(3) any restitution or reparation made by the defendant to the victim of the offense, and any obligation imposed upon the defendant to make such restitution or reparation to the victim of the offense;

(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to insure against a recurrence of such an offense; and

(5) any other pertinent equitable consideration.

(b) Limit on aggregate of multiple fines

Except as otherwise expressly provided, the aggregate of fines that a court may impose on a defendant at the same time for different offenses that arise from a common scheme or plan, and that do not cause separable or distinguishable kinds of harm or damage, is twice the amount imposable for the most serious offense.

(c) Effect of finality of judgment

Notwithstanding the fact that a sentence to pay a fine can subsequently be—

(1) modified or remitted pursuant to the provisions of section 3573;

(2) corrected pursuant to the provisions of rule 35 and section 3742; or

(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

(d) Time and method of payment

Payment of a fine is due immediately unless the court, at the time of sentencing—

(1) requires payment by a date certain; or

(2) establishes an installment schedule, the specific terms of which shall be fixed by the court.

[(e) Alternative sentence precluded]

[At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be served in the event that the fine is not paid.]

[(f) Individual responsibility for payment]

[If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization. If a fine is imposed on an agent or shareholder of an organization, the fine shall not be paid, directly or indirectly, out of the assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.]

[(g) Responsibility to provide current address]

[At the time of imposition of the fine, the court shall order the person fined to provide the Attorney General with a current mailing address for the entire period that any part of the fine remains unpaid. Failure to provide the Attorney General with a current address or a change in address shall be punishable as a contempt of court.]

[(h) Stay of fine pending appeals]

[Unless exceptional circumstances exist, if a sentence to pay a fine is stayed pending appeal, the court granting the stay shall include in such stay—

[(1) a requirement that the defendant, pending appeal, to deposit the entire fine amount, or the amount due under an installment schedule, during the pendency of an appeal, in an escrow account in the registry of the district court, or to give bond for the payment thereof; or

[(2) an order restraining the defendant from transferring or dissipating assets found to be sufficient, if sold, to meet the defendant's fine obligation.]

[(i) Delinquent fine]

[A fine is delinquent if any portion of such fine is not paid within thirty days of when it is due, including any fines to be paid pursuant to an installment schedule.]

[(j) Default]

[A fine is in default if any portion of such fine is more than ninety days delinquent. When a criminal fine is in default, the entire amount is due with thirty days of notification of the default, notwithstanding any installment schedule.]

§ 3572. Imposition of a sentence of fine and related matters

(a) *FACTORS TO BE CONSIDERED.*—In determining whether to impose a fine, and the amount, time for payment, and method of payment of a fine, the court shall consider, in addition to the factors set forth in section 3553(a)—

(1) the defendant's income, earning capacity, and financial resources;

(2) the burden that the fine will impose upon the defendant, any person who is financially dependent on the defendant, or any other person (including a government) that would be responsible for the welfare of any person financially dependent on the defendant, relative to the burden that alternative punishments would impose;

(3) any pecuniary loss inflicted upon others as a result of the offense;

(4) whether restitution is ordered or made and the amount of such restitution;

(5) the need to deprive the defendant of illegally obtained gains from the offense;

(6) whether the defendant can pass on to consumers or other persons the expense of the fine; and

(7) if the defendant is an organization, the size of the organization and any measure taken by the organization to discipline any officer, director, employee, or agent of the organization responsible for the offense and to prevent a recurrence of such an offense.

(b) **FINE NOT TO IMPAIR ABILITY TO MAKE RESTITUTION.**—If, as a result of a conviction, the defendant has the obligation to make restitution to a victim of the offense, the court shall impose a fine or other monetary penalty only to the extent that such fine or penalty will not impair the ability of the defendant to make restitution.

(c) **EFFECT OF FINALITY OF JUDGMENT.**—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

(1) modified or remitted under section 3573;

(2) corrected under rule 35 and section 3742; or

(3) appealed and modified under section 3742;

a judgment that includes such a sentence is a final judgment for all other purposes.

(d) **TIME, METHOD OF PAYMENT, AND RELATED ITEMS.**—A person sentenced to pay a fine or other monetary penalty shall make such payment immediately, unless, in the interest of justice, the court provides for payment on a date certain or in installments. If the judgment permits other than immediate payment, the period provided for shall not exceed five years, excluding any period served by the defendant as imprisonment for the offense.

(e) **ALTERNATIVE SENTENCE PRECLUDED.**—At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be carried out if the fine is not paid.

(f) **RESPONSIBILITY FOR PAYMENT OF MONETARY OBLIGATION RELATING TO ORGANIZATION.**—If a sentence includes a fine, special assessment, or other monetary obligation (including interest) with respect to an organization, each individual authorized to make disbursements for the organization has a duty to pay the obligation from assets of the organization. If such an obligation is imposed on a director, officer, shareholder, employee, or agent of an organization, payments may not be made, directly or indirectly, from assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

(g) **SECURITY FOR STAYED FINE.**—If a sentence imposing a fine is stayed, the court shall, absent exceptional circumstances (as determined by the court)—

- (1) require the defendant to deposit, in the registry of the district court, any amount of the fine that is due;
- (2) require the defendant to provide a bond or other security to ensure payment of the fine; or
- (3) restrain the defendant from transferring or dissipating assets.

(h) **DELINQUENCY.**—A fine is delinquent if a payment is more than 30 days late.

(i) **DEFAULT.**—A fine is in default if a payment is delinquent for more than 90 days. When a fine is in default, the entire amount of the fine is due within 30 days after notification of the default, notwithstanding any installment schedule.

§ 3573. Modification or remission of fine

(a) Petition by the defendant for modification or remission

A defendant who has been sentenced to pay a fine, and who—
 (1) can show a good faith effort to comply with the terms of the sentence and concerning whom the circumstances no longer exist that warranted the imposition of the fine in the amount imposed or payment by the installment schedule, may at any time petition the court for—

(A) an extension of the installment schedule, not to exceed two years except in case of incarceration or special circumstances; or

* * * * *

(c) **PETITION OF THE GOVERNMENT FOR MODIFICATION OR REMISSION.**—Upon petition of the Government showing that reasonable efforts to collect a fine or assessment are not likely to be effective, the court, in the interest of justice, may—

- (1) remit all or part of the fine or special assessment, including interest and penalties;
- (2) defer payment of the fine or special assessment to a date certain or pursuant to an installment schedule; or
- (3) extend a date certain or an installment schedule previously ordered.

A petition under this subsection shall be filed in the court in which sentence was originally imposed, unless the court transfers jurisdiction to another court.

* * * * *

CHAPTER 229—POSTSENTENCE ADMINISTRATION

* * * * *

Subchapter B—Fines

[§ 3611. Payment of a fine

[A person who has been sentenced to pay a fine pursuant to the provisions of subchapter C of chapter 227 shall pay the fine immediately, or by the time and method specified by the sentencing court, to the clerk of the court. The clerk shall forward the payment to the United States Treasury.]

§ 3611. *Payment of a fine*

A person who is sentenced to pay a fine or assessment shall pay the fine or assessment (including any interest or penalty), as specified by the Director of the Administrative Office of the United States Courts. Such Director may specify that such payment be made to the clerk of the court or in the manner provided for under section 604(a)(17) of title 28, United States Code.

§ 3612. *Collection of an unpaid fine*

[(a) Disposition of payment

[The clerk shall forward each fine payment to the United States Treasury and shall notify the Attorney General of its receipt within ten working days.]

(a) *NOTIFICATION OF RECEIPT AND RELATED MATTERS.*—*The clerk or the person designated under section 604(a)(17) of title 28 shall notify the Attorney General of each receipt of a payment with respect to which a certification is made under subsection (b), together with other appropriate information relating to such payment. The notification shall be provided—*

(1) *in such manner as may be agreed upon by the Attorney General and the Director of the Administrative Office of the United States Courts; and*

(2) *within 15 days after the receipt or at such other time as may be determined jointly by the Attorney General and the Director of the Administrative Office of the United States Courts. If the fifteenth day under paragraph (2) is a Saturday, Sunday, or legal public holiday, the Attorney General shall provide notification not later than the next day that is not a Saturday, Sunday or legal public holiday.*

[(b) Certification of imposition

[If a fine exceeding \$100 is imposed, modified, or remitted, the sentencing court shall incorporate in the order imposing, remitting, or modifying such fine, and promptly certify to the Attorney General—

[(1) the name of the person fined;

[(2) his current address;

[(3) the docket number of the case;

[(4) the amount of the fine imposed;

[(5) any installment schedule;

[(6) the nature of any modification or remission of the fine or installment schedule; and

[(7) the amount of the fine that is due and unpaid.]

(b) *INFORMATION TO BE INCLUDED IN JUDGMENT; JUDGMENT TO BE TRANSMITTED TO ATTORNEY GENERAL.*—(1) *A judgment or order imposing, modifying, or remitting a fine of more than \$100 shall include—*

(A) *the name, social security account number, mailing address, and residence address of the defendant;*

(B) *the docket number of the case;*

(C) *the original amount of the fine and the amount that is due and unpaid;*

(D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));

(E) a description of any modification or remission; and

(F) if other than immediate payment is permitted, a requirement that, until the fine is paid in full, the defendant notify the Attorney General of any change in the mailing address or residence address of the defendant not later than thirty days after the change occurs.

(2) Not later than ten days after entry of the judgment or order, the court shall transmit a certified copy of the judgment or order to the Attorney General.

* * * * *

(d) Notification of delinquency

Within ten working days after a fine is determined to be delinquent as provided in section [3572(i),] 3572(h), the Attorney General shall notify the person whose fine is delinquent, by certified mail, to inform him that the fine is delinquent.

(e) Notification of default

Within ten working days after a fine is determined to be in default as provided in section [3572(j),] 3572(i), the Attorney General shall notify the person defaulting, by certified mail, to inform him that the fine is in default and the entire unpaid balance, including interest and penalties, is due within thirty days.

[(f) Interest, monetary penalties for delinquency, and default

[Upon a determination of willful nonpayment, the court may impose the following interest and monetary penalties:

[(1) Interest

[Notwithstanding any other provision of law, interest at the rate of 1 per centum per month, or 12 per centum per year, shall be charged, beginning the thirty-first day after sentencing on the first day of each month during which any fine balance remains unpaid, including sums to be paid pursuant to an installment schedule.

[(2) Monetary penalties for delinquent fines

[Notwithstanding any other provision of law, a penalty sum equal to 10 per centum shall be charged for any portion of a criminal fine which has become delinquent. The Attorney General may waive all or part of the penalty for good cause.]

(f) INTEREST ON FINES.—

(1) IN GENERAL.—The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of the judgment. If that day is a Saturday, Sunday, or legal public holiday, the defendant shall be liable for interest beginning with the next day that is not a Saturday, Sunday, or legal public holiday.

(2) COMPUTATION.—Interest on a fine shall be computed—

(A) daily (from the first day on which the defendant is liable for interest under paragraph (1)); and

(B) at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled before the first day on which the defendant is liable for interest under paragraph (1).

(3) **MODIFICATION OF INTEREST BY COURT.**—If the court determines that the defendant does not have the ability to pay interest under this subsection, the court may—

(A) waive the requirement for interest;

(B) limit the total of interest payable to a specific dollar amount; or

(C) limit the length of the period during which interest accrues.

(g) **PENALTY FOR DELINQUENT FINE.**—If a fine becomes delinquent, the defendant shall pay, as a penalty, an amount equal to 10 percent of the principal amount that is delinquent. If a fine becomes in default, the defendant shall pay, as a penalty, an additional amount equal to 15 percent of the principal amount that is in default.

(h) **WAIVER OF INTEREST OR PENALTY BY ATTORNEY GENERAL.**—The Attorney General may waive all or part of any interest or penalty under this section if, as determined by the Attorney General, reasonable efforts to collect the interest or penalty are not likely to be effective.

(i) **APPLICATION OF PAYMENTS.**—Payments relating to fines shall be applied in the following order: (1) to principal; (2) to costs; (3) to interest; and (4) to penalties.

* * * * *

CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

* * * * *

§ 3663. Order of restitution

(a) * * *

* * * * *

(f)(1) * * *

* * * * *

(4) The order of restitution shall require the defendant to make restitution directly to the victim or other person eligible under this section, or to deliver the amount or property due as restitution to the Attorney General or the person designated under section 604(a)(17) of title 28 for transfer to such victim or person.

* * * * *

SECTION 38 OF THE CRIMINAL LAW AND PROCEDURE TECHNICAL
AMENDMENTS ACT OF 1986

SEC. 38. GENERAL DEFINITION OF ORGANIZATION.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding after the section redesignated by section [23] 34(a) the following:

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○