

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA**

**In Re:**

**SCHEDULE OF COLLATERAL  
FORFEITURES FOR THE  
DEPARTMENT OF  
VETERANS AFFAIRS**

**File No.:** 2022-04

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**STANDING ORDER**

IT IS HEREBY ORDERED that the Forfeiture of Collateral Schedule in Misdemeanor and Petty Offenses, attached hereto as Appendix A, shall be adopted and incorporated for offenses arising on properties of the Department of Veterans Affairs within the United States District Court for the Middle District of Georgia.

**SO ORDERED**, this 21st day of April, 2022.

s/ Thomas Q. Langstaff  
THOMAS Q. LANGSTAFF  
UNITED STATES MAGISTRATE JUDGE

**APPENDIX A**

**FORFEITURE OF COLLATERAL SCHEDULE  
IN MISDEMEANOR AND PETTY OFFENSES**

**FOR UNITED STATES DEPARTMENT OF  
VETERANS AFFAIRS**

**IN THE  
UNITED STATES DISTRICT COURT  
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**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA**

**FORFEITURE OF COLLATERAL SCHEDULE IN  
MISDEMEANOR AND PETTY OFFENSES**

**FOR UNITED STATES DEPARTMENT OF  
VETERANS AFFAIRS**

**INTRODUCTION**

(a) For misdemeanor and petty offenses listed below, whether originating under the applicable Federal Statute or regulation or applicable State Statute by virtue of the Assimilated Crimes Act (18 U.S.C. § 13), occurring within the properties of the Department of Veterans Affairs in the territorial jurisdiction of the United States Magistrate Judge, it is hereby ordered that collateral may be posted in lieu of the appearance of the offender, unless otherwise specified in this rule.

(b) Upon the failure of the person charged with an offense or offenses listed below to appear before the United States Magistrate Judge for trial of the offense or offenses listed below, except those offenses denominated “mandatory appearance,” and not aggravated, as provided below, the collateral in the amount listed opposite the offense shall be forfeited to the United States. The posting of said collateral does not equate to a finding of guilt; it shall signify that the offender neither contests the charge nor requests a hearing before the United States magistrate judge, and said collateral shall be administratively forfeited.

(c) When MCA\* (mandatory court appearance) is inserted next to the listed violation, no forfeiture will be permitted, nor will a forfeiture be permitted on violations contributing to an accident with personal injury or property damage in excess of \$1000.00.

(d) This collateral schedule covers any federal enforcement agencies working within the jurisdiction of the Department of Veterans Affairs.

(e) Notwithstanding the collateral schedule attached hereto, the issuing officer shall be authorized to determine whether the circumstances of the offense are so aggravated that a mandatory appearance should be required, in which case the issuing officer shall be authorized to fix the offense as a mandatory appearance

offense.

(f) Whenever a payment is returned as uncollectible for any reason within the control of the payer, the offense for which the collateral was posted shall become a mandatory appearance offense, and shall be referred immediately to the appropriate magistrate judge for a mandatory hearing.

(g) When the offender fails to pay the specified collateral and/or fails to answer a summons to appear, the magistrate judge may consider and treat the offense as a mandatory appearance offense, and thereafter refuse any tender of the collateral payment and set the case for hearing, or in his/her discretion increase the collateral.

(h) The Clerk of Court and each United States Magistrate Judge shall maintain a current list of the misdemeanor and petty offenses and fines applicable thereto for which forfeiture of collateral security may be accepted.

(i) The collateral schedule is composed of the offenses established under 38 C.F.R. Part 1.218(b).

The attached Appendix, which consists of various federal statutes and rules, is provided for the reader's convenience. Because this Appendix is not updated, any amendments to those statutes or rules which may occur after its effective date are not reflected herein. Accordingly, the reader should not rely on this Appendix.

The offenses for which collateral may be posted in lieu of appearance by the person charged with said offenses follow.

## COLLATERAL SCHEDULE

	<b>Offense - 38 CFR 1.218(b)</b>	<b>Penalty</b>
1	Improper disposal of rubbish on property	\$200.00
2	Spitting on property	\$25.00
3	Throwing of articles from a building or the unauthorized climbing upon any part of a building	\$50.00
4	Willful destruction, damage, or removal of Government property without authorization	\$500.00
5	Defacement, destruction, mutilation or injury to, or removal, or disturbance of, gravemarker or headstone	\$500.00
6	Failure to comply with signs of a directive and restrictive nature posted for safety purposes	\$50.00
7	Tampering with, removal, marring, or destruction of posted signs	\$150.00
8	Entry into areas posted as closed to the public or others (trespass)	\$50.00
9	Unauthorized demonstration or service in a national cemetery or on other VA property	\$250.00
10	Creating a disturbance during a burial ceremony	\$250.00
11	Disorderly conduct which creates loud, boisterous, and unusual noise, or which obstructs the normal use of entrances, exits, foyers, offices, corridors, elevators, and stairways or which tends to impede or prevent the normal operation of a service or operation of the facility	\$250.00
12	Failure to depart premises by unauthorized persons	\$50.00
13	Unauthorized loitering, sleeping or assembly on property	\$50.00
14	Gambling-participating in games of chance for monetary gain or personal property; the operation of gambling devices, a pool or lottery; or the taking or giving of bets	\$200.00
15	Operation of a vehicle under the influence of alcoholic beverages or nonprescribed narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines	MCA*
16	Entering premises under the influence of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines	\$200.00
17	Unauthorized use on property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines	\$300.00
18	Unauthorized introduction on VA controlled property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines or the unauthorized giving of same to a patient or beneficiary	\$500.00
19	Unauthorized solicitation of alms and contributions on premises	\$50.00
20	Commercial soliciting or vending, or the collection of private debts on property	\$50.00
21	Distribution of pamphlets, handbills, and flyers	\$25.00
22	Display of placards or posting of material on property	\$25.00
23	Unauthorized photography on premises	\$50.00
24	Failure to comply with traffic directions of VA police	\$25.00
25	Parking in spaces posted as reserved for physically disabled persons	\$50.00

26	Parking in no-parking areas, lanes, or crosswalks so posted or marked by yellow borders or yellow stripes	\$25.00
27	Parking in emergency vehicle spaces, areas and lanes bordered in red or posted as EMERGENCY VEHICLES ONLY or FIRE LANE, or parking within 15 feet of a fire hydrant	\$50.00
28	Parking within an intersection or blocking a posted vehicle entrance or posted exit lane	\$25.00
29	Parking in spaces posted as reserved or in excess of a posted time limit	\$15.00
30	Failing to come to a complete stop at a STOP sign	\$25.00
31	Failing to yield to a pedestrian in a marked and posted crosswalk	\$25.00
32	Driving in the wrong direction on a posted one-way street	\$25.00
33	Operation of a vehicle in a reckless or unsafe manner, too fast for conditions, drag racing, overriding curbs, or leaving the roadway	\$100.00
34	Exceeding posted speed limits: (i) By up to 10 mph (ii) By up to 20 mph (iii) By over 20 mph	\$25.00 \$50.00 \$100.00
35	Creating excessive noise in a hospital or cemetery zone by muffler cut out, excessive use of a horn, or other means	\$50.00
36	Failure to yield right of way to other vehicles	\$50.00
37	Possession of firearms, carried either openly or concealed, whether loaded or unloaded (except by Federal or State law enforcement officers on official business)	\$500.00
38	Introduction or possession of explosives, or explosive devices which fire a projectile, ammunition, or combustibles	\$500.00
39	Possession of knives which exceed a blade length of 3 inches; switchblade knives; any of the variety of hatchets, clubs and hand-held weapons; or brass knuckles	\$300.00
40	The unauthorized possession of any of the variety of incapacitating liquid or gas-emitting weapons	\$200.00
41	Unauthorized possession, manufacture, or use of keys or barrier card-type keys to rooms or areas on the property	\$200.00
42	The surreptitious opening, or attempted opening, of locks or card-operated barrier mechanisms on property	\$500.00
43	Soliciting for, or the act of, prostitution	\$250.00
44	Any unlawful sexual activity	\$250.00
45	Jogging, bicycling, sledding or any recreational physical activity conducted on cemetery grounds	\$50.00

## APPENDIX

### (a) 18 U.S.C. § 7

#### § 7. Special maritime and territorial jurisdiction of the United States defined

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, District, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.



(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

(9) With respect to offenses committed by or against a national of the United States as that term is used in section 101 of the Immigration and Nationality Act-

(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in section 3261(a) of this title.

**(b) 18 U.S.C. § 13**

**§ 13. Laws of States adopted for areas within Federal jurisdiction**

**(a)** Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

**(b)(1)** Subject to paragraph (2) and for purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.

**(2)(A)** In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine under this title, or both, if--

**(i)** a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

**(ii)** the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

**(B)** For the purposes of subparagraph (A), the term "minor" means a person less than 18 years of age.

(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.

**(c) 18 U.S.C. § 19**

**§ 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, for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b)(6) or (7) in the case of an individual or section 3571(c)(6) or (7) in the case of an organization.

**(d) 18 U.S.C. § 3013**

**§ 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 an infraction or a misdemeanor--

(A) if the defendant is an individual--

(i) the amount of \$5 in the case of an infraction or a class C misdemeanor;

(ii) the amount of \$10 in the case of a class B misdemeanor;

and

**(iii)** the amount of \$25 in the case of a class A misdemeanor;  
and

**(B)** if the defendant is a person other than an individual--

**(i)** the amount of \$25 in the case of an infraction or a class C misdemeanor;

**(ii)** the amount of \$50 in the case of a class B misdemeanor;  
and

**(iii)** the amount of \$125 in the case of a class A misdemeanor;

**(2)** in the case of a felony--

**(A)** the amount of \$100 if the defendant is an individual; and

**(B)** the amount of \$400 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. This subsection shall apply to all assessments irrespective of the date of imposition.

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

**(e) 18 U.S.C. § 3401**

**§ 3401. Misdemeanors; application of probation laws**

**(a)** When specially designated to exercise such jurisdiction by the district court or courts he serves, any United States magistrate judge shall have jurisdiction to try persons accused of, and sentence persons convicted of, misdemeanors committed within that judicial district.

**(b)** Any person charged with a misdemeanor, other than a petty offense may elect, however, to be tried before a district judge for the district in which the offense was committed. The magistrate judge shall carefully explain to the defendant that he has a right to trial, judgment, and sentencing by a district judge and that he may have a right to trial by jury before a district judge or magistrate judge. The magistrate judge may not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the magistrate judge and expressly and specifically waives trial, judgment, and sentencing by a district judge. Any such consent and waiver shall be made in writing or orally on the record.

**(c)** A magistrate judge who exercises trial jurisdiction under this section, and before whom a person is convicted or pleads either guilty or nolo contendere, may, with the approval of a judge of the district court, direct the probation service of the court to conduct a presentence investigation on that person and render a report to the magistrate judge prior to the imposition of sentence.

**(d)** The probation laws shall be applicable to persons tried by a magistrate judge under this section, and such officer shall have power to grant probation and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge.

**(e)** Proceedings before United States magistrate judges under this section shall be taken down by a court reporter or recorded by suitable sound recording equipment. For purposes of appeal a copy of the record of such proceedings shall be made available at the expense of the United States to a person who makes affidavit that he is unable to pay or give security therefor, and the expense of such copy shall be paid by the Director of the Administrative Office of the United States Courts.

**(f)** The district court may order that proceedings in any misdemeanor case be conducted before a district judge rather than a United States magistrate judge upon the court's own motion or, for good cause shown, upon petition by the attorney for the Government. Such petition should note the novelty, importance, or complexity of the case, or other pertinent factors, and be filed in accordance with regulations promulgated by the Attorney General.

**(g)** The magistrate judge may, in a petty offense case involving a juvenile,

exercise all powers granted to the district court under chapter 403 of this title. The magistrate judge may, in the case of any misdemeanor, other than a petty offense, involving a juvenile in which consent to trial before a magistrate judge has been filed under subsection (b), exercise all powers granted to the district court under chapter 403 of this title. For purposes of this subsection, proceedings under chapter 403 of this title may be instituted against a juvenile by a violation notice or complaint, except that no such case may proceed unless the certification referred to in section 5032 of this title has been filed in open court at the arraignment.

**(h)** The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of

**(i)** A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended disposition under section 3583(e) of this title. The magistrate judge shall file his or her proposed findings and recommendations.

**(f) 18 U.S.C. § 3559**

**§ 3559. Sentencing classification of offenses**

**(a) Classification.**--An offense that is not specifically classified by a letter grade in the section defining it, is classified if the maximum term of imprisonment authorized is--

- (1)** life imprisonment, or if the maximum penalty is death, as a Class A felony;
- (2)** twenty-five years or more, as a Class B felony;
- (3)** less than twenty-five years but ten or more years, as a Class C felony;
- (4)** less than ten years but five or more years, as a Class D felony;

(5) less than five years but more than one year, as a Class E felony;

(6) one year or less but more than six months, as a Class A misdemeanor;

(7) six months or less but more than thirty days, as a Class B misdemeanor;

(8) thirty days or less but more than five days, as a Class C misdemeanor; or

(9) five days or less, or if no imprisonment is authorized, as an infraction.

**(b) Effect of classification.**--Except as provided in subsection (c), an offense classified under subsection (a) carries all the incidents assigned to the applicable letter designation, except that the maximum term of imprisonment is the term authorized by the law describing the offense.

**(c) Imprisonment of certain violent felons.**--

**(1) Mandatory life imprisonment.**--Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if--

**(A)** the person has been convicted (and those convictions have become final) on separate prior occasions in a court of the United States or of a State of--

**(i)** 2 or more serious violent felonies; or

**(ii)** one or more serious violent felonies and one or more serious drug offenses; and

**(B)** each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

**(2) Definitions.**--For purposes of this subsection--

**(A)** the term "assault with intent to commit rape" means an offense that has as its elements engaging in physical contact with another person or using or brandishing a weapon against another person with intent to

commit aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242);

**(B)** the term "arson" means an offense that has as its elements maliciously damaging or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

**(C)** the term "extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

**(D)** the term "firearms use" means an offense that has as its elements those described in section 924(c) or 929(a), if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

**(E)** the term "kidnapping" means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

**(F)** the term "serious violent felony" means--

**(i)** a Federal or State offense, by whatever designation and wherever committed, consisting of murder (as described in section 1111); manslaughter other than involuntary manslaughter (as described in section 1112); assault with intent to commit murder (as described in section 113(a)); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242); abusive sexual contact (as described in sections 2244 (a)(1) and (a)(2)); kidnapping; aircraft piracy (as described in section 46502 of Title 49); robbery (as described in section 2111, 2113, or 2118); carjacking (as described in section 2119); extortion; arson; firearms use; firearms possession (as described in section 924(c); or attempt, conspiracy, or solicitation to commit any of the above offenses; and

**(ii)** any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person



of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

**(G)** the term "State" means a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States; and

**(H)** the term "serious drug offense" means--

**(i)** an offense that is punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); or

**(ii)** an offense under State law that, had the offense been prosecuted in a court of the United States, would have been punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)).

**(3) Nonqualifying felonies.--**

**(A) Robbery in certain cases.--**Robbery, an attempt, conspiracy, or solicitation to commit robbery; or an offense described in paragraph (2)(F)(ii) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that--

**(i)** no firearm or other dangerous weapon was used in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

**(ii)** the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

**(B) Arson in certain cases.--**Arson shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that--

**(i)** the offense posed no threat to human life; and

**(ii)** the defendant reasonably believed the offense posed no threat

to human life.

**(4) Information filed by United States Attorney.--**The provisions of section 411(a) of the Controlled Substances Act (21 U.S.C. 851(a)) shall apply to the imposition of sentence under this subsection.

**(5) Rule of construction.--**This subsection shall not be construed to preclude imposition of the death penalty.

**(6) Special provision for Indian country.--**No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to this subsection for any offense for which Federal jurisdiction is solely predicated on Indian country (as defined in section 1151) and which occurs within the boundaries of such Indian country unless the governing body of the tribe has elected that this subsection have effect over land and persons subject to the criminal jurisdiction of the tribe.

**(7) Resentencing upon overturning of prior conviction.--**If the conviction for a serious violent felony or serious drug offense that was a basis for sentencing under this subsection is found, pursuant to any appropriate State or Federal procedure, to be unconstitutional or is vitiated on the explicit basis of innocence, or if the convicted person is pardoned on the explicit basis of innocence, the person serving a sentence imposed under this subsection shall be resentenced to any sentence that was available at the time of the original sentencing.

**(d) Death or imprisonment for crimes against children.--**

**(1) In general.--**Subject to paragraph (2) and notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2422, 2423, or 2251 shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if--

**(A)** the victim of the offense has not attained the age of 14 years;

**(B)** the victim dies as a result of the offense; and

**(C)** the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2).

**(2) Exception.--**With respect to a person convicted of a Federal offense described in paragraph (1), the court may impose any lesser sentence that is

authorized by law to take into account any substantial assistance provided by the defendant in the investigation or prosecution of another person who has committed an offense, in accordance with the Federal Sentencing Guidelines and the policy statements of the Federal Sentencing Commission pursuant to section 994(p) of title 28, or for other good cause.

**(e) Mandatory life imprisonment for repeated sex offenses against children.--**

**(1) In general.--**A person who is convicted of a Federal sex offense in which a minor is the victim shall be sentenced to life imprisonment if the person has a prior sex conviction in which a minor was the victim, unless the sentence of death is imposed.

**(2) Definitions.--**For the purposes of this subsection--

**(A)** the term "Federal sex offense" means an offense under section 2241 (relating to aggravated sexual abuse), 2242 (relating to sexual abuse), 2244(a)(1) (relating to abusive sexual contact), 2245 (relating to sexual abuse resulting in death), 2251 (relating to sexual exploitation of children), 2251A (relating to selling or buying of children), 2422(b) (relating to coercion and enticement of a minor into prostitution), or 2423(a) (relating to transportation of minors); **(B)** the term "State sex offense" means an offense under State law that is punishable by more than one year in prison and consists of conduct that would be a Federal sex offense if, to the extent or in the manner specified in the applicable provision of this title--

**(i)** the offense involved interstate or foreign commerce, or the use of the mails; or

**(ii)** the conduct occurred in any commonwealth, territory, or possession of the United States, within the special maritime and territorial jurisdiction of the United States, in a Federal prison, on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country (as defined in section 1151); **(C)** the term "prior sex conviction" means a conviction for which the sentence was imposed before the conduct occurred constituting the subsequent Federal sex offense, and which was for a Federal sex offense or a State sex offense; **(D)** the term "minor" means an individual who has not attained the age of 17 years;

and (E) the term "state" has the meaning given that term in subsection (c)(2).

**(3) Nonqualifying felonies.**--An offense described in section 2422(b) or 2423(a) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that--

(A) the sexual act or activity was consensual and not for the purpose of commercial or pecuniary gain;

(B) the sexual act or activity would not be punishable by more than one year in prison under the law of the State in which it occurred; or

(C) no sexual act or activity occurred.

**(f) Mandatory minimum terms of imprisonment for violent crimes against children.**--- A person who is convicted of a Federal offense that is a crime of violence against the person of an individual who has not attained the age of 18 years shall, unless a greater mandatory minimum sentence of imprisonment is otherwise provided by law and regardless of any maximum term of imprisonment otherwise provided for the offense --

(1) if the crime of violence is murder, be imprisoned for life or for any term of years not less than 30, except that such person shall be punished by death or life imprisonment if the circumstances satisfy any of the subparagraphs (A) through (D) of section 3591(a)(2) of this title;

(2) if the crime of violence is kidnapping (as defined in section 1201) or maiming (as defined in section 114), be imprisoned for life or any term of years not less than 25; and

(3) if the crime of violence results in serious bodily injury (as defined in section 1365), or if a dangerous weapon was used during and in relation to the crime of violence, be imprisoned for life or for any term of years not less than 10.

**(g)(1)** If a defendant who is convicted of a felony offense (other than offense of which an element is the false registration of a domain name) knowingly falsely registered a domain name and knowingly used that domain name in the course of that offense, the maximum imprisonment otherwise provided by law for that offense shall be doubled or increased by 7 years, whichever is

less.

**(2)** As used in this section--

**(A)** the term "falsely registers" means registers in a manner that prevents the effective identification of or contact with the person who registers; and

**(B)** the term "domain name" has the meaning given that term is section 45 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" approved July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1127).

**(g) 18 U.S.C. § 3571**

**§ 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

- (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 no fine or 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.

**(h) 18 U.S.C. § 3581**

**§ 3581. Sentence of imprisonment**

(a) **In general.**--A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

**(b) Authorized terms.**--The authorized terms of imprisonment are--

- (1) for a Class A felony, the duration of the defendant's life or any period of time;
- (2) for a Class B felony, not more than twenty-five years;
- (3) for a Class C felony, not more than twelve years;
- (4) for a Class D felony, not more than six years;
- (5) for a Class E felony, not more than three years;
- (6) for a Class A misdemeanor, not more than one year;
- (7) for a Class B misdemeanor, not more than six months;
- (8) for a Class C misdemeanor, not more than thirty days; and
- (9) for an infraction, not more than five days.

**(i) Federal Rules of Criminal Procedure, Rule 58**

### **Rule 58. Petty Offenses and Other Misdemeanors**

**(a) Scope.**

**(1) In General.** These rules apply in petty offense and other misdemeanor cases and on appeal to a district judge in a case tried by a magistrate judge, unless this rule provides otherwise.

**(2) Petty Offense Case Without Imprisonment.** In a case involving a petty offense for which no sentence of imprisonment will be imposed, the court may follow any provision of these rules that is not inconsistent with this rule and that the court considers appropriate.

**(3) Definition.** As used in this rule, the term "petty offense for which no sentence of imprisonment will be imposed" means a petty offense for which the court determines that, in the event of conviction, no sentence of imprisonment will be imposed.

**(b) Pretrial Procedure.**

**(1) Charging Document.** The trial of a misdemeanor may proceed on an indictment, information, or complaint. The trial of a petty offense may also proceed on a citation or violation notice.

**(2) Initial Appearance.** At the defendant's initial appearance on a petty offense or other misdemeanor charge, the magistrate judge must inform the defendant of the following:

**(A)** the charge, and the minimum and maximum penalties, including imprisonment, fines, any special assessment under 18 U.S.C. § 3013, and restitution under 18 U.S.C. § 3556;

**(B)** the right to retain counsel;

**(C)** the right to request the appointment of counsel if the defendant is unable to retain counsel--unless the charge is a petty offense for which the appointment of counsel is not required;

**(D)** the defendant's right not to make a statement, and that any statement made may be used against the defendant;

**(E)** the right to trial, judgment, and sentencing before a district judge--unless:

**(i)** the charge is a petty offense; or

**(ii)** the defendant consents to trial, judgment, and sentencing before a magistrate judge;

**(F)** the right to a jury trial before either a magistrate judge or a district judge--unless the charge is a petty offense; and

**(G)** if the defendant is held in custody and charged with a misdemeanor other than a petty offense, the right to a preliminary hearing under Rule 5.1, and the general circumstances, if any, under which the defendant may secure pretrial release.

**(3) Arraignment.**

**(A) Plea Before a Magistrate Judge.** A magistrate judge may take the defendant's plea in a petty offense case. In every other misdemeanor case, a magistrate judge may take the plea only if the defendant consents



either in writing or on the record to be tried before a magistrate judge and specifically waives trial before a district judge. The defendant may plead not guilty, guilty, or (with the consent of the magistrate judge) nolo contendere.

**(B) Failure to Consent.** Except in a petty offense case, the magistrate judge must order a defendant who does not consent to trial before a magistrate judge to appear before a district judge for further proceedings.

**(c) Additional Procedures in Certain Petty Offense Cases.** The following procedures also apply in a case involving a petty offense for which no sentence of imprisonment will be imposed:

**(1) Guilty or Nolo Contendere Plea.** The court must not accept a guilty or nolo contendere plea unless satisfied that the defendant understands the nature of the charge and the maximum possible penalty.

**(2) Waiving Venue.**

**(A) Conditions of Waiving Venue.** If a defendant is arrested, held, or present in a district different from the one where the indictment, information, complaint, citation, or violation notice is pending, the defendant may state in writing a desire to plead guilty or nolo contendere; to waive venue and trial in the district where the proceeding is pending; and to consent to the court's disposing of the case in the district where the defendant was arrested, is held, or is present.

**(B) Effect of Waiving Venue.** Unless the defendant later pleads not guilty, the prosecution will proceed in the district where the defendant was arrested, is held, or is present. The district clerk must notify the clerk in the original district of the defendant's waiver of venue. The defendant's statement of a desire to plead guilty or nolo contendere is not admissible against the defendant.

**(3) Sentencing.** The court must give the defendant an opportunity to be heard in mitigation and then proceed immediately to sentencing. The court may, however, postpone sentencing to allow the probation service to investigate or to permit either party to submit additional information.

**(4) Notice of a Right to Appeal.** After imposing sentence in a case tried on a not-guilty plea, the court must advise the defendant of a right to appeal the conviction and of any right to appeal the sentence. If the defendant was

convicted on a plea of guilty or nolo contendere, the court must advise the defendant of any right to appeal the sentence.

**(d) Paying a Fixed Sum in Lieu of Appearance.**

**(1) In General.** If the court has a local rule governing forfeiture of collateral, the court may accept a fixed-sum payment in lieu of the defendant's appearance and end the case, but the fixed sum may not exceed the maximum fine allowed by law.

**(2) Notice to Appear.** If the defendant fails to pay a fixed sum, request a hearing, or appear in response to a citation or violation notice, the district clerk or a magistrate judge may issue a notice for the defendant to appear before the court on a date certain. The notice may give the defendant an additional opportunity to pay a fixed sum in lieu of appearance. The district clerk must serve the notice on the defendant by mailing a copy to the defendant's last known address.

**(3) Summons or Warrant.** Upon an indictment, or upon a showing by one of the other charging documents specified in Rule 58(b)(1) of probable cause to believe that an offense has been committed and that the defendant has committed it, the court may issue an arrest warrant or, if no warrant is requested by an attorney for the government, a summons. The showing of probable cause must be made under oath or under penalty of perjury, but the affiant need not appear before the court. If the defendant fails to appear before the court in response to a summons, the court may summarily issue a warrant for the defendant's arrest.

**(e) Recording the Proceedings.** The court must record any proceedings under this rule by using a court reporter or a suitable recording device.

**(f) New Trial.** Rule 33 applies to a motion for a new trial.

**(g) Appeal.**

**(1) From a District Judge's Order or Judgment.** The Federal Rules of Appellate Procedure govern an appeal from a district judge's order or a judgment of conviction or sentence.

**(2) From a Magistrate Judge's Order or Judgment.**

**(A) Interlocutory Appeal.** Either party may appeal an order of a

magistrate judge to a district judge within 14 days of its entry if a district judge's order could similarly be appealed. The party appealing must file a notice with the clerk specifying the order being appealed and must serve a copy on the adverse party.

**(B) Appeal from a Conviction or Sentence.** A defendant may appeal a magistrate judge's judgment of conviction or sentence to a district judge within 14 days of its entry. To appeal, the defendant must file a notice with the clerk specifying the judgment being appealed and must serve a copy on an attorney for the government.

**(C) Record.** The record consists of the original papers and exhibits in the case; any transcript, tape, or other recording of the proceedings; and a certified copy of the docket entries. For purposes of the appeal, a copy of the record of the proceedings must be made available to a defendant who establishes by affidavit an inability to pay or give security for the record. The Director of the Administrative Office of the United States Courts must pay for those copies.

**(D) Scope of Appeal.** The defendant is not entitled to a trial de novo by a district judge. The scope of the appeal is the same as in an appeal to the court of appeals from a judgment entered by a district judge.

**(3) Stay of Execution and Release Pending Appeal.** Rule 38 applies to a stay of a judgment of conviction or sentence. The court may release the defendant pending appeal under the law relating to release pending appeal from a district court to a court of appeals.