

2001—Subsec. (a)(1)(C). Pub. L. 107-56, §358(f)(2), added subpar. (C).

Subsec. (a)(5)(A). Pub. L. 107-56, §505(b), inserted “in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director” after “Director’s designee” and substituted “sought for foreign counter intelligence purposes to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States” for “sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power as defined in section 1801 of title 50”.

1986—Subsec. (a)(5). Pub. L. 99-569 added par. (5).

1982—Subsec. (b)(2). Pub. L. 97-320 struck out “of” after “financial institution”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-178, Mar. 9, 2006, 120 Stat. 282, provided in part that: “This Act [amending this section, sections 1681u and 1681v of Title 15, Commerce and Trade, section 2709 of Title 18, Crimes and Criminal Procedure, and sections 436 and 1861 of Title 50, War and National Defense, and enacting provisions set out as a note under section 1 of Title 18] shall become effective immediately upon enactment [Mar. 9, 2006].”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 358(f)(2) of Pub. L. 107-56 applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107-56, set out as a note under section 1829b of this title.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 3415. Cost reimbursement

Except for records obtained pursuant to section 3403(d) or 3413(a) through (h) of this title, or as otherwise provided by law, a Government authority shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this chapter a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment may be made.

(Pub. L. 95-630, title XI, §1115(a), Nov. 10, 1978, 92 Stat. 3708.)

EFFECTIVE DATE

Section 1115(b) of Pub. L. 95-630 provided that: “This section shall take effect on October 1, 1979.”

§ 3416. Jurisdiction

An action to enforce any provision of this chapter may be brought in any appropriate

United States district court without regard to the amount in controversy within three years from the date on which the violation occurs or the date of discovery of such violation, whichever is later.

(Pub. L. 95-630, title XI, §1116, Nov. 10, 1978, 92 Stat. 3708.)

§ 3417. Civil penalties

(a) Liability of agencies or departments of United States or financial institutions

Any agency or department of the United States or financial institution obtaining or disclosing financial records or information contained therein in violation of this chapter is liable to the customer to whom such records relate in an amount equal to the sum of—

(1) \$100 without regard to the volume of records involved;

(2) any actual damages sustained by the customer as a result of the disclosure;

(3) such punitive damages as the court may allow, where the violation is found to have been willful or intentional; and

(4) in the case of any successful action to enforce liability under this section, the costs of the action together with reasonable attorney’s fees as determined by the court.

(b) Disciplinary action for willful or intentional violation of chapter by agents or employees of department or agency

Whenever the court determines that any agency or department of the United States has violated any provision of this chapter and the court finds that the circumstances surrounding the violation raise questions of whether an officer or employee of the department or agency acted willfully or intentionally with respect to the violation, the Director of the Office of Personnel Management shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. The Director after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Director recommends.

(c) Good faith defense

Any financial institution or agent or employee thereof making a disclosure of financial records pursuant to this chapter in good-faith reliance upon a certificate by any Government authority or pursuant to the provisions of section 3413(l) of this title shall not be liable to the customer for such disclosure under this chapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(d) Exclusive judicial remedies and sanctions

The remedies and sanctions described in this chapter shall be the only authorized judicial remedies and sanctions for violations of this chapter.

(Pub. L. 95-630, title XI, §1117, Nov. 10, 1978, 92 Stat. 3708; 1978 Reorg. Plan No. 2, §102, eff. Jan.

1, 1979, 43 F.R. 36067, 92 Stat. 3783; Pub. L. 100-690, title VI, § 6186(d), Nov. 18, 1988, 102 Stat. 4358.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100-690 inserted “or pursuant to the provisions of section 3413(l) of this title” after “Government authority” and “under this chapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State” after “such disclosure”.

TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” and “Director” substituted in subsec. (b) for “Civil Service Commission” and “Commission” pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 3418. Injunctive relief

In addition to any other remedy contained in this chapter, injunctive relief shall be available to require that the procedures of this chapter are complied with. In the event of any successful action, costs together with reasonable attorney’s fees as determined by the court may be recovered.

(Pub. L. 95-630, title XI, § 1118, Nov. 10, 1978, 92 Stat. 3709.)

§ 3419. Suspension of limitations

If any individual files a motion or application under this chapter which has the effect of delaying the access of a Government authority to financial records pertaining to such individual, any applicable statute of limitations shall be deemed to be tolled for the period extending from the date such motion or application was filed until the date upon which the motion or application is decided.

(Pub. L. 95-630, title XI, § 1119, Nov. 10, 1978, 92 Stat. 3709.)

§ 3420. Grand jury information; notification of certain persons prohibited

(a) Financial records about a customer obtained from a financial institution pursuant to a subpoena issued under the authority of a Federal grand jury—

(1) shall be returned and actually presented to the grand jury unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records;¹

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury, or of prosecuting a crime for which that indictment or presentment is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure, or for a purpose authorized by section 3412(a) of this title;

(3) shall be destroyed or returned to the financial institution if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained by any Government authority other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure.

(b)(1) No officer, director, partner, employee, or shareholder of, or agent or attorney for, a financial institution shall, directly or indirectly, notify any person named in a grand jury subpoena served on such institution in connection with an investigation relating to a possible—

(A) crime against any financial institution or supervisory agency or crime involving a violation of the Controlled Substance Act [21 U.S.C. 801 et seq.], the Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.], section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26; or

(B) conspiracy to commit such a crime,

about the existence or contents of such subpoena, or information that has been furnished to the grand jury in response to such subpoena.

(2) Section 1818 of this title and section 1786(k)(2) of this title shall apply to any violation of this subsection.

(Pub. L. 95-630, title XI, § 1120, Nov. 10, 1978, 92 Stat. 3709; Pub. L. 100-690, title VI, § 6186(e), Nov. 18, 1988, 102 Stat. 4358; Pub. L. 101-73, title IX, § 943, Aug. 9, 1989, 103 Stat. 497; Pub. L. 102-550, title XV, § 1532, Oct. 28, 1992, 106 Stat. 4066; Pub. L. 107-56, title III, § 358(f)(3), Oct. 26, 2001, 115 Stat. 327.)

REFERENCES IN TEXT

Rule 6(e) of the Federal Rules of Criminal Procedure, referred to in subsec. (a)(2), (4), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The Controlled Substance Act, referred to in subsec. (b)(1)(A), probably means the Controlled Substances Act, which is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (b)(1)(A), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§ 951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

AMENDMENTS

2001—Subsec. (a)(2). Pub. L. 107-56 inserted “, or for a purpose authorized by section 3412(a) of this title” before semicolon at end.

1992—Subsec. (b)(1)(A). Pub. L. 102-550 inserted before semicolon “or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26”.

1989—Pub. L. 101-73 designated existing provisions as subsec. (a) and added subsec. (b).

¹ So in original.