

CHAPTER 35—ESCAPE AND RESCUE

- Sec. 751. Prisoners in custody of institution or officer.
- 752. Instigating or assisting escape.
- 753. Rescue to prevent execution.
- [754. Repealed.]
- 755. Officer permitting escape.
- 756. Internee of belligerent nation.
- 757. Prisoners of war or enemy aliens.
- 758. High speed flight from immigration check-point.

AMENDMENTS

1996—Pub. L. 104-208, div. C, title I, §108(b)(2), Sept. 30, 1996, 110 Stat. 3009-558, added item 758.
 1994—Pub. L. 103-322, title XXXIII, §330004(5), Sept. 13, 1994, 108 Stat. 2141, struck out item 754 “Rescue of body of executed offender”.

§ 751. Prisoners in custody of institution or officer

(a) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined under this title or imprisoned not more than five years, or both; or if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined under this title or imprisoned not more than one year, or both.

(b) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person’s eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be fined under this title or imprisoned not more than one year, or both. Nothing herein contained shall be construed to affect the discretionary authority vested in the Attorney General pursuant to section 5032 of this title.

(June 25, 1948, ch. 645, 62 Stat. 734; Pub. L. 88-251, §1, Dec. 30, 1963, 77 Stat. 834; Pub. L. 89-176, §3, Sept. 10, 1965, 79 Stat. 675; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 100-690, title VII, §7055, Nov. 18, 1988, 102 Stat. 4402; Pub. L. 101-650, title III, §321, Dec. 1, 1990,

104 Stat. 5117; Pub. L. 103-322, title XXXIII, §330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 753h, 909 (May 14, 1930, ch. 274, §9, 46 Stat. 327; May 27, 1930, ch. 339, §9, 46 Stat. 390; Aug. 3, 1935, ch. 432, 49 Stat. 513).

Sections 753h and 909 of title 18, U.S.C., 1940 ed., were consolidated. Section 753h is later and more comprehensive. The substance of its provisions was adopted.

References to offenses as felonies or misdemeanors were omitted in view of definitive section 1 of this title. (See also reviser’s notes under section 550 of this title.)

Mandatory provision as to separate sentences and order of service was omitted in order to permit court to exercise discretion as to whether sentences should be concurrent or consecutive and to obviate administration problems in enforcement of section.

Words “or employee” were inserted to remove ambiguity as to scope of section.

Reference to “custody or confinement is for extradition” was inserted to avoid possible ambiguity.

Changes were made in phraseology and arrangement.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000” after “any offense, be” and for “fined not more than \$1,000” after “conviction, be” in subsec. (a) and substituted “fined under this title” for “fined not more than \$1,000” in subsec. (b).

1988—Subsec. (a). Pub. L. 100-690 inserted “, or for exclusion or expulsion proceedings under the immigration laws,” after “extradition”.

1965—Pub. L. 89-176 inserted “or facility” after “institution”.

1963—Pub. L. 88-251 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” in subsecs. (a) and (b) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, “magistrate” substituted for “commissioner” pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

§ 752. Instigating or assisting escape

(a) Whoever rescues or attempts to rescue or instigates, aids or assists the escape, or attempt to escape, of any person arrested upon a warrant or other process issued under any law of the United States, or committed to the custody of the Attorney General or to any institution or facility by his direction, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined under this title or imprisoned not more than five years, or both; or, if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined under this title or imprisoned not more than one year, or both.

(b) Whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempted escape of any person in the custody of the Attorney General or his authorized representative, or of any person arrested upon a warrant or other process issued under any law of the United States or from any institution or facility in which he is confined by direction of the