

criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142 of this title. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

(Added Pub. L. 98-473, title II, §203(a), Oct. 12, 1984, 98 Stat. 1982; amended Pub. L. 99-646, §55(e), Nov. 10, 1986, 100 Stat. 3609.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to this title.

PRIOR PROVISIONS

A prior section 3144, act June 25, 1948, ch. 645, 62 Stat. 821, related to cases removed from State courts, prior to repeal in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1986—Pub. L. 99-646 substituted “subpoena” for “subpena” and inserted “of this title”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

§ 3145. Review and appeal of a release or detention order

(a) REVIEW OF A RELEASE ORDER.—If a person is ordered released by a magistrate judge, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

- (1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and
- (2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

(b) REVIEW OF A DETENTION ORDER.—If a person is ordered detained by a magistrate judge, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

(c) APPEAL FROM A RELEASE OR DETENTION ORDER.—An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly. A person subject to detention pursu-

ant to section 3143(a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143(a)(1) or (b)(1), may be ordered released, under appropriate conditions, by the judicial officer, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.

(Added Pub. L. 98-473, title II, §203(a), Oct. 12, 1984, 98 Stat. 1982; amended Pub. L. 101-647, title IX, §902(c), Nov. 29, 1990, 104 Stat. 4827; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

PRIOR PROVISIONS

A prior section 3145, act June 25, 1948, ch. 645, 62 Stat. 821, provided cross references to the Federal Rules of Criminal Procedure for rules covering parties and witnesses, prior to repeal in the revision of this chapter by section 203(a) of Pub. L. 98-473.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-647 inserted at end “A person subject to detention pursuant to section 3143(a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143(a)(1) or (b)(1), may be ordered released, under appropriate conditions, by the judicial officer, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.”

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.

§ 3146. Penalty for failure to appear

(a) OFFENSE.—Whoever, having been released under this chapter knowingly—

- (1) fails to appear before a court as required by the conditions of release; or
- (2) fails to surrender for service of sentence pursuant to a court order;

shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—(1) The punishment for an offense under this section is—

(A) if the person was released in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction for—

- (i) an offense punishable by death, life imprisonment, or imprisonment for a term of 15 years or more, a fine under this title or imprisonment for not more than ten years, or both;
- (ii) an offense punishable by imprisonment for a term of five years or more, a fine under this title or imprisonment for not more than five years, or both;
- (iii) any other felony, a fine under this title or imprisonment for not more than two years, or both; or
- (iv) a misdemeanor, a fine under this title or imprisonment for not more than one year, or both; and

(B) if the person was released for appearance as a material witness, a fine under this chapter or imprisonment for not more than one year, or both.

(2) A term of imprisonment imposed under this section shall be consecutive to the sentence of imprisonment for any other offense.