

§ 3242. Indians committing certain offenses; acts on reservations

All Indians committing any offense listed in the first paragraph of and punishable under section 1153 (relating to offenses committed within Indian country) of this title shall be tried in the same courts and in the same manner as are all other persons committing such offense within the exclusive jurisdiction of the United States.

(June 25, 1948, ch. 645, 62 Stat. 827; May 24, 1949, ch. 139, §51, 63 Stat. 96; Pub. L. 89-707, §2, Nov. 2, 1966, 80 Stat. 1101; Pub. L. 94-297, §4, May 29, 1976, 90 Stat. 586.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., §548 (Mar. 4, 1909, ch. 321, §328, 35 Stat. 1151; June 1932, ch. 284, 47 Stat. 337).

The provisions defining rape in accordance with the law of the State and prescribing imprisonment at the discretion of the court for rape by an Indian upon an Indian are now included in section 1153 of this title. (See also section 6 of this title.)

Section 549 of said title 18, relating to crimes in Indian reservations in South Dakota, was omitted as covered by section 1153 of this title. Accordingly the last sentence of said section 548, extending this section to prosecutions of Indians in South Dakota, was also omitted as unnecessary because this section is sufficient and applicable. Other provisions of said section 548 are incorporated in sections 1151 and 1153 of this title.

Minor changes were made in phraseology.

1949 ACT

This section [section 51] conforms section 3242 of title 18, U.S.C., with sections 1151 and 1153 of such title, thus eliminating inconsistency and ambiguity with respect to the definition of Indian country.

AMENDMENTS

1976—Pub. L. 94-297 substituted provision setting out reference to offenses listed in first paragraph of and punishable under section 1153 of this title, for provision specifically enumerating the covered offenses.

1966—Pub. L. 89-707 added carnal knowledge and assault with intent to commit rape as offenses cognizable within the exclusive jurisdiction of the United States when committed on and within the Indian country.

1949—Act May 24, 1949, substituted "within the Indian country" for "within any Indian reservation, including rights-of-way running through the reservation,".

§ 3243. Jurisdiction of State of Kansas over offenses committed by or against Indians on Indian reservations

Jurisdiction is conferred on the State of Kansas over offenses committed by or against Indians on Indian reservations, including trust or restricted allotments, within the State of Kansas, to the same extent as its courts have jurisdiction over offenses committed elsewhere within the State in accordance with the laws of the State.

This section shall not deprive the courts of the United States of jurisdiction over offenses defined by the laws of the United States committed by or against Indians on Indian reservations.

(June 25, 1948, ch. 645, 62 Stat. 827.)

HISTORICAL AND REVISION NOTES

Based on section 217a of title 25, U.S.C., 1940 ed., Indians (June 8, 1940, ch. 276, 54 Stat. 249).

The attention of Congress is directed to consideration of the question whether this section should be broadened and made applicable to all states rather than only to Kansas. Such change was not regarded as within the scope of this revision.

Changes were made in phraseology.

§ 3244. Jurisdiction of proceedings relating to transferred offenders

When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders—

(1) the country in which the offender was convicted shall have exclusive jurisdiction and competence over proceedings seeking to challenge, modify, or set aside convictions or sentences handed down by a court of such country;

(2) all proceedings instituted by or on behalf of an offender transferred from the United States to a foreign country seeking to challenge, modify, or set aside the conviction or sentence upon which the transfer was based shall be brought in the court which would have jurisdiction and competence if the offender had not been transferred;

(3) all proceedings instituted by or on behalf of an offender transferred to the United States pertaining to the manner of execution in the United States of the sentence imposed by a foreign court shall be brought in the United States district court for the district in which the offender is confined or in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings;

(4) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer from the United States shall be brought in the United States district court of the district in which the proceedings to determine the validity of the offender's consent were held and shall name the Attorney General as respondent; and

(5) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer to the United States shall be brought in the United States district court of the district in which the offender is confined or of the district in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings.

(Added Pub. L. 95-144, §3, Oct. 28, 1977, 91 Stat. 1220, title 28, §2256; renumbered Pub. L. 95-598, title III, §314(j)(1), Nov. 6, 1978, 92 Stat. 2677.)

CODIFICATION

Section was formerly classified to section 2256 of Title 28, Judiciary and Judicial Procedure.

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this