

peal, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

#### § 4086. Temporary safe-keeping of federal offenders by marshals

United States marshals shall provide for the safe-keeping of any person arrested, or held under authority of any enactment of Congress pending commitment to an institution.

(June 25, 1948, ch. 645, 62 Stat. 851.)

##### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 691, 692, (R.S. §§ 5537, 5538).

Said section 691 of title 18, U.S.C., 1940 ed., is superseded by sections 753b and 753c of title 18, U.S.C., 1940 ed., which are incorporated in sections 4002, 4003 and 4042 of this title.

This section is rewritten to retain the intent of section 692 of title 18, U.S.C., 1940 ed., which was to insure a safekeeping of United States prisoners until their commitment or confinement in Federal penal institutions. The language conforms with that of said sections 692 and 753b.

Minor changes were made in phraseology.

### CHAPTER 306—TRANSFER TO OR FROM FOREIGN COUNTRIES

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##### AMENDMENTS

1988—Pub. L. 100-690, title VII, § 7101(c), Nov. 18, 1988, 102 Stat. 4415, added item 4106A.

#### § 4100. Scope and limitation of chapter

(a) The provisions of this chapter relating to the transfer of offenders shall be applicable only when a treaty providing for such a transfer is in force, and shall only be applicable to transfers of offenders to and from a foreign country pursuant to such a treaty. A sentence imposed by a foreign country upon an offender who is subsequently transferred to the United States pursuant to a treaty shall be subject to being fully executed in the United States even though the treaty under which the offender was transferred is no longer in force.

(b) An offender may be transferred from the United States pursuant to this chapter only to a country of which the offender is a citizen or na-

tional. Only an offender who is a citizen or national of the United States may be transferred to the United States. An offender may be transferred to or from the United States only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in this chapter. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under eighteen years of age, or is deemed by the verifying officer to be mentally incompetent or otherwise incapable of knowingly and voluntarily consenting to the transfer, the transfer shall not be accomplished unless consent to the transfer be given by a parent or guardian, guardian ad litem, or by an appropriate court of the sentencing country. The appointment of a guardian ad litem shall be independent of the appointment of counsel under section 4109 of this title.

(c) An offender shall not be transferred to or from the United States if a proceeding by way of appeal or of collateral attack upon the conviction or sentence be pending.

(d) The United States upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or amnesty, or that there has been an ameliorating modification or a revocation of the sentence shall give the offender the benefit of the action taken by the sentencing country.

(Added Pub. L. 95-144, § 1, Oct. 28, 1977, 91 Stat. 1212; amended Pub. L. 100-690, title VII, § 7101(e), Nov. 18, 1988, 102 Stat. 4416.)

##### AMENDMENTS

1988—Subsec. (b). Pub. L. 100-690 inserted “, or is deemed by the verifying officer to be mentally incompetent or otherwise incapable of knowingly and voluntarily consenting to the transfer,” after “under eighteen years of age”, “, guardian ad litem,” after “guardian”, and “The appointment of a guardian ad litem shall be independent of the appointment of counsel under section 4109 of this title.”

##### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95-144, § 5(a), Oct. 28, 1977, 91 Stat. 1221, provided that: “There is authorized to be appropriated such funds as may be required to carry out the purposes of this Act [which enacted this chapter and sections 955 of Title 10, Armed Forces, and 2256 of Title 28, Judiciary and Judicial Procedure, amended section 636 of Title 28, and enacted provisions set out as notes under sections 3006A, 4100, and 4102 of this title]”.

##### PRISONER TRANSFER TREATIES

Pub. L. 104-208, div. C, title III, § 330, Sept. 30, 1996, 110 Stat. 3009-631, provided that:

“(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act [Sept. 30, 1996], bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

“(A) is a national of a country that is party to such a treaty; and

“(B) has been convicted of a criminal offense under Federal or State law and who—

“(i) is not in lawful immigration status in the United States, or

“(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other