

## AMENDMENTS

2010—Subsec. (a). Pub. L. 111-259, §363(a)(1), substituted “15 years” for “ten years”.

Subsec. (b). Pub. L. 111-259, §363(a)(2), substituted “10 years” for “five years”.

1999—Subsec. (a). Pub. L. 106-120, §304(b)(2)(A), substituted “shall be fined under title 18” for “shall be fined not more than \$50,000”.

Subsec. (b). Pub. L. 106-120, §304(b)(2)(B), substituted “shall be fined under title 18” for “shall be fined not more than \$25,000”.

Subsec. (c). Pub. L. 106-120, §304(b)(2)(C), substituted “shall be fined under title 18” for “shall be fined not more than \$15,000”.

Subsec. (d). Pub. L. 106-120, §304(b)(1), added subsec. (d).

**§ 3122. Defenses and exceptions****(a) Disclosure by United States of identity of covert agent**

It is a defense to a prosecution under section 3121 of this title that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

**(b) Conspiracy, misprision of felony, aiding and abetting, etc.**

(1) Subject to paragraph (2), no person other than a person committing an offense under section 3121 of this title shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18 or shall be subject to prosecution for conspiracy to commit an offense under such section.

(2) Paragraph (1) shall not apply (A) in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, or (B) in the case of a person who has authorized access to classified information.

**(c) Disclosure to select congressional committees on intelligence**

It shall not be an offense under section 3121 of this title to transmit information described in such section directly to either congressional intelligence committee.

**(d) Disclosure by agent of own identity**

It shall not be an offense under section 3121 of this title for an individual to disclose information that solely identifies himself as a covert agent.

(July 26, 1947, ch. 343, title VI, §602, as added Pub. L. 97-200, §2(a), June 23, 1982, 96 Stat. 122; amended Pub. L. 107-306, title III, §353(b)(9), Nov. 27, 2002, 116 Stat. 2402.)

## CODIFICATION

Section was formerly classified to section 422 of this title prior to editorial reclassification and renumbering as this section.

## AMENDMENTS

2002—Subsec. (c). Pub. L. 107-306 substituted “either congressional intelligence committee” for “the Select Committee on Intelligence of the Senate or to the Per-

manent Select Committee on Intelligence of the House of Representatives”.

**§ 3123. Repealed. Pub. L. 112-277, title III, § 310(a)(4)(A), Jan. 14, 2013, 126 Stat. 2475**

Section, act July 26, 1947, ch. 343, title VI, §603, as added Pub. L. 97-200, §2(a), June 23, 1982, 96 Stat. 123; amended Pub. L. 107-306, title III, §353(b)(1)(B), title VIII, §811(b)(1)(E), Nov. 27, 2002, 116 Stat. 2402, 2422; Pub. L. 108-458, title I, §1071(a)(1)(CC), Dec. 17, 2004, 118 Stat. 3689; Pub. L. 111-259, title III, §363(b), Oct. 7, 2010, 124 Stat. 2702, required an annual report by the President to Congress on measures to protect identities of covert agents, with an exemption from disclosure.

## CODIFICATION

Section was formerly classified to section 423 of this title and repealed prior to editorial reclassification and renumbering as this section.

**§ 3124. Extraterritorial jurisdiction**

There is jurisdiction over an offense under section 3121 of this title committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 1101(a)(20) of title 8).

(July 26, 1947, ch. 343, title VI, §603, formerly §604, as added Pub. L. 97-200, §2(a), June 23, 1982, 96 Stat. 123; renumbered §603, Pub. L. 112-277, title III, §310(a)(4)(B), Jan. 14, 2013, 126 Stat. 2475.)

## CODIFICATION

Section was formerly classified to section 424 of this title prior to editorial reclassification and renumbering as this section.

## PRIOR PROVISIONS

A prior section 603 of act July 26, 1947, was classified to section 423 of this title, prior to repeal by Pub. L. 112-277, title III, §310(a)(4)(A), Jan. 14, 2013, 126 Stat. 2475, and editorial reclassification as section 3123 of this title.

**§ 3125. Providing information to Congress**

Nothing in this subchapter may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

(July 26, 1947, ch. 343, title VI, §604, formerly §605, as added Pub. L. 97-200, §2(a), June 23, 1982, 96 Stat. 123; renumbered §604, Pub. L. 112-277, title III, §310(a)(4)(B), Jan. 14, 2013, 126 Stat. 2475.)

## CODIFICATION

Section was formerly classified to section 425 of this title prior to editorial reclassification and renumbering as this section.

## PRIOR PROVISIONS

A prior section 604 of act July 26, 1947, was renumbered section 603 and is classified to section 3124 of this title.

**§ 3126. Definitions**

For the purposes of this subchapter:

(1) The term “classified information” means information or material designated and clearly marked or clearly represented, pursuant to

the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

(2) The term “authorized”, when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

(3) The term “disclose” means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

(4) The term “covert agent” means—

(A) a present or retired officer or employee of an intelligence agency or a present or retired member of the Armed Forces assigned to duty with an intelligence agency—

(i) whose identity as such an officer, employee, or member is classified information, and

(ii) who is serving outside the United States or has within the last five years served outside the United States; or

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

(5) The term “intelligence agency” means the elements of the intelligence community, as that term is defined in section 3003(4) of this title.

(6) The term “informant” means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identity of such individual from public disclosure.

(7) The terms “officer” and “employee” have the meanings given such terms by section 2104 and 2105, respectively, of title 5.

(8) The term “Armed Forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(9) The term “United States”, when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(10) The term “pattern of activities” requires a series of acts with a common purpose or objective.

(July 26, 1947, ch. 343, title VI, §605, formerly §606, as added Pub. L. 97-200, §2(a), June 23, 1982, 96 Stat. 123; amended Pub. L. 106-120, title III, §304(a), Dec. 3, 1999, 113 Stat. 1611; renumbered §605 and amended Pub. L. 112-277, title III, §310(a)(4)(B), title V, §506, Jan. 14, 2013, 126 Stat. 2475, 2478.)

#### CODIFICATION

Section was formerly classified to section 426 of this title prior to editorial reclassification and renumbering as this section.

#### PRIOR PROVISIONS

A prior section 605 of act July 26, 1947, was renumbered section 604 and is classified to section 3125 of this title.

#### AMENDMENTS

2013—Par. (5). Pub. L. 112-277, §506, which directed amendment of section 606 of the National Security Act of 1947 by amending par. (5) generally, was executed to this section, which is section 605 of that act, to reflect the probable intent of Congress and the renumbering of section 606 as 605 by Pub. L. 112-277, §310(a)(4)(B). Prior to amendment, par. (5) read as follows: “The term ‘intelligence agency’ means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.”

1999—Par. (4)(A). Pub. L. 106-120 substituted “a present or retired officer or employee” for “an officer or employee” and “a present or retired member” for “a member”.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 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.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### SUBCHAPTER V—PROTECTION OF OPERATIONAL FILES

#### §3141. Operational files of the Central Intelligence Agency

##### (a) Exemption by Director of Central Intelligence Agency

The Director of the Central Intelligence Agency, with the coordination of the Director of National Intelligence, may exempt operational files of the Central Intelligence Agency from the provisions of section 552 of title 5 (Freedom of Information Act) which require publication or disclosure, or search or review in connection therewith.

##### (b) “Operational files” defined

In this section, the term “operational files” means—