

to result in abuse of a child in Indian country; and

(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be fined under this title or imprisoned for not more than 6 months or both.

(b) Any person who—

(1) supervises, or has authority over, a person described in subsection (a)(1), and

(2) inhibits or prevents that person from making the report described in subsection (a), shall be fined under this title or imprisoned for not more than 6 months or both.

(c) For purposes of this section, the term—

(1) “abuse” includes—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(2) “child” means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) “local child protective services agency” means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

(4) “local law enforcement agency” means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.

(Added Pub. L. 101-630, title IV, §404(a)(1), Nov. 28, 1990, 104 Stat. 4547; amended Pub. L. 103-322, title XXXIII, §§330011(d), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2144, 2147; Pub. L. 104-294, title VI, §604(b)(25), Oct. 11, 1996, 110 Stat. 3508.)

AMENDMENTS

1996—Pub. L. 104-294 amended directory language of Pub. L. 103-322, §330011(d). See 1994 Amendment note below.

1994—Pub. L. 103-322, §330011(d), as amended by Pub. L. 104-294, amended directory language of Pub. L. 101-630, §404(a)(1), which enacted this section.

Subsecs. (a), (b). Pub. L. 103-322, §330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000” in concluding provisions.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, §330011(d), Sept. 13, 1994, 108 Stat. 2144, as amended by Pub. L. 104-294, title VI, §604(b)(25), Oct. 11, 1996, 110 Stat. 3508, provided that the amendment made by section 330011(d) is effective on the date section 404(a) of Pub. L. 101-630 took effect.

§ 1170. Illegal trafficking in Native American human remains and cultural items

(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.

(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be fined in accordance with this title, imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years, or both.

(Added Pub. L. 101-601, §4(a), Nov. 16, 1990, 104 Stat. 3052; amended Pub. L. 103-322, title XXXIII, §330010(4), Sept. 13, 1994, 108 Stat. 2143.)

REFERENCES IN TEXT

The Native American Graves Protection and Repatriation Act, referred to in text, is Pub. L. 101-601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

AMENDMENTS

1994—Pub. L. 103-322 substituted “Illegal trafficking in Native American human remains and cultural items” for “Illegal Trafficking in Native American Human Remains and Cultural Items” in section catchline.

CHAPTER 55—KIDNAPPING

Sec.	Kidnapping.
1201.	Ransom money.
1202.	Hostage taking.
1203.	International parental kidnapping.
1204.	

AMENDMENTS

1994—Pub. L. 103-322, title XXXIII, §330021(1), Sept. 13, 1994, 108 Stat. 2150, which directed the amendment of this title by “striking ‘kidnaping’ each place it appears and inserting ‘kidnapping’”, was executed by substituting “KIDNAPPING” for “KIDNAPING” in chapter heading and “Kidnapping” for “Kidnaping” in item 1201, to reflect the probable intent of Congress.

1993—Pub. L. 103-173, §2(c), Dec. 2, 1993, 107 Stat. 1999, added item 1204.

1984—Pub. L. 98-473, title II, §2002(b), Oct. 12, 1984, 98 Stat. 2186, added item 1203.

1972—Pub. L. 92-539, title II, §202, Oct. 24, 1972, 86 Stat. 1072, substituted “Kidnaping” for “Transportation” in item 1201.

§ 1201. Kidnapping

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away

and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

(2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;

(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties,

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d) Whoever attempts to violate subsection (a) shall be punished by imprisonment for not more than twenty years.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49. For purposes of this subsection, the term “national of the United States” has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(f) In the course of enforcement of subsection (a)(4) and any other sections prohibiting a con-

spiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

(1) TO WHOM APPLICABLE.—If—

(A) the victim of an offense under this section has not attained the age of eighteen years; and

(B) the offender—

(i) has attained such age; and

(ii) is not—

(I) a parent;

(II) a grandparent;

(III) a brother;

(IV) a sister;

(V) an aunt;

(VI) an uncle; or

(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall include imprisonment for not less than 20 years.

[(2) Repealed. Pub. L. 108-21, title I, §104(b), Apr. 30, 2003, 117 Stat. 653.]

(h) As used in this section, the term “parent” does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.

(June 25, 1948, ch. 645, 62 Stat. 760; Aug. 6, 1956, ch. 971, 70 Stat. 1043; Pub. L. 92-539, title II, §201, Oct. 24, 1972, 86 Stat. 1072; Pub. L. 94-467, §4, Oct. 8, 1976, 90 Stat. 1998; Pub. L. 95-163, §17(b)(1), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95-504, §2(b), Oct. 24, 1978, 92 Stat. 1705; Pub. L. 98-473, title II, §1007, Oct. 12, 1984, 98 Stat. 2139; Pub. L. 99-646, §§36, 37(b), Nov. 10, 1986, 100 Stat. 3599; Pub. L. 101-647, title IV, §401, title XXXV, §3538, Nov. 29, 1990, 104 Stat. 4819, 4925; Pub. L. 103-272, §5(e)(2), (8), July 5, 1994, 108 Stat. 1373, 1374; Pub. L. 103-322, title VI, §60003(a)(6), title XXXII, §320903(b), 320924, title XXXIII, §330021, Sept. 13, 1994, 108 Stat. 1969, 2124, 2131, 2150; Pub. L. 104-132, title VII, §721(f), Apr. 24, 1996, 110 Stat. 1299; Pub. L. 105-314, title VII, §702, Oct. 30, 1998, 112 Stat. 2987; Pub. L. 108-21, title I, §104(b), Apr. 30, 2003, 117 Stat. 653; Pub. L. 109-248, title II, §213, July 27, 2006, 120 Stat. 616.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§408a, 408c (June 22, 1932, ch. 271, §§1, 3, 47 Stat. 326; May 18, 1934, ch. 301, 48 Stat. 781, 782).

Section consolidates sections 408a and 408c of title 18 U.S.C., 1940 ed.

Reference to persons aiding, abetting or causing was omitted as unnecessary because such persons are made principals by section 22 of this title.

Words “upon conviction” were omitted as surplusage, because punishment cannot be imposed until a conviction is secured.

Direction as to confinement “in the penitentiary” was omitted because of section 4082 of this title which commits all prisoners to the custody of the Attorney General. (See reviser’s note under section 1 of this title.)

The phrase “for any term of years or for life” was substituted for the words “for such term of years as the

court in its discretion shall determine” which appeared in said section 408a of Title 18, U.S.C., 1940 ed. This change was made in order to remove all doubt as to whether “term of years” includes life imprisonment.

Minor changes were made in phraseology.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109-248, §213(1), substituted “, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense” for “if the person was alive when the transportation began”.

Subsec. (b). Pub. L. 109-248, §213(2), substituted “in interstate” for “to interstate”.

2003—Subsec. (g). Pub. L. 108-21 substituted “shall include imprisonment for not less than 20 years.” for “shall be subject to paragraph (2) of this subsection.” in concluding provisions of par. (1) and struck out par. (2) which read as follows:

“(2) GUIDELINES.—The United States Sentencing Commission is directed to amend the existing guidelines for the offense of ‘kidnapping, abduction, or unlawful restraint,’ by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any of the conduct specified in this section by another person, then increase by 2 levels.”

1998—Subsec. (a)(1). Pub. L. 105-314, §702(a), inserted “, regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began” before semicolon at end.

Subsec. (a)(5). Pub. L. 105-314, §702(b), substituted “described” for “designated”.

Subsec. (b). Pub. L. 105-314, §702(c), inserted at end “Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.”

1996—Subsec. (e). Pub. L. 104-132 substituted “If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.” for “If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.” and inserted at end “For purposes of this subsection, the term ‘national of the United States’ has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).”

1994—Pub. L. 103-322, §330021(1), which directed the amendment of this title “by striking ‘kidnaping’ each place it appears and inserting ‘kidnapping’”, was executed by substituting “Kidnapping” for “Kidnaping” as section catchline, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-322, §60003(a)(6), in concluding provisions, inserted “and, if the death of any person results, shall be punished by death or life imprisonment” after “or for life”.

Subsec. (a)(3). Pub. L. 103-272, §5(e)(8), substituted “section 46501 of title 49” for “section 101(38) of the Federal Aviation Act of 1958”.

Subsec. (b). Pub. L. 103-322, §330021(2), substituted “kidnapped” for “kidnaped”.

Subsec. (d). Pub. L. 103-322, §320903(b), substituted “(a)” for “(a)(4) or (a)(5)”.

Subsec. (e). Pub. L. 103-272, §5(e)(2), substituted “section 46501(2) of title 49” for “section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))”.

Subsec. (h). Pub. L. 103-322, §320924, added subsec. (h). 1990—Subsec. (a)(3). Pub. L. 101-647, §3538, substituted “101(38)” for “101(36)” and struck out “, as amended (49 U.S.C. 1301(36))” after “Federal Aviation Act of 1958”.

Subsec. (g). Pub. L. 101-647, §401, added subsec. (g). 1986—Subsec. (a). Pub. L. 99-646, §36, substituted “when—” for “when:” in introductory text, substituted “the person” for “The person” and “official duties” for “his official duties” in par. (5), and aligned the margin of par. (5) with the margins of pars. (1) to (4).

Subsec. (d). Pub. L. 99-646, §37(b), inserted “or (a)(5)” after “subsection (a)(4)”.

1984—Subsec. (a)(5). Pub. L. 98-473 added par. (5).

1978—Subsec. (a)(3). Pub. L. 95-504 substituted reference to section 101(36) of the Federal Aviation Act of 1958 for reference to section 101(33) of such Act. See References in Text note above.

Subsec. (e). Pub. L. 95-504 substituted reference to section 101(38) of the Federal Aviation Act of 1958 for section 101(35) of such Act.

1977—Subsec. (a)(3). Pub. L. 95-163 substituted reference to section 101(33) of the Federal Aviation Act of 1958 for reference to section 101(32) of such Act. See References in Text note above.

Subsec. (e). Pub. L. 95-163 substituted reference to section 101(35) of the Federal Aviation Act of 1958 for reference to section 101(34) of such Act.

1976—Subsec. (a)(4). Pub. L. 94-467, §4(a), substituted provision which includes acts committed against an internationally protected person and an official guest as defined in section 1116(b) of this title for provision which included acts committed against an official guest as defined in section 1116(c) of this title.

Subsecs. (d) to (f). Pub. L. 94-467, §4(b), added subsecs. (d) to (f).

1972—Subsec. (a). Pub. L. 92-539 substituted “Kidnaping” for “Transportation” in section catchline and, in subsec. (a), extended the jurisdictional base to include acts committed within the special maritime, territorial, and aircraft jurisdiction of the United States, and to include acts committed against foreign officials and official guests, and struck out provisions relating to death penalty.

Subsec. (b). Pub. L. 92-539 inserted reference to subsec. (a)(1).

Subsec. (c). Pub. L. 92-539 substituted “by imprisonment for any term of years or for life” for “as provided in subsection (a)”.

1956—Subsec. (b). Act Aug. 6, 1956, substituted “twenty-four hours” for “seven days”.

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-173, §1, Dec. 2, 1993, 107 Stat. 1998, provided that: “This Act [enacting section 1204 of this title and provisions set out as a note under section 1204 of this title] may be cited as the ‘International Parental Kidnapping Crime Act of 1993’.”

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-473, title II, §2001, Oct. 12, 1984, 98 Stat. 2186, provided that: “This part [part A (§§2001-2003) of chapter XX of title II of Pub. L. 98-473, enacting section 1203 of this title and provisions set out as a note under section 1203 of this title] may be cited as the ‘Act for the Prevention and Punishment of the Crime of Hostage-Taking’.”

§ 1202. Ransom money

(a) Whoever receives, possesses, or disposes of any money or other property, or any portion