

CODIFICATION

Another section 1118 was renumbered section 1122 of this title.

§ 1119. Foreign murder of United States nationals

(a) DEFINITION.—In this section, “national of the United States” has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person’s return. A determination by the Attorney General under this paragraph is not subject to judicial review.

(Added Pub. L. 103-322, title VI, §60009(a), Sept. 13, 1994, 108 Stat. 1972.)

§ 1120. Murder by escaped prisoners

(a) DEFINITION.—In this section, “Federal correctional institution” and “term of life imprisonment” have the meanings stated in section 1118.

(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal correctional institution where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.

(Added Pub. L. 103-322, title VI, §60012(a), Sept. 13, 1994, 108 Stat. 1973; amended Pub. L. 104-294, title VI, §601(c)(2), Oct. 11, 1996, 110 Stat. 3499.)

AMENDMENTS

1996—Subsecs. (a), (b). Pub. L. 104-294 substituted “Federal correctional institution” for “Federal prison”.

§ 1121. Killing persons aiding Federal investigations or State correctional officers

(a) Whoever intentionally kills—

(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

(A) while the victim is engaged in the performance of official duties;

(B) because of the performance of the victim’s official duties; or

(C) because of the victim’s status as a public servant; or

(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111, including by sentence of death or by imprisonment for life.

(b)(1) Whoever, in a circumstance described in paragraph (3) of this subsection, while incarcerated, intentionally kills any State correctional officer engaged in, or on account of the performance of such officer’s official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

(2) As used in this section, the term, “State correctional officer” includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

(3) The circumstance referred to in paragraph (1) is that—

(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.

(c) For the purposes of this section, the term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 103-322, title VI, §60015(a), Sept. 13, 1994, 108 Stat. 1974; amended Pub. L. 104-294, title VI, §607(k), Oct. 11, 1996, 110 Stat. 3512.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-294 added subsec. (c).

§ 1122. Protection against the human immunodeficiency virus

(a) IN GENERAL.—Whoever, after testing positive for the Human Immunodeficiency Virus (HIV) and receiving actual notice of that fact, knowingly donates or sells, or knowingly attempts to donate or sell, blood, semen, tissues, organs, or other bodily fluids for use by another, except as determined necessary for medical research or testing or in accordance with all applicable guidelines and regulations made by the Secretary of Health and Human Services under section 377E of the Public Health Service Act, shall be fined or imprisoned in accordance with subsection (c).

(b) TRANSMISSION NOT REQUIRED.—Transmission of the Human Immunodeficiency Virus does not have to occur for a person to be convicted of a violation of this section.

(c) PENALTY.—Any person convicted of violating the provisions of subsection (a) shall be subject to a fine under this title of not less than \$10,000, imprisoned for not less than 1 year nor more than 10 years, or both.

(Added Pub. L. 103-333, title V, §514, Sept. 30, 1994, 108 Stat. 2574, §1118; renumbered §1122 and amended Pub. L. 104-294, title VI, §601(a)(5), Oct.

11, 1996, 110 Stat. 3498; Pub. L. 113-51, §3, Nov. 21, 2013, 127 Stat. 581.)

REFERENCES IN TEXT

Section 377E of the Public Health Service Act, referred to in subsec. (a), is classified to section 274f-5 of Title 42, The Public Health and Welfare.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-51 inserted “or in accordance with all applicable guidelines and regulations made by the Secretary of Health and Human Services under section 377E of the Public Health Service Act” after “research or testing”.

1996—Pub. L. 104-294, §601(a)(5)(A), renumbered section 1118, relating to protection against human immunodeficiency virus, as this section.

Subsec. (c). Pub. L. 104-294, §601(a)(5)(B), inserted “under this title” after “fine” and struck out “nor more than \$20,000” after “\$10,000”.

CHAPTER 53—INDIANS

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

AMENDMENTS

1996—Pub. L. 104-294, title VI, §604(b)(26), Oct. 11, 1996, 110 Stat. 3508, directed that item 1169 be transferred to appear after item 1168.

Pub. L. 104-294, title VI, §604(b)(25), Oct. 11, 1996, 110 Stat. 3508, amended directory language of Pub. L. 103-322, §330011(d), which amended Pub. L. 101-630, §404(a)(2). See 1990 Amendment note below.

1994—Pub. L. 103-322, title XXXIII, §330010(5), Sept. 13, 1994, 108 Stat. 2143, substituted “Illegal trafficking in Native American human remains and cultural items” for “Illegal Trafficking in Native American Human Remains and Cultural Items” in item 1170.

1990—Pub. L. 101-647, title XXXV, §3536, Nov. 29, 1990, 104 Stat. 4925, struck out item 1157 “Livestock sold or removed”.

Pub. L. 101-644, title I, §104(b), Nov. 29, 1990, 104 Stat. 4663, substituted “Misrepresentation of Indian produced goods and products” for “Misrepresentation in sale of products” in item 1159.

Pub. L. 101-630, title IV, §404(a)(2), Nov. 28, 1990, 104 Stat. 4548, as amended, effective on the date section 404(a)(2) of Pub. L. 101-630 took effect, by 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, added item 1169.

Pub. L. 101-601, §4(b), Nov. 16, 1990, 104 Stat. 3052, added item 1170.

1988—Pub. L. 100-497, §24, Oct. 17, 1988, 102 Stat. 2488, added items 1166, 1167, and 1168.

1960—Pub. L. 86-634, §3, July 12, 1960, 74 Stat. 469, added items 1164 and 1165.

1956—Act Aug. 1, 1956, ch. 822, §1, 70 Stat. 792, added item 1163.

1953—Act Aug. 15, 1953, ch. 502, §1, 67 Stat. 586, added item 1161.

Act Aug. 15, 1953, ch. 505, §1, 67 Stat. 588, added item 1162.

§ 1151. Indian country defined

Except as otherwise provided in sections 1154 and 1156 of this title, the term “Indian country”, as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(June 25, 1948, ch. 645, 62 Stat. 757; May 24, 1949, ch. 139, §25, 63 Stat. 94.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 548 and 549 of title 18, and sections 212, 213, 215, 217, 218 of title 25, Indians, U.S. Code, 1940 ed. (R.S. §§2142, 2143, 2144, 2145, 2146; Feb. 18, 1875, ch. 80, §1, 18 Stat. 318; Mar. 4, 1909, ch. 321, §§328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

This section consolidates numerous conflicting and inconsistent provisions of law into a concise statement of the applicable law.

R.S. §§2145, 2146 (U.S.C., title 25, §§217, 218) extended to the Indian country with notable exceptions the criminal laws of the United States applicable to places within the exclusive jurisdiction of the United States. Crimes of Indians against Indians, and crimes punishable by tribal law were excluded.

The confusion was not lessened by the cases of *U.S. v. McBratney*, 104 U.S. 622 and *Draper v. U.S.*, 17 S.Ct. 107, holding that crimes in Indian country by persons not Indians are not cognizable by Federal courts in absence of reservation or cession of exclusive jurisdiction applicable to places within the exclusive jurisdiction of the United States. Because of numerous statutes applicable only to Indians and prescribing punishment for crimes committed by Indians against Indians, “Indian country” was defined but once. (See act June 30, 1834, ch. 161, §1, 4, Stat. 729, which was later repealed.)

Definition is based on latest construction of the term by the United States Supreme Court in *U.S. v. McGowan*, 58 S.Ct. 286, 302 U.S. 535, following *U.S. v. Sandoval*, 34 S.Ct. 1, 5, 231 U.S. 28, 46. (See also *Donnelly v. U.S.*, 33 S.Ct. 449, 228 U.S. 243; and *Kills Plenty v. U.S.*, 133 F.2d 292, certiorari denied, 1943, 63 S.Ct. 1172). (See reviser’s note under section 1153 of this title.)

Indian allotments were included in the definition on authority of the case of *U.S. v. Pelican*, 1913, 34 S.Ct. 396, 232 U.S. 442, 58 L.Ed. 676.

1949 ACT

This section [section 25], by adding to section 1151 of title 18, U.S.C., the phrase “except as otherwise provided in sections 1154 and 1156 of this title”, incorporates in this section the limitations of the term “Indian country” which are added to sections 1154 and 1156 by sections 27 and 28 of this bill.