

§ 3041. Power of courts and magistrates

For any offense against the United States, the offender may, by any justice or judge of the United States, or by any United States magistrate judge, or by any chancellor, judge of a supreme or superior court, chief or first judge of the common pleas, mayor of a city, justice of the peace, or other magistrate, of any state where the offender may be found, and at the expense of the United States, be arrested and imprisoned or released as provided in chapter 207 of this title, as the case may be, for trial before such court of the United States as by law has cognizance of the offense. Copies of the process shall be returned as speedily as may be into the office of the clerk of such court, together with the recognizances of the witnesses for their appearances to testify in the case.

A United States judge or magistrate judge shall proceed under this section according to rules promulgated by the Supreme Court of the United States. Any state judge or magistrate acting hereunder may proceed according to the usual mode of procedure of his state but his acts and orders shall have no effect beyond determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial or to discharge him from arrest.

(June 25, 1948, ch. 645, 62 Stat. 815; Pub. L. 89-465, §5(a), June 22, 1966, 80 Stat. 217; Pub. L. 90-578, title III, §301(a)(1), (3), Oct. 17, 1968, 82 Stat. 1115; Pub. L. 98-473, title II, §204(a), Oct. 12, 1984, 98 Stat. 1985; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §591 (R.S. §1014; May 28, 1896, ch. 252, §19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956).

This section was completely rewritten to omit all provisions superseded by Federal Rules of Criminal Procedure, rules 3, 4, 5, 40 and 54(a) which prescribed the procedure for preliminary proceedings and examinations before United States judges and commissioners and for removal proceedings but not for preliminary examinations before State magistrates.

AMENDMENTS

1984—Pub. L. 98-473 substituted “determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial” for “determining to hold the prisoner for trial”.

1968—Pub. L. 90-578 substituted “United States magistrate” and “magistrate” for “United States commissioner” and “commissioner”, respectively.

1966—Pub. L. 89-465 substituted “or released as provided in chapter 207 of this title” for “or bailed”.

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub.

L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-465 effective ninety days after June 22, 1966, see section 6 of Pub. L. 89-465, set out as an Effective Date note under section 3146 of this title.

§ 3042. Extraterritorial jurisdiction

Section 3041 of this title shall apply in any country where the United States exercises extraterritorial jurisdiction for the arrest and removal therefrom to the United States of any citizen or national of the United States who is a fugitive from justice charged with or convicted of the commission of any offense against the United States, and shall also apply throughout the United States for the arrest and removal therefrom to the jurisdiction of any officer or representative of the United States vested with judicial authority in any country in which the United States exercises extraterritorial jurisdiction, of any citizen or national of the United States who is a fugitive from justice charged with or convicted of the commission of any offense against the United States in any country where it exercises extraterritorial jurisdiction.

Such fugitive first mentioned may, by any officer or representative of the United States vested with judicial authority in any country in which the United States exercises extraterritorial jurisdiction and agreeably to the usual mode of process against offenders subject to such jurisdiction, be arrested and detained or conditionally released pursuant to section 3142 of this title, as the case may be, pending the issuance of a warrant for his removal, which warrant the principal officer or representative of the United States vested with judicial authority in the country where the fugitive shall be found shall seasonably issue, and the United States marshal or corresponding officer shall execute.

Such marshal or other officer, or the deputies of such marshal or officer, when engaged in executing such warrant without the jurisdiction of the court to which they are attached, shall have all the powers of a marshal of the United States so far as such powers are requisite for the prisoner's safekeeping and the execution of the warrant.

(June 25, 1948, ch. 645, 62 Stat. 815; Pub. L. 98-473, title II, §204(b), Oct. 12, 1984, 98 Stat. 1985.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §662b (Mar. 22, 1934, ch. 73, §1, 48 Stat. 454).

Words “crime or” before “offense” were omitted as unnecessary.

Words “and the Philippine Islands” were deleted in two places as obsolete in view of the independence of the Commonwealth of the Philippines effective July 4, 1946.

Words “its Territories, Districts, or possessions, including the Panama Canal Zone or any other territory governed, occupied, or controlled by it” were omitted as covered by section 5 of this title defining the term “United States”.

Minor changes were made in phraseology.

AMENDMENTS

1984—Pub. L. 98-473 substituted “detained or conditionally released pursuant to section 3142 of this title” for “imprisoned or admitted to bail”.