

(c) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement to appear or surrender, and that the person appeared or surrendered as soon as such circumstances ceased to exist.

(d) **DECLARATION OF FORFEITURE.**—If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) of this title or is subject to the release condition set forth in clause (xi) or (xii) of section 3142(c)(1)(B) of this title, the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

(Added Pub. L. 98-473, title II, §203(a), Oct. 12, 1984, 98 Stat. 1982; amended Pub. L. 99-646, §55(f), Nov. 10, 1986, 100 Stat. 3609; Pub. L. 103-322, title XXXIII, §330016(2)(K), Sept. 13, 1994, 108 Stat. 2148; Pub. L. 104-294, title VI, §601(a)(4), Oct. 11, 1996, 110 Stat. 3498.)

#### PRIOR PROVISIONS

A prior section 3146, added Pub. L. 89-465, §3(a), June 22, 1966, 80 Stat. 214; amended Pub. L. 97-291, §8, Oct. 12, 1982, 96 Stat. 1257, related to release in noncapital cases prior to trial, prior to repeal in the revision of this chapter by section 203(a) of Pub. L. 98-473.

Another prior section 3146, act Aug. 20, 1954, ch. 772, §1, 68 Stat. 747, which prescribed penalties for jumping bail, was repealed by Pub. L. 89-465, §3(a), June 22, 1966, 80 Stat. 214, and covered by former sections 3150 and 3151 of this title.

#### AMENDMENTS

1996—Subsec. (b)(1)(A)(iv). Pub. L. 104-294 substituted “a fine under this title” for “a fined under this title”.

1994—Subsec. (b)(1)(A)(iv). Pub. L. 103-322 substituted “fined under this title” for “fine under this chapter”.

1986—Subsec. (a). Pub. L. 99-646, §55(f)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: “A person commits an offense if, after having been released pursuant to this chapter—

“(1) he knowingly fails to appear before a court as required by the conditions of his release; or

“(2) he knowingly fails to surrender for service of sentence pursuant to a court order.”

Subsec. (b). Pub. L. 99-646, §55(f)(1), added subsec. (b) and struck out former subsec. (b) which was captioned “Grading”, and which read as follows: “If the person was released—

“(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

“(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than \$25,000 or imprisoned for not more than ten years, or both;

“(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than \$10,000 or imprisoned for not more than five years, or both;

“(C) any other felony, he shall be fined not more than \$5,000 or imprisoned for not more than two years, or both; or

“(D) a misdemeanor, he shall be fined not more than \$2,000 or imprisoned for not more than one year, or both; or

“(2) for appearance as a material witness, he shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.”

Subsec. (c). Pub. L. 99-646, §55(f)(2), substituted “requirement to appear” for “requirement that he appear” and “the person appeared” for “he appeared”.

Subsec. (d). Pub. L. 99-646, §55(f)(3), inserted “of this title” after “3142(b)” and substituted “clause (xi) or (xii) of section 3142(c)(1)(B) of this title” for “section 3142(c)(2)(K) or (c)(2)(L)”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

### § 3147. Penalty for an offense committed while on release

A person convicted of an offense committed while released under this chapter shall be sentenced, in addition to the sentence prescribed for the offense, to—

(1) a term of imprisonment of not more than ten years if the offense is a felony; or

(2) a term of imprisonment of not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed under this section shall be consecutive to any other sentence of imprisonment.

(Added Pub. L. 98-473, title II, §203(a), Oct. 12, 1984, 98 Stat. 1983; amended Pub. L. 98-473, title II, §223(g), Oct. 12, 1984, 98 Stat. 2028; Pub. L. 99-646, §55(g), Nov. 10, 1986, 100 Stat. 3610.)

#### PRIOR PROVISIONS

A prior section 3147, added Pub. L. 89-465, §3(a), June 22, 1966, 80 Stat. 215, related to appeals from conditions of release, prior to repeal in the revision of this chapter by section 203(a) of Pub. L. 98-473.

#### AMENDMENTS

1986—Pub. L. 99-646 substituted “under” for “pursuant to” in two places and “for the offense,” for “for the offense”.

1984—Pub. L. 98-473, §223(g), struck out “not less than two years and” after “imprisonment of” in par. (1), and “not less than ninety days and” after “imprisonment of” in par. (2).

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

### § 3148. Sanctions for violation of a release condition

(a) **AVAILABLE SANCTIONS.**—A person who has been released under section 3142 of this title, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

(b) **REVOCAION OF RELEASE.**—The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer

may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which such person's arrest was ordered for a proceeding in accordance with this section. To the extent practicable, a person charged with violating the condition of release that such person not commit a Federal, State, or local crime during the period of release, shall be brought before the judicial officer who ordered the release and whose order is alleged to have been violated. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

(1) finds that there is—

(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

(B) clear and convincing evidence that the person has violated any other condition of release; and

(2) finds that—

(A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, the judicial officer shall treat the person in accordance with the provisions of section 3142 of this title and may amend the conditions of release accordingly.

(c) PROSECUTION FOR CONTEMPT.—The judicial officer may commence a prosecution for contempt, under section 401 of this title, if the person has violated a condition of release.

(Added Pub. L. 98-473, title II, §203(a), Oct. 12, 1984, 98 Stat. 1983; amended Pub. L. 99-646, §55(a), (h), Nov. 10, 1986, 100 Stat. 3607, 3610.)

#### PRIOR PROVISIONS

A prior section 3148, added Pub. L. 89-465, §3(a), June 22, 1966, 80 Stat. 215; amended Pub. L. 91-452, title X, §1002, Oct. 12, 1970, 84 Stat. 952, related to release in capital cases or after conviction, prior to repeal in the revision of this chapter by section 203(a) of Pub. L. 98-473.

#### AMENDMENTS

1986—Subsec. (a). Pub. L. 99-646, §55(a), (h)(1), substituted “under section 3142 of this title” for “pursuant to the provisions of section 3142”.

Subsec. (b). Pub. L. 99-646, §55(h)(2), in introductory provision, substituted “such person's arrest” for “his arrest”, “condition of release that such person not commit” for “condition of his release that he not commit”, and “period of release,” for “period of release”,

in par. (1)(B) substituted “condition of release” for “condition of his release”, in par. (2)(A) inserted “of this title” after “section 3142(g)”, and in concluding provision, substituted “the judicial officer shall” for “he shall” and inserted “of this title” after “section 3142”.

Subsec. (c). Pub. L. 99-646, §55(a), (h)(3), substituted “judicial officer” for “judge”, “under section 401 of this title” for “pursuant to the provisions of section 401”, and “condition of release” for “condition of his release”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-646 effective 30 days after Nov. 10, 1986, see section 55(j) of Pub. L. 99-646, set out as a note under section 3141 of this title.

#### § 3149. Surrender of an offender by a surety

A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with the provisions of section 3148(b) whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of Rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this chapter or another provision of law.

(Added Pub. L. 98-473, title II, §203(a), Oct. 12, 1984, 98 Stat. 1984.)

#### PRIOR PROVISIONS

A prior section 3149, added Pub. L. 89-465, §3(a), June 22, 1966, 80 Stat. 216, related to release of material witnesses, prior to repeal in the revision of this chapter by section 203(a) of Pub. L. 98-473.

#### § 3150. Applicability to a case removed from a State court

The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.

(Added Pub. L. 98-473, title II, §203(a), Oct. 12, 1984, 98 Stat. 1984.)

#### PRIOR PROVISIONS

A prior section 3150, added Pub. L. 89-465, §3(a), June 22, 1966, 80 Stat. 216, related to penalties for failure to appear, prior to repeal in the revision of this chapter by section 203(a) of Pub. L. 98-473.

#### [§ 3150a. Repealed. Pub. L. 98-473, title II, § 203(a), Oct. 12, 1984, 98 Stat. 1976]

Section, added Pub. L. 97-258, §2(d)(3)(B), Sept. 13, 1982, 96 Stat. 1059; amended Pub. L. 98-473, title II, §1410, Oct. 12, 1984, 98 Stat. 2178, related to refund of forfeited bail. Section 1410 of Pub. L. 98-473 was subsequently repealed by Pub. L. 99-646, §49, Nov. 10, 1986, 100 Stat. 3605.

#### § 3151. Refund of forfeited bail

Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.