

1949 ACT

This section clarifies the meaning of subsection (c) of section 2101 of title 28, U.S.C. At present, such subsection, after the words, "ninety days after entry of such judgment or decree", reads, "unless, upon application for writ of certiorari, for good cause, the Supreme Court or a justice thereof allows an additional time not exceeding sixty days."

The new subsection (d) of section 2101 supplies an omission in revised title 28, U.S.C., and confirms the authority of the Supreme Court to regulate the time for seeking review of State criminal cases.

The other amendment merely renumbers subsections (d) and (e) of such section 2101 as subsections (e) and (f), respectively.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103-337 substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

1988—Subsec. (a). Pub. L. 100-352 substituted "section 1253" for "sections 1252, 1253, and 2282".

1983—Subsec. (g). Pub. L. 98-209 added subsec. (g).

1949—Subsec. (c). Act May 24, 1949, §106(a), clarified the allowance of an additional 60 days in which to apply for a writ of certiorari.

Subsecs. (d) to (f). Act May 24, 1949, §106(b), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective on first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98-209, set out as a note under section 801 of Title 10, Armed Forces.

§ 2102. Priority of criminal case on appeal from State court

Criminal cases on review from State courts shall have priority, on the docket of the Supreme Court, over all cases except cases to which the United States is a party and such other cases as the court may decide to be of public importance.

(June 25, 1948, ch. 646, 62 Stat. 962.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §351 (Mar. 3, 1911, ch. 231, §253, 36 Stat. 1160; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54).

Changes were made in phraseology.

[§ 2103. Repealed. Pub. L. 100-352, § 5(c), June 27, 1988, 102 Stat. 663]

Section, acts June 25, 1948, ch. 646, 62 Stat. 962; Sept. 19, 1962, Pub. L. 87-669, §1, 76 Stat. 556, provided that appeal from State court or from a United States court of appeals imprudently taken be regarded as petition for writ of certiorari.

EFFECTIVE DATE OF REPEAL

Repeal effective ninety days after June 27, 1988, except that such repeal not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered into before such effective date,

see section 7 of Pub. L. 100-352, set out as a note under section 1254 of this title.

§ 2104. Reviews of State court decisions

A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 962; Pub. L. 100-352, §5(d)(1), June 27, 1988, 102 Stat. 663.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §871 (R.S., §1003).

Words "An appeal to" were substituted for "writs of error from", in view of the abolition of the writ of error.

Changes were made in phraseology.

AMENDMENTS

1988—Pub. L. 100-352 substituted "Reviews of State court decisions" for "Appeals from State courts" in section catchline and amended text generally. Prior to amendment, text read as follows: "An appeal to the Supreme Court from a State court shall be taken in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree appealed from had been rendered in a court of the United States."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of this title.

§ 2105. Scope of review; abatement

There shall be no reversal in the Supreme Court or a court of appeals for error in ruling upon matters in abatement which do not involve jurisdiction.

(June 25, 1948, ch. 646, 62 Stat. 963.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §879 (R.S. §1011; Feb. 18, 1875, ch. 80, §1, 18 Stat. 318).

The revised language is substituted for the provisions of section 879 of title 28, U.S.C., 1940 ed., to avoid any construction that matters of fact are not reviewable in nonjury cases. Such section 879 related to review upon a writ of error which applied only to actions at law. (See Rule 52(a) of the Federal Rules of Civil Procedure limiting the review of questions of fact which renders unnecessary any statutory limitation.)

Rule 7(c) of the Federal Rules of Civil Procedure abolished all pleas, and the rules adopted the motion as a substitute therefor.

Words "matters in abatement" were, therefore, substituted for the abolished "plea in abatement" and "plea to the jurisdiction."

Changes were made in phraseology.

§ 2106. Determination

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.