

1954—Act Aug. 20, 1954, increased the penalty from 6 months to 1 year where the violator harbored a person for whom process has been issued on a misdemeanor charge and inserted the penalty provision where the violation occurred after a person has been convicted of any offense or where a process has been issued for a felony.

### § 1072. Concealing escaped prisoner

Whoever willfully harbors or conceals any prisoner after his escape from the custody of the Attorney General or from a Federal penal or correctional institution, shall be imprisoned not more than three years.

(June 25, 1948, ch. 645, 62 Stat. 755.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§753i, 910 (May 14, 1930, ch. 274, §10, 46 Stat. 327; May 27, 1930, ch. 339, §10, 46 Stat. 390).

Section consolidates similar language of said sections of title 18, U.S.C., 1940 ed. Remaining provisions are in section 752 of this title.

Words "willfully harbors" were added in conformity with section 1071 of this title. Punishment for harboring violators of the Espionage laws is provided in section 792 of this title. Punishment for harboring deserters from the armed forces is provided in section 1381 of this title.

Minor changes were made in phraseology.

### § 1073. Flight to avoid prosecution or giving testimony

Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, is charged, or (3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities, shall be fined under this title or imprisoned not more than five years, or both. For the purposes of clause (3) of this paragraph, the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed, and only upon formal approval in writing by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated.

(June 25, 1948, ch. 645, 62 Stat. 755; Apr. 6, 1956, ch. 177, §1, 70 Stat. 100; Pub. L. 87-368, Oct. 4,

1961, 75 Stat. 795; Pub. L. 91-452, title III, §302, Oct. 15, 1970, 84 Stat. 932; Pub. L. 100-690, title VII, §7020(b), Nov. 18, 1988, 102 Stat. 4396; Pub. L. 103-322, title XXXIII, §§330004(19), 330016(1)(K), Sept. 13, 1994, 108 Stat. 2142, 2147; Pub. L. 104-294, title VI, §607(e), Oct. 11, 1996, 110 Stat. 3511.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §408e (May 18, 1934, ch. 302, 48 Stat. 782; Aug. 2, 1946, ch. 735, 60 Stat. 789).

Said section 408e was rewritten and the phrase "offenses as they are defined either at common law or by the laws of the place from which the fugitive flees" were inserted to remove the ambiguity discussed in the opinion of the Circuit Court of Appeals, Third Circuit, in *Brandenburg v. U.S.*, decided September 6, 1944, not yet reported [144 F2d 656], reversing the conviction of the appellant. The court held that Congress intended the enumerated offenses to mean those as defined at common law. The effect of the rewritten section is to make the statute applicable whether the offense committed is one defined at common law or by the law of the state from which the fugitive flees.

The words "offense punishable by imprisonment in a penitentiary" were substituted for "felony" to make the statute uniformly applicable and to include crimes of the grade of felony even where, as in New Jersey, they are denominated as misdemeanor, high misdemeanor or otherwise.

Words "from any State, Territory, or possession of the United States or the District of Columbia" were omitted in view of definitive section 10 of this title.

Words "upon conviction thereof" were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

#### AMENDMENTS

1996—Pub. L. 104-294 inserted at end of first par. "For the purposes of clause (3) of this paragraph, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

1994—Pub. L. 103-322, §330016(1)(K), substituted "fined under this title" for "fined not more than \$5,000".

Pub. L. 103-322, §330004(19), struck out "or which, in the case of New Jersey, is a high misdemeanor under the laws of said State," before "or (2) to avoid" and "or which in the case of New Jersey, is a high misdemeanor under the laws of said State," before "is charged, or (3)".

1988—Pub. L. 100-690 inserted ", the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

1970—Pub. L. 91-452 inserted cl. (3) and ", or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed," after "in custody or confinement".

1961—Pub. L. 87-368 substituted "a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or which, in the case of New Jersey, is a high misdemeanor under the laws of said State" for "murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, arson punishable as a felony, or extortion accompanied by threats of violence, or attempt to commit any of the foregoing offenses as they are defined either at common law or by the laws of the place from which the fugitive flees", "death or which is a felony under the laws of such place, or which in the case of New Jersey, is a high misdemeanor under the laws of said State," for "imprisonment in a penitentiary", and required that prosecutions must be upon the formal written approval of the Attorney General or an Assistant Attorney General, which function may not be delegated.

1956—Act Apr. 6, 1956, inserted ", arson punishable as a felony" after "assault with a dangerous weapon".