

information relevant to the assassination of President John F. Kennedy consistent with the public interest.

“SEC. 11. RULES OF CONSTRUCTION.

“(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code [26 U.S.C. 6103]), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

“(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

“(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

“(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

“(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

“(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supercedes other rules only to the extent that it is inconsistent with such rules; and

“(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

“SEC. 12. TERMINATION OF EFFECT OF ACT.

“(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

“(b) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

“SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this Act \$1,600,000 for fiscal year 1998.

“(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Act.

“SEC. 14. SEVERABILITY.

“If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.”

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security,

and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

CLASSIFIED NATIONAL SECURITY INFORMATION

For provisions authorizing Archivist to review, downgrade, and declassify information of former Presidents under control of Archivist pursuant to this section, see Ex. Ord. No. 13526, § 3.5(b), Dec. 29, 2009, 75 F.R. 718, set out as a note under section 3161 of Title 50, War and National Defense.

**§ 2108. Responsibility for custody, use, and withdrawal of records**

(a) The Archivist shall be responsible for the custody, use, and withdrawal of records transferred to him. When records, the use of which is subject to statutory limitations and restrictions, are so transferred, permissive and restrictive statutory provisions with respect to the examination and use of records applicable to the head of the agency from which the records were transferred or to employees of that agency are applicable to the Archivist and to the employees of the National Archives and Records Administration, respectively. Except as provided in subsection (b) of this section, when the head of a Federal agency states, in writing, restrictions that appear to him to be necessary or desirable in the public interest with respect to the use or examination of records being considered for transfer from his custody to the Archivist, the Archivist shall, if he concurs,<sup>1</sup> impose such restrictions on the records so transferred, and may not relax or remove such restrictions without the written concurrence of the head of the agency from which the material was transferred, or of his successor in function, if any. In the event that a Federal agency is terminated and there is no successor in function, the Archivist is authorized to relax, remove, or impose restrictions on such agency's records when he determines that such action is in the public interest. Statutory and other restrictions referred to in this subsection shall remain in force until the records have been in existence for thirty years unless the Archivist by order, having consulted with the head of the transferring Federal agency or his successor in function, determines, with respect to specific bodies of records, that for reasons consistent with standards established in relevant statutory law, such restrictions shall remain in force for a longer period. Restriction on the use or examination of records deposited with the National Archives of the United States Act, approved June 19, 1934, shall continue in force regardless of the expiration of the tenure of office of the official who imposed them but may be removed or relaxed by the Archivist with the concurrence in writing of the head of the agency from which material was transferred or of his successor in function, if any.

(b) With regard to the census and survey records of the Bureau of the Census containing data identifying individuals enumerated in population censuses, any release pursuant to this section of such identifying information contained in such records shall be made by the Archivist pursuant to the specifications and agree-

<sup>1</sup> So in original.

ments set forth in the exchange of correspondence on or about the date of October 10, 1952, between the Director of the Bureau of the Census and the Archivist of the United States, together with all amendments thereto, now or hereafter entered into between the Director of the Bureau of the Census and the Archivist of the United States. Such amendments, if any, shall be published in the Register.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288, §2104; Pub. L. 95-416, §1(b), Oct. 5, 1978, 92 Stat. 915; renumbered § 2108 and amended Pub. L. 98-497, title I, §§ 102(a)(1), 107(a)(2), Oct. 19, 1984, 98 Stat. 2280, 2285.)

#### HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §397(b) (June 30, 1949, ch. 288, title V, §507, as added Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583).

#### REFERENCES IN TEXT

Section 3 of the National Archives Act, approved June 19, 1934, referred to in subsec. (a), was classified to section 300c of former Title 44, Public Printing and Documents, and was repealed by act June 30, 1949, ch. 288, title VI, §602(a)(32), renumbered and added Sept. 5, 1950, ch. 849, §7(d), 64 Stat. 590.

#### PRIOR PROVISIONS

A prior section 2108 was renumbered section 2112 of this title.

#### AMENDMENTS

1984—Subsec. (a). Pub. L. 98-497, §107(a)(2), substituted “the Archivist and to the employees of the National Archives and Records Administration” for “the Administrator, the Archivist of the United States, and to the employees of the General Services Administration”, struck out “and in consultation with the Archivist of the United States” before “impose such restrictions” in third sentence, struck out “the Archivist and” after “having consulted with” in fifth sentence, substituted “Archivist” for “Administrator of General Services” wherever appearing, and substituted “Archivist” for “Administrator” wherever appearing.

Subsec. (b). Pub. L. 98-497, §107(a)(2)(D), substituted “Archivist” for “Administrator of General Services”.

1978—Pub. L. 95-416 designated existing provisions as subsec. (a), inserted provisions permitting the Administrator to relax, remove, or impose restrictions in the public interest of records of agencies which have been terminated and requiring the Administrator with regard to duration of restrictions to consult with the Archivist and the head of the transferring Federal agency or his successor in function, and substituted “thirty years” for “fifty years”, and added subsec. (b).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-497 effective Apr. 1, 1985, see section 301 of Pub. L. 98-497, set out as a note under section 2102 of this title.

#### PROCEDURES TO PREVENT UNAUTHORIZED REMOVAL OF CLASSIFIED RECORDS FROM NATIONAL ARCHIVES

Pub. L. 113-187, §6, Nov. 26, 2014, 128 Stat. 2010, provided that:

“(a) CLASSIFIED RECORDS.—Not later than 90 days after the date of the enactment of this Act [Nov. 26, 2014], the Archivist shall prescribe internal procedures to prevent the unauthorized removal of classified records from the National Archives and Records Administration or the destruction or damage of such records, including when such records are accessed or searched electronically. Such procedures shall include, at a minimum, the following prohibitions:

“(1) An individual, other than covered personnel, may not view classified records in any room that is

not secure, except in the presence of National Archives and Records Administration personnel or under video surveillance.

“(2) An individual, other than covered personnel, may not be left alone with classified records, unless that individual is under video surveillance.

“(3) An individual, other than covered personnel, may not review classified records while possessing any cellular phone, electronic personal communication device, or any other devices capable of photographing, recording, or transferring images or content.

“(4) An individual seeking access to review classified records, as a precondition to such access, must consent to a search of their belongings upon conclusion of their records review.

“(5) All notes and other writings prepared by an individual, other than covered personnel, during the course of a review of classified records shall be retained by the National Archives and Records Administration in a secure facility until such notes and other writings are determined to be unclassified, are declassified, or are securely transferred to another secure facility.

“(b) DEFINITIONS.—In this section:

“(1) COVERED PERSONNEL.—The term ‘covered personnel’ means any individual—

“(A) who has an appropriate and necessary reason for accessing classified records, as determined by the Archivist; and

“(B) who is either—

“(i) an officer or employee of the United States Government with appropriate security clearances; or

“(ii) any personnel with appropriate security clearances of a Federal contractor authorized in writing to act for purposes of this section by an officer or employee of the United States Government.

“(2) RECORDS.—The term ‘records’ has the meaning given that term under section 3301 of title 44, United States Code.”

#### § 2109. Preservation, arrangement, duplication, exhibition of records

The Archivist shall provide for the preservation, arrangement, repair and rehabilitation, duplication and reproduction (including microcopy publications), description, and exhibition of records or other documentary material transferred to him as may be needful or appropriate, including the preparation and publication of inventories, indexes, catalogs, and other finding aids or guides to facilitate their use. He may also prepare guides and other finding aids to Federal records and, when approved by the National Historical Publications and Records Commission, publish such historical works and collections of sources as seem appropriate for printing or otherwise recording at the public expense.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1288, §2105; renumbered §2109 and amended Pub. L. 98-497, title I, §§ 102(a)(1), 107(a)(3), Oct. 19, 1984, 98 Stat. 2280, 2285.)

#### HISTORICAL AND REVISION NOTES

Based on 44 U.S. Code, 1964 ed., §397(c) (June 30, 1949, ch. 288, title V, §507, as added Sept. 5, 1950, ch. 849, §6(d), 64 Stat. 583; July 12, 1952, ch. 703, §1(o), 66 Stat. 594).

#### PRIOR PROVISIONS

A prior section 2109 was renumbered section 2113 of this title.