

shall be fined under this title or imprisoned not more than 6 months, or both.

(b) It is a defense to a prosecution under this section that the insignia or uniform is other than a counterfeit insignia or uniform and is not used to mislead or deceive, or is used or is intended to be used exclusively—

- (1) as a memento, or in a collection or exhibit;
- (2) for decorative purposes;
- (3) for a dramatic presentation, such as a theatrical, film, or television production; or
- (4) for any other recreational purpose.

(c) As used in this section—

(1) the term “genuine police badge” means an official badge issued by public authority to identify an individual as a law enforcement officer having police powers;

(2) the term “counterfeit police badge” means an item that so resembles a police badge that it would deceive an ordinary individual into believing it was a genuine police badge; and<sup>2</sup>

(3) the term “official insignia or uniform” means an article of distinctive clothing or insignia, including a badge, emblem or identification card, that is an indicium of the authority of a public employee;

(4) the term “public employee” means any officer or employee of the Federal Government or of a State or local government; and

(5) the term “uniform” means distinctive clothing or other items of dress, whether real or counterfeit, worn during the performance of official duties and which identifies the wearer as a public agency employee.

(d) It is a defense to a prosecution under this section that the official insignia or uniform is not used or intended to be used to mislead or deceive, or is a counterfeit insignia or uniform and is used or is intended to be used exclusively—

- (1) for a dramatic presentation, such as a theatrical, film, or television production; or
- (2) for legitimate law enforcement purposes.

(Added Pub. L. 106-547, §3(a), Dec. 19, 2000, 114 Stat. 2739; amended Pub. L. 109-162, title XI, §1191(a), Jan. 5, 2006, 119 Stat. 3128.)

#### Editorial Notes

##### AMENDMENTS

2006—Pub. L. 109-162, §1191(a)(6), substituted “Public employee insignia and uniform” for “Police badges” in section catchline.

Subsec. (a)(1). Pub. L. 109-162, §1191(a)(1), substituted “official insignia or uniform” for “police badge”.

Subsec. (a)(2). Pub. L. 109-162, §1191(a)(1), (2), substituted “official insignia or uniform to” for “police badge to” and “official insignia or uniform;” for “badge of the police;”.

Subsec. (a)(3). Pub. L. 109-162, §1191(a)(1), substituted “official insignia or uniform” for “police badge”.

Subsec. (a)(4). Pub. L. 109-162, §1191(a)(1), (2), substituted “official insignia or uniform under” for “police badge under” and “official insignia or uniform.” for “badge of the police.”.

Subsec. (b). Pub. L. 109-162, §1191(a)(3)(C), which directed the insertion of “is not used to mislead or deceive, or” before “is used or intended” was executed by making the insertion before “is used or is intended”, to reflect the probable intent of Congress.

<sup>2</sup> So in original. The word “and” probably should not appear.

Pub. L. 109-162, §1191(a)(3)(A), (B), substituted “the insignia or uniform” for “the badge” and inserted “is other than a counterfeit insignia or uniform and” before “is used or is intended to be used”.

Pub. L. 109-162, §1191(a)(1), which directed substitution of “official insignia or uniform” for “police badge” could not be executed because the term “police badge” did not appear.

Subsec. (c)(3) to (5). Pub. L. 109-162, §1191(a)(4), added pars. (3) to (5).

Subsec. (d). Pub. L. 109-162, §1191(a)(5), added subsec. (d).

#### CHAPTER 35—ESCAPE AND RESCUE

Sec.

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|--------|---|
| 751.   | Prisoners in custody of institution or officer. |
| 752.   | Instigating or assisting escape.                |
| 753.   | Rescue to prevent execution.                    |
| [754.] | Repealed.]                                      |
| 755.   | Officer permitting escape.                      |
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#### Editorial Notes

##### AMENDMENTS

1996—Pub. L. 104-208, div. C, title I, §108(b)(2), Sept. 30, 1996, 110 Stat. 3009-558, added item 758.

1994—Pub. L. 103-322, title XXXIII, §330004(5), Sept. 13, 1994, 108 Stat. 2141, struck out item 754 “Rescue of body of executed offender”.

#### § 751. Prisoners in custody of institution or officer

(a) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined under this title or imprisoned not more than five years, or both; or if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined under this title or imprisoned not more than one year, or both.

(b) Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person’s eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a