

## HISTORICAL AND REVISION NOTES

Based on section 390 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, § 25, 38 Stat. 740).

Word “criminal” was inserted before “contempt” in first line. Words “within section 402 of this title” were inserted after “contempt”.

The correct meaning and narrow application of title 28, U.S.C., 1940 ed., § 390, are preserved, as section 389 of that title is incorporated in sections 402 and 3691 of this title.

Words “corporation or association” were inserted after “person”, thus embodying applicable definition of section 390a of title 28, U.S.C., 1940 ed. (See reviser’s note under section 402 of this title.)

### § 3286. Extension of statute of limitation for certain terrorism offenses

(a) EIGHT-YEAR LIMITATION.—Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any noncapital offense involving a violation of any provision listed in section 2332b(g)(5)(B), or a violation of section 112, 351(e), 1361, or 1751(e) of this title, or section 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed. Notwithstanding the preceding sentence, offenses listed in section 3295 are subject to the statute of limitations set forth in that section.

(b) NO LIMITATION.—Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense listed in section 2332b(g)(5)(B), if the commission of such offense resulted in, or created a foreseeable<sup>1</sup> risk of, death or serious bodily injury to another person.

(Added Pub. L. 103-322, title XII, § 120001(a), Sept. 13, 1994, 108 Stat. 2021; amended Pub. L. 104-132, title VII, § 702(c), Apr. 24, 1996, 110 Stat. 1294; Pub. L. 104-294, title VI, § 601(b)(1), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-56, title VIII, § 809(a), Oct. 26, 2001, 115 Stat. 379; Pub. L. 107-273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 3286, act June 25, 1948, ch. 645, 62 Stat. 828, related to seduction on vessel of United States, prior to repeal by Pub. L. 101-647, title XII, § 1207(b), Nov. 29, 1990, 104 Stat. 4832.

##### AMENDMENTS

2002—Pub. L. 107-273 repealed Pub. L. 104-294, § 601(b)(1). See 1996 Amendment note below.

2001—Pub. L. 107-56 reenacted section catchline without change and amended text generally. Text read as follows: “Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any non-capital offense involving a violation of section 32 (aircraft destruction), section 37 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2332a (use of weapons of mass destruction), 2332b (acts of terrorism transcending national boundaries), or section 2340A (tor-

ture) of this title or section 46502, 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.”

1996—Pub. L. 104-132, § 702(c)(2)–(4), substituted “2332” for “2331”, “2332a” for “2339”, and “37” for “36”. Pub. L. 104-294, § 601(b)(1), which amended section identically, was repealed by Pub. L. 107-273.

Pub. L. 104-132, § 702(c)(1), (5), inserted “2332b (acts of terrorism transcending national boundaries),” after “(use of weapons of mass destruction),” and substituted “any non-capital offense” for “any offense”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

##### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-56, title VIII, § 809(b), Oct. 26, 2001, 115 Stat. 380, provided that: “The amendments made by this section [amending this section] shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section [Oct. 26, 2001].”

##### EFFECTIVE DATE

Pub. L. 103-322, title XII, § 120001(b), Sept. 13, 1994, 108 Stat. 2021, provided that: “The amendment made by subsection (a) [enacting this section] shall not apply to any offense committed more than 5 years prior to the date of enactment of this Act [Sept. 13, 1994].”

### § 3287. Wartime suspension of limitations

When the United States is at war or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)), the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war or directly connected with or related to the authorized use of the Armed Forces, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until 5 years after the termination of hostilities as proclaimed by a Presidential proclamation, with notice to Congress, or by a concurrent resolution of Congress.

Definitions of terms in section 103<sup>1</sup> of title 41 shall apply to similar terms used in this section. For purposes of applying such definitions in this section, the term “war” includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 110-329, div. C, title VIII, § 8117, Sept. 30, 2008, 122

<sup>1</sup> So in original. Probably should be “foreseeable”.

<sup>1</sup> See References in Text note below.

Stat. 3647; Pub. L. 110-417, [div. A], title VIII, §855, Oct. 14, 2008, 122 Stat. 4545; Pub. L. 111-84, div. A, title X, §1073(c)(7), Oct. 28, 2009, 123 Stat. 2475.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §590a (Aug. 24, 1942, ch. 555, §1, 56 Stat. 747; July 1, 1944, ch. 358, §19(b), 58 Stat. 667; Oct. 3, 1944, ch. 479, §28, 58 Stat. 781).

The phrase “when the United States is at war” was inserted at the beginning of this section to make it permanent instead of temporary legislation, and to obviate the necessity of reenacting such legislation in the future. This permitted the elimination of references to dates and to the provision limiting the application of the section to transactions not yet fully barred. When the provisions of the War Contract Settlements Act of 1944, upon which this section is based, are considered in connection with said section 590a which it amends, it is obvious that no purpose can be served now by the provisions omitted.

Phrase (2), reading “or committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States” was derived from section 28 of the Surplus Property Act of 1944 which amended said section 590a of title 18, U.S.C., 1940 ed. This act is temporary by its terms and relates only to offenses committed in the disposition of surplus property thereunder.

The revised section extends its provisions to all offenses involving the disposition of any property, real or personal, of the United States. This extension is more apparent than real since phrase (2), added as the result of said Act, was merely a more specific statement of offenses embraced in phrase (1) of this section.

The revised section is written in general terms as permanent legislation applicable whenever the United States is at war. (See, also, reviser’s note under section 284 of this title.)

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of title 41, U.S.C., 1940 ed., Public Contracts.

Changes were made in phraseology.

#### Editorial Notes

##### REFERENCES IN TEXT

Section 103 of title 41, referred to in text, probably means section 3 of act July 1, 1944, ch. 358, 58 Stat. 650, which was classified to section 103 of former Title 41, Public Contracts, prior to repeal by Pub. L. 111-350, §7(b), Jan. 4, 2011, 124 Stat. 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

##### AMENDMENTS

2009—Pub. L. 111-84 repealed Pub. L. 110-417, §855. See 2008 Amendment note below.

2008—Pub. L. 110-417, §855, which amended this section identically to amendment by Pub. L. 110-329, was repealed by Pub. L. 111-84. See 2008 Amendment note below.

Pub. L. 110-329, in first par., inserted “or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)),” after “is at war” and “or directly connected with or related to the authorized use of the Armed Forces” after “prosecution of the war” and substituted “5 years” for “three years” and “proclaimed by a Presidential proclamation, with notice to Congress,” for “proclaimed by the President”, and, in second par., inserted last sentence.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided in part that the amendment

made by section 1073(c)(7) of Pub. L. 111-84 is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

#### § 3288. Indictments and information dismissed after period of limitations

Whenever an indictment or information charging a felony is dismissed for any reason after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information, or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final, or, if no regular grand jury is in session in the appropriate jurisdiction when the indictment or information is dismissed, within six calendar months of the date when the next regular grand jury is convened, which new indictment shall not be barred by any statute of limitations. This section does not permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution.

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 88-139, §2, Oct. 16, 1963, 77 Stat. 248; Pub. L. 88-520, §1, Aug. 30, 1964, 78 Stat. 699; Pub. L. 100-690, title VII, §7081(a), Nov. 18, 1988, 102 Stat. 4407.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§556a, 587, 589 (Apr. 30, 1934, ch. 170, §1, 48 Stat. 648; May 10, 1934, ch. 278, §§1, 3, 48 Stat. 772; July 10, 1940, ch. 567, 54 Stat. 747).

This section is a consolidation of sections 556a, 587, and 589 of title 18, U.S.C., 1940 ed., without change of substance. (See reviser’s note under section 3289 of this title.)

#### Editorial Notes

##### AMENDMENTS

1988—Pub. L. 100-690, in section catchline, substituted “Indictments and information dismissed after period of limitations” for “Indictment where defect found after period of limitations”, and in text, substituted “Whenever an indictment or information charging a felony is dismissed for any reason” for “Whenever an indictment is dismissed for any error, defect, or irregularity with respect to the grand jury, or an indictment or information filed after the defendant waives in open court prosecution by indictment is found otherwise defective or insufficient for any cause,” inserted “, or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final” after “dismissal of the indictment or information”, and inserted provisions which prohibited filing of new indictment or information where reason for dismissal was failure to file within period prescribed or some other reason that would bar a new prosecution.

1964—Pub. L. 88-520 substituted “Indictment” for “Reindictment” in section catchline, included indictments or informations filed after the defendant waives in open court prosecution by indictment which are dismissed for any error, defect, or irregularity, or are otherwise found defective or insufficient, and substituted provisions authorizing the return of a new indictment in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information, or, if no regular grand jury is in session when the indictment or information is dismissed, within six calendar months of the date when the next grand