

Editorial Notes

REFERENCES IN TEXT

Paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-322 substituted “fine under this title” for “fine of not more than \$20,000”.

1986—Subsec. (c). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Statutory Notes and Related Subsidiaries

CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 91-452, title VIII, §801, Oct. 15, 1970, 84 Stat. 936, provided that: “The Congress finds that illegal gambling involves widespread use of, and has an effect upon, interstate commerce and the facilities thereof.”

PRIORITY OF STATE LAWS

Pub. L. 91-452, title VIII, §811, Oct. 15, 1970, 84 Stat. 940, provided that: “No provision of this title [enacting this section and section 1955 of this title, amending section 2516 of this title, and enacting provisions set out as notes under this section and section 1955 of this title] indicates an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of a state or possession, or a political subdivision of a State or possession, on the same subject matter, or to relieve any person of any obligation imposed by any law of any State or possession, or political subdivision of a State or possession.”

§ 1512. Tampering with a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person, with intent to—

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

(A) influence, delay, or prevent the testimony of any person in an official proceeding;

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(3) The punishment for an offense under this subsection is—

(A) in the case of a killing, the punishment provided in sections 1111 and 1112;

(B) in the case of—

(i) an attempt to murder; or

(ii) the use or attempted use of physical force against any person;

imprisonment for not more than 30 years; and

(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 20 years.

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to—

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation¹ supervised release,¹ parole, or release pending judicial proceedings;

shall be fined under this title or imprisoned not more than 20 years, or both.

(c) Whoever corruptly—

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

(1) attending or testifying in an official proceeding;

¹ So in original.

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation¹ supervised release,¹ parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

or attempts to do so, shall be fined under this title or imprisoned not more than 3 years, or both.

(e) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

(f) For the purposes of this section—

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(g) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

(1) that the official proceeding before a judge, court, magistrate judge, grand jury, or government agency is before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

(h) There is extraterritorial Federal jurisdiction over an offense under this section.

(i) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

(j) If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(Added Pub. L. 97-291, §4(a), Oct. 12, 1982, 96 Stat. 1249; amended Pub. L. 99-646, §61, Nov. 10, 1986,

100 Stat. 3614; Pub. L. 100-690, title VII, §7029(a), (c), Nov. 18, 1988, 102 Stat. 4397, 4398; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103-322, title VI, §60018, title XXXIII, §330016(1)(O), (U), Sept. 13, 1994, 108 Stat. 1975, 2148; Pub. L. 104-214, §1(2), Oct. 1, 1996, 110 Stat. 3017; Pub. L. 104-294, title VI, §604(b)(31), Oct. 11, 1996, 110 Stat. 3508; Pub. L. 107-204, title XI, §1102, July 30, 2002, 116 Stat. 807; Pub. L. 107-273, div. B, title III, §3001(a), (c)(1), Nov. 2, 2002, 116 Stat. 1803, 1804; Pub. L. 110-177, title II, §205, Jan. 7, 2008, 121 Stat. 2537.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a)(3)(A). Pub. L. 110-177, §205(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;”.

Subsec. (a)(3)(B). Pub. L. 110-177, §205(1)(B), substituted “30 years” for “20 years” in concluding provisions.

Subsec. (a)(3)(C). Pub. L. 110-177, §205(1)(C), substituted “20 years” for “10 years”.

Subsec. (b). Pub. L. 110-177, §205(2), substituted “20 years” for “ten years” in concluding provisions.

Subsec. (d). Pub. L. 110-177, §205(3), substituted “3 years” for “one year” in concluding provisions.

2002—Subsec. (a)(1). Pub. L. 107-273, §3001(a)(1)(A), substituted “as provided in paragraph (3)” for “as provided in paragraph (2)” in concluding provisions.

Subsec. (a)(2). Pub. L. 107-273, §3001(a)(1)(C), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 107-273, §3001(a)(1)(B), (D), redesignated par. (2) as (3), added subpars. (B) and (C), and struck out former subpar. (B) which read as follows: “(B) in the case of an attempt, imprisonment for not more than twenty years.”

Subsec. (b). Pub. L. 107-273, §3001(a)(2), struck out “or physical force” after “intimidation” in introductory provisions.

Subsec. (b)(3). Pub. L. 107-273, §3001(c)(1), inserted “supervised release,” after “probation”.

Subsec. (c). Pub. L. 107-204 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 107-204 redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2). Pub. L. 107-273, §3001(c)(1), inserted “supervised release,” after “probation”.

Subsecs. (e) to (j). Pub. L. 107-204 redesignated former subsecs. (d) to (i) as (e) to (j), respectively.

Subsec. (k). Pub. L. 107-273, §3001(a)(3), added subsec. (k).

1996—Subsec. (a)(2)(A). Pub. L. 104-294 inserted “and” after semicolon at end.

Subsec. (i). Pub. L. 104-214 added subsec. (i).

1994—Subsec. (a)(2)(A). Pub. L. 103-322, §60018, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and”.

Subsec. (b). Pub. L. 103-322, §330016(1)(U), substituted “fined under this title” for “fined not more than \$250,000” in concluding provisions.

Subsec. (c). Pub. L. 103-322, §330016(1)(O), substituted “fined under this title” for “fined not more than \$25,000” in concluding provisions.

1988—Subsec. (b). Pub. L. 100-690, §7029(c), substituted “threatens, or corruptly persuades” for “or threatens”.

Subsec. (h). Pub. L. 100-690, §7029(a), added subsec. (h).

1986—Subsec. (a). Pub. L. 99-646, §61(2), (3), added subsec. (a) and redesignated former subsec. (a) as (b).

Subsecs. (b) to (g). Pub. L. 99-646, §61(1), (3), redesignated former subsec. (a) as (b), inserted “, delay, or

prevent”, and redesignated former subsecs. (b) to (f) as (c) to (g), respectively.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Words “magistrate judge” and “United States magistrate judge” substituted for “magistrate” and “United States magistrate”, respectively, in subsec. (f)(1) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

EFFECTIVE DATE

Pub. L. 97-291, §9, Oct. 12, 1982, 96 Stat. 1258, provided that:

“(a) Except as provided in subsection (b), this Act and the amendments made by this Act [enacting this section and sections 1513 to 1515, 3579, and 3580 of this title, amending sections 1503, 1505, 1510, and 3146 of this title and Rule 32 of the Federal Rules of Criminal Procedure, and enacting provisions set out as notes under this section and sections 1501 and 3579 of this title] shall take effect on the date of the enactment of this Act [Oct. 12, 1982].

“(b)(1) The amendment made by section 2 of this Act [enacting provisions set out as a note under this section] shall apply to presentence reports ordered to be made on or after March 1, 1983.

“(2) The amendments made by section 5 of this Act [enacting sections 3579 and 3580 of this title] shall apply with respect to offenses occurring on or after January 1, 1983.”

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES

Pub. L. 97-291, §2, Oct. 12, 1982, 96 Stat. 1248, provided that:

“(a) The Congress finds and declares that:

“(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

“(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

“(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

“(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

“(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

“(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial

waiting room with the defendant or his family and friends.

“(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes and [sic] appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

“(b) The Congress declares that the purposes of this Act [see Short Title of 1982 Amendment note set out under section 1501 of this title] are—

“(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

“(2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

“(3) to provide a model for legislation for State and local governments.”

FEDERAL GUIDELINES FOR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

Pub. L. 97-291, §6, Oct. 12, 1982, 96 Stat. 1256, as amended by Pub. L. 98-473, title II, §1408(b), Oct. 12, 1984, 98 Stat. 2177, provided that:

“(a) Within two hundred and seventy days after the date of enactment of this Act [Oct. 12, 1982], the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act [see Short Title of 1982 Amendment note set out under section 1501 of this title]. In preparing the guidelines the Attorney General shall consider the following objectives:

“(1) SERVICES TO VICTIMS OF CRIME.—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

“(A) availability of crime victim compensation (where applicable);

“(B) community-based victim treatment programs;

“(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

“(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

“(2) NOTIFICATION OF AVAILABILITY OF PROTECTION.—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

“(3) SCHEDULING CHANGES.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

“(4) PROMPT NOTIFICATION TO VICTIMS OF SERIOUS CRIMES.—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of—

“(A) the arrest of an accused;

“(B) the initial appearance of an accused before a judicial officer;

“(C) the release of the accused pending judicial proceedings; and

“(D) proceedings in the prosecution and punishment of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of im-

prisonment is imposed, a hearing to determine a parole release date and the release of the accused from such imprisonment).

“(5) CONSULTATION WITH VICTIM.—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

“(A) dismissal;

“(B) release of the accused pending judicial proceedings;

“(C) plea negotiations; and

“(D) pretrial diversion program.

“(6) SEPARATE WAITING AREA.—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

“(7) PROPERTY RETURN.—Law enforcement agencies and prosecutor should promptly return victim’s property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

“(8) NOTIFICATION TO EMPLOYER.—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorneys for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

“(9) TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

“(10) GENERAL VICTIM ASSISTANCE.—The guidelines should also ensure that any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court be provided.

“(b) Nothing in this title shall be construed as creating a cause of action against the United States.

“(c) The Attorney General shall assure that all Federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.”

[Amendment of section 6 of Pub. L. 97–291 by Pub. L. 98–473, set out above, effective 30 days after Oct. 12, 1984, see section 1409(a) of Pub. L. 98–473, set out as an Effective Date note under section 20101 of Title 34, Crime Control and Law Enforcement.]

§ 1513. Retaliating against a witness, victim, or an informant

(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings,

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under this subsection is—

(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

(B) in the case of an attempt, imprisonment for not more than 30 years.

(b) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(c) If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(d) There is extraterritorial Federal jurisdiction over an offense under this section.

(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

(f) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.

(Added Pub. L. 97–291, § 4(a), Oct. 12, 1982, 96 Stat. 1250; amended Pub. L. 103–322, title VI, § 60017, title XXXIII, § 330016(1)(U), Sept. 13, 1994, 108 Stat. 1975, 2148; Pub. L. 104–214, § 1(1), Oct. 1, 1996, 110 Stat. 3017; Pub. L. 107–204, title XI, § 1107(a), July 30, 2002, 116 Stat. 810; Pub. L. 107–273, div. B, title III, § 3001(b), (c)(2), title IV, § 4002(b)(4), Nov. 2, 2002, 116 Stat. 1804, 1807; Pub. L. 110–177, title II, §§ 204, 206, Jan. 7, 2008, 121 Stat. 2537.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a)(1)(B). Pub. L. 110–177, § 206(1), inserted comma after “probation” and struck out comma after “release.”

Subsec. (a)(2)(B). Pub. L. 110–177, § 206(2), substituted “30 years” for “20 years”.

Subsec. (b). Pub. L. 110–177, § 206(3)(B), substituted “20 years” for “ten years” in concluding provisions.