

§ 321], Nov. 29, 1999, 113 Stat. 1536, 1501A-436; amended Pub. L. 107-228, div. A, title III, § 311, Sept. 30, 2002, 116 Stat. 1377.)

Editorial Notes

AMENDMENTS

2002—Pub. L. 107-228 substituted “Thomas Jefferson Star for Foreign Service” for “Foreign Service star” in section catchline and wherever appearing in text.

§ 2709. Special agents

(a) General authority

Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

(1) conduct investigations concerning—

(A) illegal passport or visa issuance or use;

(B) identity theft or document fraud affecting or relating to the programs, functions, or authorities of the Department of State; or

(C) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18), except as such jurisdiction relates to the premises of United States military missions and related residences;

(2) obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses issued under the authority of the United States;

(3) protect and perform protective functions directly related to maintaining the security and safety of—

(A) heads of a foreign state, official representatives of a foreign government, and other distinguished visitors to the United States, while in the United States;

(B) the Secretary of State, Deputy Secretary of State, and official representatives of the United States Government, in the United States or abroad;

(C) members of the immediate family of persons described in subparagraph (A) or (B);

(D) foreign missions (as defined in section 4302(a)(4)¹ of this title) and international organizations (as defined in section 4309(b) of this title), within the United States;

(E) a departing Secretary of State for a period of up to 180 days after the date of termination of that individual's incumbency as Secretary of State, on the basis of a threat assessment; and

(F) an individual who has been designated by the President or President-elect to serve as Secretary of State, prior to that individual's appointment.²

(4) if designated by the Secretary and qualified, under regulations approved by the Attorney General, for the use of firearms, carry firearms for the purpose of performing the duties authorized by this section; and

(5) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable

under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(b) Agreements with Attorney General and Secretary of the Treasury and firearms regulations

(1) Agreement with Attorney General

The authority conferred by paragraphs (1) and (4) of subsection (a) shall be exercised subject to an agreement between the Secretary and the Attorney General.

(2) Agreement with Attorney General and Secretary of the Treasury

The authority conferred by paragraphs (2) and (5) of subsection (a) shall be exercised subject to an agreement among the Secretary, the Attorney General, and the Secretary of the Treasury.

(3) Firearms regulations

The Secretary of State shall prescribe regulations, which shall be approved by the Attorney General, with respect to the carrying and use of firearms by special agents under this section.

(c) Secret Service not affected

Nothing in subsection (a)(3) shall be construed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 3056 or 3056A of title 18 at a level commensurate with protective requirements as determined by the United States Secret Service. The Secretary of State, the Attorney General, and the Secretary of the Treasury shall enter into an interagency agreement with respect to their law enforcement functions.

(Aug. 1, 1956, ch. 841, title I, § 37, as added Pub. L. 99-93, title I, § 125(a), Aug. 16, 1985, 99 Stat. 415; amended Pub. L. 101-246, title I, § 113, Feb. 16, 1990, 104 Stat. 22; Pub. L. 103-236, title I, § 139(1), Apr. 30, 1994, 108 Stat. 397; Pub. L. 106-553, § 1(a)(2) [title IV, § 406, formerly § 407], Dec. 21, 2000, 114 Stat. 2762, 2762A-97, renumbered Pub. L. 106-554, § 1(a)(4) [div. A, § 213(a)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A-180; Pub. L. 107-228, div. A, title II, § 202(a), (b), Sept. 30, 2002, 116 Stat. 1362; Pub. L. 109-177, title VI, § 605(e)(2)(A), Mar. 9, 2006, 120 Stat. 255; Pub. L. 114-323, title IV, § 408(a), Dec. 16, 2016, 130 Stat. 1930.)

Editorial Notes

REFERENCES IN TEXT

Section 4302 of this title, referred to in subsec. (a)(3)(D), was subsequently amended, and section 4302(a)(4) no longer defines the term “foreign mission”. However, such term is defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 37 of act Aug. 1, 1956, was renumbered section 38 by section 125(a) of Pub. L. 99-93, and subsequently renumbered, and was set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102-138, title I, § 111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-323 amended par. (1) generally. Prior to amendment, par. (1) read as follows:

¹ See References in Text note below.

² So in original. The period probably should be a semicolon.

“conduct investigations concerning illegal passport or visa issuance or use;”.

2006—Subsec. (c). Pub. L. 109-177 substituted “section 3056 or 3056A of title 18” for “section 202 of title 3 or section 3056 of title 18”.

2002—Subsec. (a)(2). Pub. L. 107-228, § 202(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “for the purpose of conducting such investigations—

“(A) obtain and execute search and arrest warrants,

“(B) make arrests without warrant for any offense concerning passport or visa issuance or use if the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and

“(C) obtain and serve subpoenas and summonses issued under the authority of the United States;”.

Subsec. (a)(3)(F). Pub. L. 107-228, § 202(a)(2), inserted “or President-elect” after “President”.

Subsec. (a)(5). Pub. L. 107-228, § 202(a)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028 of title 18—

“(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person—

“(i) has committed or is committing such violation; and

“(ii) is in or is fleeing from the immediate area of such violation; and

“(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the special agent.”

Subsec. (b). Pub. L. 107-228, § 202(b), substituted “Agreements with Attorney General and Secretary of the Treasury and firearms regulations” for “Agreement with Attorney General and firearms regulations” in heading, added pars. (1) and (2), struck out former par. (1), which related to agreement with the Attorney General, and redesignated former par. (2) as (3).

2000—Subsec. (a)(3)(E), (F). Pub. L. 106-553, as renumbered by Pub. L. 106-554, added subpars. (E) and (F).

1994—Subsec. (d). Pub. L. 103-236 struck out subsec. (d) which read as follows: “The Secretary of State shall transmit the regulations prescribed under this section to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 20 days before the date on which such regulations take effect.”

1990—Subsec. (a)(2). Pub. L. 101-246, § 113(1), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(5). Pub. L. 101-246, § 113(2), amended introductory provisions generally, substituting “970, or 1028” for “911, 970, 1001, 1028, 1541, 1542, 1543, 1544, 1545, or 1546”.

Statutory Notes and Related Subsidiaries

CONSTRUCTION

Pub. L. 114-323, title IV, § 408(b), Dec. 16, 2016, 130 Stat. 1930, provided that: “Nothing in the amendment made by subsection (a) [amending this section] may be construed to limit the investigative authority of any Federal department or agency other than the Department [of State].”

TRANSFER OF FUNCTIONS

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.

IMPLEMENTATION OF SEARCH, SEIZURE, SERVICE, AND ARREST AUTHORITY

Pub. L. 107-228, div. A, title II, § 202(c), Sept. 30, 2002, 116 Stat. 1362, provided that:

“(1) The authority conferred by paragraphs (2) and (5) of section 37(a) of the State Department Basic Authorities Act of 1956 [22 U.S.C. 2709(a)(2), (5)], as amended by subsection (a), may not be exercised until the date on which the Secretary—

“(A) submits the agreement required by subsection (b)(2) of section 37 of such Act [22 U.S.C. 2709(b)(2)] to the appropriate congressional committees; and

“(B) publishes in the Federal Register a notice that the agreement has been submitted in accordance with the requirements of subparagraph (A).

“(2) The authority conferred by paragraphs (2) and (5) of subsection (a) of section 37 of the State Department Basic Authorities Act of 1956, as in effect on the day before the date of the enactment of this Act [Sept. 30, 2002], may continue to be exercised until the date on which the notice described in paragraph (1)(B) is published in the Federal Register.”

[For definitions of “Secretary” and “appropriate congressional committees” as used in section 202(c) of Pub. L. 107-228, set out above, see section 3 of Pub. L. 107-228, set out as a note under section 2651 of this title.]

§ 2710. Expenses relating to participation in arbitrations of certain disputes

(a) International agreements

The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations and other proceedings for the peaceful resolution of disputes under treaties or other international agreements.

(b) Contracts abroad

The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations arising under contracts authorized by law for the performance of services or acquisition of property, real or personal, abroad.

(c) Procurement of services

The Secretary of State may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity, whether or not the expert is expected to testify, or to procure personal and other support services for such proceedings or claims. The Secretary need not provide any written justification for the use of procedures other than competitive procedures when procuring such services under this subsection and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

(d) International Litigation Fund

(1) Establishment

In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund (hereafter in this subsection referred to as the “ILF”). The ILF may be available without fiscal year limitation. Funds otherwise available to the Department for the purposes of this paragraph may be credited to the ILF.