

# TITLE 18—CRIMES AND CRIMINAL PROCEDURE

*This title was enacted by act June 25, 1948, ch. 645, §1, 62 Stat. 683*

Part		Sec.
<b>I.</b>	<b>Crimes</b>	<b>1</b>
<b>II.</b>	<b>Criminal Procedure</b>	<b>3001</b>
<b>III.</b>	<b>Prisons and Prisoners</b>	<b>4001</b>
<b>IV.</b>	<b>Correction of Youthful Offenders</b>	<b>5001</b>
<b>V.</b>	<b>Immunity of Witnesses</b>	<b>6001</b>

## EDITORIAL NOTES

### AMENDMENTS

1970—Pub. L. 91-452, title II, §201(b), Oct. 15, 1970, 84 Stat. 928, added Part V.

### TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 18

<i>Title 18</i> <i>Former Sections</i>	<i>Title 18</i> <i>New Sections</i>
1, 2	2381
3	2382
4	2383
5	953
6	2384
7	2389
8	2390
9	2387
10	2385
11	2385, 2387
12	Rep. See Cr. Proc. R. 41(c).
13	2385, 2387
14-17	2386
21	958
22	959
23	962
24	961
25	960
26	T. 22 §461
27	T. 22 §462
28	T. 22 §463
29	T. 22 §464
30	959
31	967
32	963
33	964
34	965

35	966
36	963, 964, 965, 966, 967
37	756, 3058
38	T. 22 §465
39	5, 3241
51	241
52	242
53	Rep.
53a	2236
54	372
55	592
56-58	593
59	592, 593
61	594
61a	595
61b	600
61c	601
61d	604
61e	605
61f	598
61g	594, 595, 598, 600, 601, 604, 605
61h	T. 5 §118i (See Rev. T. 5 Table)
61i	T. 5 §118j (See Rev. T. 5 Table)
61j, 61k	Rep.
61l	T. 5 §118k (See Rev. T. 5 Table)
61m	608
61m-1	611
61n	595
61o	T. 5 §118l (See Rev. T. 5 Table)
61p	T. 5 §118m (See Rev. T. 5 Table)
61q	Rep.
61r	T. 5 §118n (See Rev. T. 5 Table)
61s	595
61t	610
61u	595
61v-61x	Elim.
62-62b	612
71	497
72	494
73	495
74	1002
75	1016
76	912
76a, 76b	701
76c	707, 916
76d	707
76e	705
77	Rep.

77a	913
78	914
79	1003
80	287, 1001
81	289
82	641, 1361
83	286
84	1022
85	1023
86	1024
87	641
88	371
89	871
90	T. 34 §1167 (See Rev. T. 34 Table)
91	201
92	285
93	434
94	1381
95	1232
96	2152
97	1382
97a	1383
97b	757
98	11, 957
99	2112
100	641
101	641, 3435
102	Rep.
103	1852
103a, 103b	1851
104	1853
105	1854
106	1855
107	1856
107a	1863
108	3613
109	1862
110	1857
111	1858
112	1859
113	1860
114	1861
115	T. 25 §202
116	1362
117	2074
118	111
119	496
120	551

121	2231, 2232, 2233
122	T. 19 §70
123	912
124	211
125	543
126	541
127	1019
128	2233
129	507
130	1017
131	506
132	499
133	5
134, 135	Rep.
136	498
137-143	Rep.
144	2194
145	41
146	508
147	509
148	3056
149	210
150	211
151	210, 211
171	872
172	652
173	653
174	650
175	648
176	643
177, 178	649
178a	371
179	3497
180	3487
181	6514
182	641
183	654
184	435
185	646
186	645
187	647
188	2075
189	2073
190, 191	Rep.
192	1901
193	291
194	1091
195	1018

196	1912
198, 198a	283
199	205
200	204
201	1913
202	216
203	281
204	431
205	432
206	433
207	202
208	602
209	603
210	606
211	607
212	602, 603, 606, 607
213	T. 5 §118o (See Rev. T. 5 Table)
214	1902
215	2072
216	1905
231	1621
232	1622
233	1506
234, 235	2071
236	505
237	206
238	207
239	208
240	210
241	1503
241a	1505
242	Rep.
243	1504
244	755
245	1501
246	752, 1071
247	752
248	753
249	754
250	873
251	4
252	752, 1792
253	1114, 2231
254	111, 2231
261	8
262	471
263	Rep.
264	474

265	472
266	476
267	477
268	473
269	642
270	478
271	479
272	482
273	483
274	480
275	481
276	484
277	485
278	490
279	331
280	332
281	486
282, 282a	491
283	487
284	488
285	489
286	492
287	Rep. See Cr. Proc. R. 41(a), (b), (f).
288	11
289	335
290	Rep.
291	333
292	475
293	336
294	371
301	12
302	1729
303	1693
304	1696
305	1697
306	1696
307	1694
308	1695
309	1696
310	1730
311	1731
312	1706
313	1707
314	1704
315	2115
316	2116
317	1702, 1708
318	1703, 1709

319	1703, 1710
320	2114
321	1705, 1708
321a	1725
322	1700
323	1698
324, 325	1701
326	1724
327	1699
328	1720
329	1712
330	1726
331	1721
332	1727
333	1713
334	1461
335	1463, 1718
336	1302
337	1303
338	1341
338a	876, 3239
338b	877, 3239
338c	1714
338d	Rep.
339	1342
340	1716
341, 342	Rep.
343-345	1717
346	5, 1717
347	500
348	501
349	11, 502
349a	503
350	504
351	1723
352	1732
353	1722
354	288
355	1711, 3497
356	440
357	1719
358	1728
359	1692
360	12
361	1715
381	5, 1364
382	831, 832
383	835

384	833
385	832, 833, 834, 835
386	832, 833, 834, 835
387	1301
388	1264
389	1265
390	1263
391	42
392	43
393	44
393a	43, 44, 3054, 3112
394	42, 43, 44
395	T. 16 §667e
396	1462
396a, 396b	1761
396c-396e	1762
397, 398	2421
399	2422
400	2423
401	2421
402(1)	T. 8 §1557
402(2), (3)	2424
403	Rep.
404	2421
405-407	Rep.
407a	1231
408	10, 2311, 2312, 2313
408a	1201
408b	10
408c	1201
408c-1	1202
408d	875, 3239
408e	1073
409	659, 660, 2117
410, 411	659
412	660
412a	1992
413	Rep.
414(a)	10
414(b), (c)	2311
415	2314
416	2315
417	2311
418, 418a, 419	Rep.
419a(a)	2311
419a(b)	10
419b	2316
419c	2317



419d	Rep.
420	T. 4 §112
420a to 420e-1	1951
420f-420h	1821
421, 422	1585
423	1584
424	1582
425	1585
426	1587
427	1586
428	1588
429-442	T. 46 §§1351-1364 (See Rev. T. 46 Table)
443	1583
444, 445	1581
446	1584
451	7
452	1111
453	1112
454	1111, 1112
455	113
456	1113
457	2031
458	2032
459	2198
460	2198, 3286, 3614
461	1115
462	114
463	2111
464	81, 1363
465	81, 1363
466	661
467	662, 3435
467a	1025
468	13
469-474	2199
481	1651
482	2191
483	2192
484	2193
485	1655
486	2195
487	2271
488	1658
489	1659
490	2276
491	2272
492	2273
493	1661

494	1654
495	1652
496	1653
497	1656
498	1657
499, 500	969
501	9
502	5, 2275
503, 504	2277
505	1081
506	1082
507	1083
508, 511-518	Rep.
518a	1384
519-521	Rep.
522	1991
523	244
532-535	Rep.
536	T. 50 §42
541	1
542	3566
543	3567
544	3563
545	3564
546, 547	3231
548	1151, 1153, 3242
549	1151, 1153
550	2
551	3
552	1660
553	3236
554	Rep. See Cr. Proc. R. 6(f).
554a	Rep. See Cr. Proc. R. 6.
555	Rep. See Cr. Proc. R. 7(a).
556	Rep. See Cr. Proc. R. 6(d), 52(a).
556a	3288, 3289
556b	Rep.
557	Rep. See Cr. Proc. R. 8, 13, 14.
558	Rep. See Cr. Proc. R. 7.
559	Rep. See Cr. Proc. R. 7.
560	Rep. See Cr. Proc. R. 7.
561	Rep. See Cr. Proc. R. 12(b)(5).
562	3432
562a	Rep. See Cr. Proc. R. 10.
563	3005
564	Rep. See Cr. Proc. R. 11, 12(b)(3).
565	Rep. See Cr. Proc. R. 31(c).
566	Rep. See Cr. Proc. R. 31(a), (b).

567	1111
568	3570
569	3565
570	3612
571-573	Rep.
574	3241
575	3059
576	3401
576a	3402
576b-576d	3401
581	Rep.
581a, 581b	3281
582	3282
583	3290
584	3283
585	T. 26 [I.R.C. 1939] §3748(a) (See T. 26 [I.R.C. 1986] §6531)
586	T. 26 [I.R.C. 1939] §3748(b) (See T. 26 [I.R.C. 1986] §6531)
587	3288
588	3289
589	3288, 3289
590	Rep.
590a	3287
591	3041
592	Rep.
593	Rep. See Cr. Proc. R. 5(a).
594	3045
595	Rep. See Cr. Proc. R. 4, 5.
596, 597	3141
598	3144
599	3142
600	3143
601	Rep. See Cr. Proc. R. 46(f)(1), (2).
602	3047
603	4084
604	3049
605	3012
611-616	Rep. See Cr. Proc. R. 41.
617	3105
618, 619	3109
620-626	Rep. See Cr. Proc. R. 41.
627	Rep.
628	2231
629	1621
630	2235
631	2234
632	5

633	Rep.
641	3569
642, 643	T. 46 §§7, 8 (See Rev. T. 46 Table)
644	T. 28 §1822
645	3611
646	3617
647	3616
651	3184
652	3185
653	3186
654	3188
655	3190
656	3191
657	3189
658	3181
659	3192
660	3051, 3193
661	752, 1502
662	3182, 3195
662a	5001
662b	3042
662c	752, 3183, 3195
662d	3187, 3195
662e	755
663	3194
664	Rep.
665	755
666, 667	Rep.
668	3195, 3498
669-676	D.C. Code, §§23-701, 23-702, 23-705
681	Rep. See Cr. Proc. R. 37.
682	3731
683	Rep.
687	3771
688	3772
689	3771, 3772
691	Rep.
692	4086
693-700	Rep.
701	4007
702	Rep.
703	4006
704	D.C. Code, §24-424
704a	D.C. Code, §24-423
705-707	Rep.
708, 709	436
709a	3568
710, 710a	4161

711	4166
712, 712a	Rep.
713	4163, 4165
714	4202
715	Rep.
716	4203, 4204
716a	4203
716b	4164
717	4205
718	4206
719	4207
720	Rep.
721	4281
722	Rep.
723	3570
723a	4201
723b	Rep.
723c	4205
724	3651
725	3653
726	3654
726-1, 726a	T. 28 §604
727	3655
728	3656
729	T. 28 §§1495, 2513
730-732	T. 28 §2513
733-733b	4085
741	4001
742-744	Rep.
744a	4122
744b	4125
744c	4122, 4123
744d-744f	4126
744g	4124
744h	4162
744h-1	Rep.
744i, 744j	4121
744k	4122
744l	4126
744m	4127
744n	4128
744o-744r	Elim.
745	Rep.
746	4281
746a	4282
746b	4283
747-749	Rep.
750	T. 5 §678b (See Rev. T. 5 Table)

751, 752	4005
753	4041
753a	4042
753b	4002, 4042
753c	4003
753d	4009
753e	4001
753f	4082, 4083
753g	4008
753h	751
753i	752, 1072
753j	1791
753k	3050
754	4004
761	Rep.
762	4083
763-776, 791-801, 811-815	Rep.
816	4321
817-819, 831-840	Rep.
851	4125
852	Rep.
853-855	4125
871-875	Rep.
876	4241
877	4242
878	4243
879, 880, 901-906	Rep.
907	4081
908	1791
909	751
910	752, 1072
911, 912	Rep.
921	5031
922	5032, 5033
923	5033
924	5034
925	5035
926	5036
927	5037
928	Elim.
929	Rep.

---

**STATUTORY NOTES AND RELATED SUBSIDIARIES**

**POSITIVE LAW; CITATION**

Act June 25, 1948, ch. 645, §1, 62 Stat. 683, provided in part that: "Title 18 of the United States Code, entitled 'Crimes and Criminal Procedure', is hereby revised, codified and enacted into positive law, and may

be cited as "Title 18, U.S.C., §—." "

### LEGISLATIVE CONSTRUCTION

Act June 25, 1948, ch. 645, §19, 62 Stat. 862, provided that: "No inference of a legislative construction is to be drawn by reason of the chapter in Title 18, Crimes and Criminal Procedure, as set out in section 1 of this Act, in which any particular section is placed, nor by reason of the catchlines used in such title."

### SEPARABILITY

Act June 25, 1948, ch. 645, §18, 62 Stat. 862, provided that: "If any part of Title 18, Crimes and Criminal Procedure, as set out in section 1 of this Act, shall be held invalid the remainder shall not be affected thereby."

### EFFECTIVE DATE

Act June 25, 1948, ch. 645, §20, 62 Stat. 862, provided that the revision of this title shall be effective Sept. 1, 1948.

### EXISTING RIGHTS OR LIABILITIES

Act June 25, 1948, ch. 645, §21, 62 Stat. 862, provided in part that any right or liabilities now existing under repealed sections or parts thereof shall not be affected by the repeal.

### REPEALED, TRANSFERRED, AND OMITTED SECTIONS

All former sections of Title 18 were repealed, transferred to other titles, or omitted by said act June 25, 1948, except for sections 595, 644, 726–1, 726a, 729, 730, and 732 which were repealed by act June 25, 1948, ch. 646, 62 Stat. 687, the act revising and codifying Title 28, Judiciary and Judicial Procedure, into positive law.

## PART I—CRIMES

Chap.		Sec.
1.	General provisions	1
2.	Aircraft and motor vehicles	31
3.	Animals, birds, fish, and plants	41
5.	Arson	81
7.	Assault	111
9.	Bankruptcy	151
10.	Biological weapons	175
11.	Bribery, graft, and conflicts of interest	201
11A.	Child support	228
11B.	Chemical Weapons <sup>1</sup>	229
12.	Civil disorders	231
13.	Civil rights	241
15.	Claims and services in matters affecting government	281
17.	Coins and currency	331
17A.	Common carrier operation under the influence of alcohol or drugs	341
18.	Congressional, Cabinet, and Supreme Court assassination, kidnapping, and assault	351
19.	Conspiracy	371
21.	Contempts	401
23.	Contracts	431
25.	Counterfeiting and forgery	470
26.	Criminal street gangs	521
27.	Customs	541
29.	Elections and political activities	591
31.	Embezzlement and theft	641
33.	Emblems, insignia, and names	700

35.	Escape and rescue	751
37.	Espionage and censorship	791
39.	Explosives and combustibles <sup>2</sup>	831
40.	Importation, manufacture, distribution and storage of explosive materials	841
41.	Extortion and threats	871
42.	Extortionate credit transactions	891
43.	False personation	911
44.	Firearms	921
45.	Foreign relations	951
46.	Forfeiture	981
47.	Fraud and false statements	1001
49.	Fugitives from justice	1071
50.	Gambling	1081
50A.	Genocide	1091
51.	Homicide	1111
53.	Indians	1151
55.	Kidnapping	1201
57.	Labor	1231
59.	Liquor traffic	1261
61.	Lotteries	1301
63.	Mail fraud <sup>3</sup>	1341
65.	Malicious mischief	1361
67.	Military and Navy	1381
[68.	Repealed.]	
69.	Nationality and citizenship	1421
71.	Obscenity	1460
73.	Obstruction of justice	1501
74.	Partial-birth abortions	1531
75.	Passports and visas	1541
77.	Peonage, slavery, and trafficking in persons	1581
79.	Perjury	1621
81.	Piracy and privateering	1651
83.	Postal service	1691
84.	Presidential and Presidential staff assassination, kidnapping, and assault	1751
85.	Prison-made goods	1761
87.	Prisons	1791
88.	Privacy	1801
[89.	Repealed.]	
90.	Protection of trade secrets	1831
90A.	Protection of unborn children	1841
91.	Public lands	1851
93.	Public officers and employees	1901
95.	Racketeering	1951
96.	Racketeer influenced and corrupt organizations	1961
97.	Railroad carriers and mass transportation systems on land, on water, or through the air	1991
[99.	Repealed.]	
101.	Records and reports	2071
102.	Riots	2101
103.	Robbery and burglary	2111
105.	Sabotage	2151



<b>107. Seamen and stowaways</b>	<b>2191</b>
<b>109. Searches and seizures</b>	<b>2231</b>
<b>109A. Sexual abuse</b>	<b>2241</b>
<b>109B. Sex offender and crimes against children registry</b>	<b>2250</b>
<b>110. Sexual exploitation and other abuse of children</b>	<b>2251</b>
<b>110A. Domestic violence and stalking</b>	<b>2261</b>
<b>111. Shipping</b>	<b>2271</b>
<b>111A. Destruction of, or interference with, vessels or maritime facilities</b>	<b>2290</b>
<b>113. Stolen property</b>	<b>2311</b>
<b>113A. Telemarketing and email marketing fraud</b>	<b>2325</b>
<b>113B. Terrorism</b>	<b>2331</b>
<b>113C. Torture</b>	<b>2340</b>
<b>114. Trafficking in contraband cigarettes and smokeless tobacco</b>	<b>2341</b>
<b>115. Treason, sedition, and subversive activities</b>	<b>2381</b>
<b>117. Transportation for illegal sexual activity and related crimes</b>	<b>2421</b>
<b>118. War crimes</b>	<b>2441</b>
<b>119. Wire and electronic communications interception and interception of oral communications <sup>4</sup></b>	<b>2510</b>
<b>121. Stored wire and electronic communications and transactional records access</b>	<b>2701</b>
<b>123. Prohibition on release and use of certain personal information from State motor vehicle records</b>	<b>2721</b>

## EDITORIAL NOTES

### AMENDMENTS

**2020**—Pub. L. 116–260, div. O, title X, §1003(a), Dec. 27, 2020, 134 Stat. 2156, struck out item for chapter 89 "Professions and occupations".

**2017**—Pub. L. 115–70, title IV, §402(b)(1), Oct. 18, 2017, 131 Stat. 1214, substituted "Telemarketing and email marketing fraud" for "Telemarketing fraud" in item for chapter 113A.

**2006**—Pub. L. 109–248, title I, §141(a)(2), July 27, 2006, 120 Stat. 602, added item for chapter 109B.

Pub. L. 109–177, title I, §121(g)(4)(B), Mar. 9, 2006, 120 Stat. 224, which directed amendment of table of chapters at the beginning of part I of this title by striking item relating to "section 114" and inserting new item 114, was executed by adding item for chapter 114 and striking item for former chapter 114 "Trafficking in Contraband Cigarettes", to reflect the probable intent of Congress.

Pub. L. 109–177, title I, §110(b)(2), title III, §306(b), Mar. 9, 2006, 120 Stat. 208, 239, substituted "Railroad carriers and mass transportation systems on land, on water, or through the air" for "Railroads" in item for chapter 97 and added item for chapter 111A.

**2004**—Pub. L. 108–495, §2(b), Dec. 23, 2004, 118 Stat. 4000, added item for chapter 88.

Pub. L. 108–212, §2(b), Apr. 1, 2004, 118 Stat. 569, added item for chapter 90A.

**2003**—Pub. L. 108–193, §5(c)(2), Dec. 19, 2003, 117 Stat. 2880, substituted "Peonage, slavery, and trafficking in persons" for "Peonage and slavery" in item for chapter 77.

Pub. L. 108–105, §3(b), Nov. 5, 2003, 117 Stat. 1208, added item for chapter 74.

**2002**—Pub. L. 107–273, div. B, title IV, §4002(c)(1), (e)(5), Nov. 2, 2002, 116 Stat. 1808, 1810, substituted "2721" for "2271" in item for chapter 123 and repealed amendment by Pub. L. 104–294, §601(j)(2)(A). See 1996 Amendment note below.

**1998**—Pub. L. 105–277, div. I, title II, §201(b)(2), Oct. 21, 1998, 112 Stat. 2681–871, added item for chapter 11B.

**1996**—Pub. L. 104–294, title I, §101(b), title VI, §§601(j)(2)(B), 605(c), (p)(3), Oct. 11, 1996, 110 Stat. 3491, 3501, 3509, 3510, substituted "1461" for "1460" in item for chapter 71, added item for chapter 90, and substituted "2340" for "2340." in item for chapter 113C and "2441" for "2401" in item for chapter 118.

Pub. L. 104–201, div. A, title X, §1069(b)(4), Sept. 23, 1996, 110 Stat. 2656, inserted "and stalking" after "violence" in item for chapter 110A.

Pub. L. 104–192, §2(b), Aug. 21, 1996, 110 Stat. 2104, added item for chapter 118.

Pub. L. 104–132, title III, §303(c)(2), Apr. 24, 1996, 110 Stat. 1253, redesignated item 113B, relating to torture, as 113C. Pub. L. 104–294, title VI, §601(j)(2)(A), Oct. 11, 1996, 110 Stat. 3501, which amended analysis identically, was repealed by Pub. L. 107–273, div. B., title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat.

## CHAPTER 90—PROTECTION OF TRADE SECRETS

Sec.	
1831.	Economic espionage.
1832.	Theft of trade secrets.
1833.	Exceptions to prohibitions.
1834.	Criminal forfeiture.
1835.	Orders to preserve confidentiality.
1836.	Civil proceedings.
1837.	Applicability to conduct outside the United States.
1838.	Construction with other laws.
1839.	Definitions.

### EDITORIAL NOTES

#### AMENDMENTS

**2016**—Pub. L. 114–153, §2(d)(2), May 11, 2016, 130 Stat. 381, substituted "Civil proceedings" for "Civil proceedings to enjoin violations" in item 1836.

**2002**—Pub. L. 107–273, div. B, title IV, §4002(f)(1), Nov. 2, 2002, 116 Stat. 1811, substituted "Applicability to conduct" for "Conduct" in item 1837.

### §1831. Economic espionage

(a) **IN GENERAL.**—Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret;

(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in any of paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than \$5,000,000 or imprisoned not more than 15 years, or both.

(b) **ORGANIZATIONS.**—Any organization that commits any offense described in subsection (a) shall be fined not more than the greater of \$10,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided.

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3488; amended Pub. L. 112–269, §2, Jan. 14, 2013, 126 Stat. 2442.)

### EDITORIAL NOTES

#### AMENDMENTS

**2013**—Subsec. (a). Pub. L. 112–269, §2(a), substituted "not more than \$5,000,000" for "not more than \$500,000" in concluding provisions.

Subsec. (b). Pub. L. 112–269, §2(b), substituted "not more than the greater of \$10,000,000 or 3 times the

value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided" for "not more than \$10,000,000".

### **§1832. Theft of trade secrets**

(a) Whoever, with intent to convert a trade secret, that is related to a product or service used in or intended for use in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined under this title or imprisoned not more than 10 years, or both.

(b) Any organization that commits any offense described in subsection (a) shall be fined not more than the greater of \$5,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided.

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3489; amended Pub. L. 112–236, §2, Dec. 28, 2012, 126 Stat. 1627; Pub. L. 114–153, §3(a)(1), May 11, 2016, 130 Stat. 382.)

## **EDITORIAL NOTES**

### **AMENDMENTS**

**2016**—Subsec. (b). Pub. L. 114–153 substituted "the greater of \$5,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided" for "\$5,000,000".

**2012**—Subsec. (a). Pub. L. 112–236 substituted "a product or service used in or intended for use in" for "or included in a product that is produced for or placed in" in introductory provisions.

## **STATUTORY NOTES AND RELATED SUBSIDIARIES**

### **REPORT ON THEFT OF TRADE SECRETS OCCURRING ABROAD**

Pub. L. 114–153, §4, May 11, 2016, 130 Stat. 382, which requires biannual reports on the theft of trade secrets of United States companies occurring outside of the United States, was editorially reclassified as section 41310 of Title 34, Crime Control and Law Enforcement.

### **§1833. Exceptions to prohibitions**

(a) **IN GENERAL.**—This chapter does not prohibit or create a private right of action for—

(1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or

(2) the disclosure of a trade secret in accordance with subsection (b).

(b) IMMUNITY FROM LIABILITY FOR CONFIDENTIAL DISCLOSURE OF A TRADE SECRET TO THE GOVERNMENT OR IN A COURT FILING.—

(1) IMMUNITY.—An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that—

(A) is made—

(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and

(ii) solely for the purpose of reporting or investigating a suspected violation of law; or

(B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(2) USE OF TRADE SECRET INFORMATION IN ANTI-RETALIATION LAWSUIT.—An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual—

(A) files any document containing the trade secret under seal; and

(B) does not disclose the trade secret, except pursuant to court order.

(3) NOTICE.—

(A) IN GENERAL.—An employer shall provide notice of the immunity set forth in this subsection in any contract or agreement with an employee that governs the use of a trade secret or other confidential information.

(B) POLICY DOCUMENT.—An employer shall be considered to be in compliance with the notice requirement in subparagraph (A) if the employer provides a cross-reference to a policy document provided to the employee that sets forth the employer's reporting policy for a suspected violation of law.

(C) NON-COMPLIANCE.—If an employer does not comply with the notice requirement in subparagraph (A), the employer may not be awarded exemplary damages or attorney fees under subparagraph (C) or (D) of section 1836(b)(3) in an action against an employee to whom notice was not provided.

(D) APPLICABILITY.—This paragraph shall apply to contracts and agreements that are entered into or updated after the date of enactment of this subsection.

(4) EMPLOYEE DEFINED.—For purposes of this subsection, the term "employee" includes any individual performing work as a contractor or consultant for an employer.

(5) RULE OF CONSTRUCTION.—Except as expressly provided for under this subsection, nothing in this subsection shall be construed to authorize, or limit liability for, an act that is otherwise prohibited by law, such as the unlawful access of material by unauthorized means.

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3489; amended Pub. L. 114–153, §§2(c), 7(a), May 11, 2016, 130 Stat. 381, 384.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (b)(3)(D), is the date of enactment of Pub. L. 114–153, which was approved May 11, 2016.

### AMENDMENTS

**2016**—Pub. L. 114–153, §7(a)(1), (3), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 114–153, §2(c), inserted "or create a private right of action for" after "prohibit" in introductory provisions.

Subsec. (a)(2). Pub. L. 114–153, §7(a)(2), substituted "the disclosure of a trade secret in accordance with

subsection (b)" for "the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–153, §2(e), May 11, 2016, 130 Stat. 381, provided that: "The amendments made by this section [amending this section and sections 1836 and 1839 of this title] shall apply with respect to any misappropriation of a trade secret (as defined in section 1839 of title 18, United States Code, as amended by this section) for which any act occurs on or after the date of the enactment of this Act [May 11, 2016]."

### CONSTRUCTION OF 2016 AMENDMENT

Pub. L. 114–153, §2(f), May 11, 2016, 130 Stat. 382, provided that: "Nothing in the amendments made by this section [amending this section and sections 1836 and 1839 of this title] shall be construed to modify the rule of construction under section 1838 of title 18, United States Code, or to preempt any other provision of law."

### APPLICABILITY OF SECTION 2 OF PUB. L. 114–153 TO OTHER LAWS

Pub. L. 114–153, §2(g), May 11, 2016, 130 Stat. 382, provided that: "This section [amending this section and sections 1836 and 1839 of this title and enacting provisions set out as notes under this section] and the amendments made by this section shall not be construed to be a law pertaining to intellectual property for purposes of any other Act of Congress."

## §1834. Criminal forfeiture

Forfeiture, destruction, and restitution relating to this chapter shall be subject to section 2323, to the extent provided in that section, in addition to any other similar remedies provided by law. (Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3489; amended Pub. L. 110–403, title II, §207, Oct. 13, 2008, 122 Stat. 4263.)

## EDITORIAL NOTES

### AMENDMENTS

**2008**—Pub. L. 110–403 amended section generally. Prior to amendment, section related to forfeiture of property either derived from or used to commit a violation of this chapter.

## §1835. Orders to preserve confidentiality

(a) **IN GENERAL.**—In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

(b) **RIGHTS OF TRADE SECRET OWNERS.**—The court may not authorize or direct the disclosure of any information the owner asserts to be a trade secret unless the court allows the owner the opportunity to file a submission under seal that describes the interest of the owner in keeping the information confidential. No submission under seal made under this subsection may be used in a prosecution under this chapter for any purpose other than those set forth in this section, or otherwise required by law. The provision of information relating to a trade secret to the United States or the court in connection with a prosecution under this chapter shall not constitute a waiver of trade secret

protection, and the disclosure of information relating to a trade secret in connection with a prosecution under this chapter shall not constitute a waiver of trade secret protection unless the trade secret owner expressly consents to such waiver.

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 114–153, §3(a)(2), May 11, 2016, 130 Stat. 382.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (a), are set out in the Appendix to this title.  
The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Evidence, referred to in subsec. (a), are set out in the Appendix to Title 28.

### AMENDMENTS

**2016**—Pub. L. 114–153 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

## §1836. Civil proceedings

(a) The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this chapter.

(b) PRIVATE CIVIL ACTIONS.—

(1) IN GENERAL.—An owner of a trade secret that is misappropriated may bring a civil action under this subsection if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.

(2) CIVIL SEIZURE.—

(A) IN GENERAL.—

(i) APPLICATION.—Based on an affidavit or verified complaint satisfying the requirements of this paragraph, the court may, upon ex parte application but only in extraordinary circumstances, issue an order providing for the seizure of property necessary to prevent the propagation or dissemination of the trade secret that is the subject of the action.

(ii) REQUIREMENTS FOR ISSUING ORDER.—The court may not grant an application under clause (i) unless the court finds that it clearly appears from specific facts that—

(I) an order issued pursuant to Rule 65 of the Federal Rules of Civil Procedure or another form of equitable relief would be inadequate to achieve the purpose of this paragraph because the party to which the order would be issued would evade, avoid, or otherwise not comply with such an order;

(II) an immediate and irreparable injury will occur if such seizure is not ordered;

(III) the harm to the applicant of denying the application outweighs the harm to the legitimate interests of the person against whom seizure would be ordered of granting the application and substantially outweighs the harm to any third parties who may be harmed by such seizure;

(IV) the applicant is likely to succeed in showing that—

(aa) the information is a trade secret; and

(bb) the person against whom seizure would be ordered—

(AA) misappropriated the trade secret of the applicant by improper means; or

(BB) conspired to use improper means to misappropriate the trade secret of the applicant;

(V) the person against whom seizure would be ordered has actual possession of—

(aa) the trade secret; and

(bb) any property to be seized;

(VI) the application describes with reasonable particularity the matter to be seized and, to the extent reasonable under the circumstances, identifies the location where the matter is to be seized;

(VII) the person against whom seizure would be ordered, or persons acting in concert with such person, would destroy, move, hide, or otherwise make such matter inaccessible to the court, if the applicant were to proceed on notice to such person; and

(VIII) the applicant has not publicized the requested seizure.

(B) ELEMENTS OF ORDER.—If an order is issued under subparagraph (A), it shall—

(i) set forth findings of fact and conclusions of law required for the order;

(ii) provide for the narrowest seizure of property necessary to achieve the purpose of this paragraph and direct that the seizure be conducted in a manner that minimizes any interruption of the business operations of third parties and, to the extent possible, does not interrupt the legitimate business operations of the person accused of misappropriating the trade secret;

(iii)(I) be accompanied by an order protecting the seized property from disclosure by prohibiting access by the applicant or the person against whom the order is directed, and prohibiting any copies, in whole or in part, of the seized property, to prevent undue damage to the party against whom the order has issued or others, until such parties have an opportunity to be heard in court; and

(II) provide that if access is granted by the court to the applicant or the person against whom the order is directed, the access shall be consistent with subparagraph (D);

(iv) provide guidance to the law enforcement officials executing the seizure that clearly delineates the scope of the authority of the officials, including—

(I) the hours during which the seizure may be executed; and

(II) whether force may be used to access locked areas;

(v) set a date for a hearing described in subparagraph (F) at the earliest possible time, and not later than 7 days after the order has issued, unless the party against whom the order is directed and others harmed by the order consent to another date for the hearing, except that a party against whom the order has issued or any person harmed by the order may move the court at any time to dissolve or modify the order after giving notice to the applicant who obtained the order; and

(vi) require the person obtaining the order to provide the security determined adequate by the court for the payment of the damages that any person may be entitled to recover as a result of a wrongful or excessive seizure or wrongful or excessive attempted seizure under this paragraph.

(C) PROTECTION FROM PUBLICITY.—The court shall take appropriate action to protect the person against whom an order under this paragraph is directed from publicity, by or at the behest of the person obtaining the order, about such order and any seizure under such order.

(D) MATERIALS IN CUSTODY OF COURT.—

(i) IN GENERAL.—Any materials seized under this paragraph shall be taken into the custody of the court. The court shall secure the seized material from physical and electronic access during the seizure and while in the custody of the court.

(ii) STORAGE MEDIUM.—If the seized material includes a storage medium, or if the seized material is stored on a storage medium, the court shall prohibit the medium from being connected to a network or the Internet without the consent of both parties, until the hearing required under subparagraph (B)(v) and described in subparagraph (F).

(iii) PROTECTION OF CONFIDENTIALITY.—The court shall take appropriate measures to protect the confidentiality of seized materials that are unrelated to the trade secret information ordered seized pursuant to this paragraph unless the person against whom the

order is entered consents to disclosure of the material.

(iv) APPOINTMENT OF SPECIAL MASTER.—The court may appoint a special master to locate and isolate all misappropriated trade secret information and to facilitate the return of unrelated property and data to the person from whom the property was seized. The special master appointed by the court shall agree to be bound by a non-disclosure agreement approved by the court.

(E) SERVICE OF ORDER.—The court shall order that service of a copy of the order under this paragraph, and the submissions of the applicant to obtain the order, shall be made by a Federal law enforcement officer who, upon making service, shall carry out the seizure under the order. The court may allow State or local law enforcement officials to participate, but may not permit the applicant or any agent of the applicant to participate in the seizure. At the request of law enforcement officials, the court may allow a technical expert who is unaffiliated with the applicant and who is bound by a court-approved non-disclosure agreement to participate in the seizure if the court determines that the participation of the expert will aid the efficient execution of and minimize the burden of the seizure.

(F) SEIZURE HEARING.—

(i) DATE.—A court that issues a seizure order shall hold a hearing on the date set by the court under subparagraph (B)(v).

(ii) BURDEN OF PROOF.—At a hearing held under this subparagraph, the party who obtained the order under subparagraph (A) shall have the burden to prove the facts supporting the findings of fact and conclusions of law necessary to support the order. If the party fails to meet that burden, the seizure order shall be dissolved or modified appropriately.

(iii) DISSOLUTION OR MODIFICATION OF ORDER.—A party against whom the order has been issued or any person harmed by the order may move the court at any time to dissolve or modify the order after giving notice to the party who obtained the order.

(iv) DISCOVERY TIME LIMITS.—The court may make such orders modifying the time limits for discovery under the Federal Rules of Civil Procedure as may be necessary to prevent the frustration of the purposes of a hearing under this subparagraph.

(G) ACTION FOR DAMAGE CAUSED BY WRONGFUL SEIZURE.—A person who suffers damage by reason of a wrongful or excessive seizure under this paragraph has a cause of action against the applicant for the order under which such seizure was made, and shall be entitled to the same relief as is provided under section 34(d)(11) of the Trademark Act of 1946 (15 U.S.C. 1116(d)(11)). The security posted with the court under subparagraph (B)(vi) shall not limit the recovery of third parties for damages.

(H) MOTION FOR ENCRYPTION.—A party or a person who claims to have an interest in the subject matter seized may make a motion at any time, which may be heard ex parte, to encrypt any material seized or to be seized under this paragraph that is stored on a storage medium. The motion shall include, when possible, the desired encryption method.

(3) REMEDIES.—In a civil action brought under this subsection with respect to the misappropriation of a trade secret, a court may—

(A) grant an injunction—

(i) to prevent any actual or threatened misappropriation described in paragraph (1) on such terms as the court deems reasonable, provided the order does not—

(I) prevent a person from entering into an employment relationship, and that conditions placed on such employment shall be based on evidence of threatened misappropriation and not merely on the information the person knows; or

(II) otherwise conflict with an applicable State law prohibiting restraints on the practice of a lawful profession, trade, or business;

(ii) if determined appropriate by the court, requiring affirmative actions to be taken to



protect the trade secret; and

(iii) in exceptional circumstances that render an injunction inequitable, that conditions future use of the trade secret upon payment of a reasonable royalty for no longer than the period of time for which such use could have been prohibited;

(B) award—

(i)(I) damages for actual loss caused by the misappropriation of the trade secret; and  
(II) damages for any unjust enrichment caused by the misappropriation of the trade secret that is not addressed in computing damages for actual loss; or

(ii) in lieu of damages measured by any other methods, the damages caused by the misappropriation measured by imposition of liability for a reasonable royalty for the misappropriator's unauthorized disclosure or use of the trade secret;

(C) if the trade secret is willfully and maliciously misappropriated, award exemplary damages in an amount not more than 2 times the amount of the damages awarded under subparagraph (B); and

(D) if a claim of the misappropriation is made in bad faith, which may be established by circumstantial evidence, a motion to terminate an injunction is made or opposed in bad faith, or the trade secret was willfully and maliciously misappropriated, award reasonable attorney's fees to the prevailing party.

(c) JURISDICTION.—The district courts of the United States shall have original jurisdiction of civil actions brought under this section.

(d) PERIOD OF LIMITATIONS.—A civil action under subsection (b) may not be commenced later than 3 years after the date on which the misappropriation with respect to which the action would relate is discovered or by the exercise of reasonable diligence should have been discovered. For purposes of this subsection, a continuing misappropriation constitutes a single claim of misappropriation.

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 107–273, div. B, title IV, §4002(e)(9), Nov. 2, 2002, 116 Stat. 1810; Pub. L. 114–153, §2(a), (d)(1), May 11, 2016, 130 Stat. 376, 381.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2)(A)(ii)(I), (F)(iv), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

### AMENDMENTS

**2016**—Pub. L. 114–153, §2(d)(1), substituted "Civil proceedings" for "Civil proceedings to enjoin violations" in section catchline.

Subsecs. (b) to (d). Pub. L. 114–153, §2(a), added subsecs. (b) to (d) and struck out former subsec. (b) which read as follows: "The district courts of the United States shall have exclusive original jurisdiction of civil actions under this section."

**2002**—Subsec. (a). Pub. L. 107–273, §4002(e)(9)(A), substituted "this chapter" for "this section".

Subsec. (b). Pub. L. 107–273, §4002(e)(9)(B), substituted "this section" for "this subsection".

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–153 applicable with respect to any misappropriation of a trade secret (as defined in section 1839 of this title) for which any act occurs on or after May 11, 2016, see section 2(e) of Pub. L. 114–153, set out as a note under section 1833 of this title.

### **§1837. Applicability to conduct outside the United States**

This chapter also applies to conduct occurring outside the United States if—

(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

(2) an act in furtherance of the offense was committed in the United States.

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490.)

### **§1838. Construction with other laws**

Except as provided in section 1833(b), this chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal, State, commonwealth, possession, or territory law for the misappropriation of a trade secret, or to affect the otherwise lawful disclosure of information by any Government employee under section 552 of title 5 (commonly known as the Freedom of Information Act).

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 114–153, §7(b), May 11, 2016, 130 Stat. 385.)

## **EDITORIAL NOTES**

### **AMENDMENTS**

**2016**—Pub. L. 114–153 substituted "Except as provided in section 1833(b), this chapter" for "This chapter".

### **§1839. Definitions**

As used in this chapter—

(1) the term "foreign instrumentality" means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

(2) the term "foreign agent" means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

(3) the term "trade secret" means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

(A) the owner thereof has taken reasonable measures to keep such information secret; and

(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information;

(4) the term "owner", with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed;

(5) the term "misappropriation" means—

(A) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(B) disclosure or use of a trade secret of another without express or implied consent by a person who—

(i) used improper means to acquire knowledge of the trade secret;

(ii) at the time of disclosure or use, knew or had reason to know that the knowledge of the trade secret was—

(I) derived from or through a person who had used improper means to acquire the trade secret;

(II) acquired under circumstances giving rise to a duty to maintain the secrecy of the trade secret or limit the use of the trade secret; or

(III) derived from or through a person who owed a duty to the person seeking relief to maintain the secrecy of the trade secret or limit the use of the trade secret; or

(iii) before a material change of the position of the person, knew or had reason to know that—

(I) the trade secret was a trade secret; and

(II) knowledge of the trade secret had been acquired by accident or mistake;

(6) the term "improper means"—

(A) includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means; and

(B) does not include reverse engineering, independent derivation, or any other lawful means of acquisition; and

(7) the term "Trademark Act of 1946" means the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes <sup>1</sup>, approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the 'Trademark Act of 1946' or the 'Lanham Act')" <sup>1</sup>.

(Added Pub. L. 104–294, title I, §101(a), Oct. 11, 1996, 110 Stat. 3490; amended Pub. L. 114–153, §2(b), May 11, 2016, 130 Stat. 380.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

The Trademark Act of 1946, referred to in par. (7), is act July 5, 1946, ch. 540, 60 Stat. 427, also popularly known as the Lanham Act, which is classified generally to chapter 22 (§1051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of Title 15 and Tables.

### AMENDMENTS

**2016**—Par. (3)(B). Pub. L. 114–153, §2(b)(1)(A), substituted "another person who can obtain economic value from the disclosure or use of the information" for "the public".

Pars. (5) to (7). Pub. L. 114–153, §2(b)(1)(B)–(3), added pars. (5) to (7).

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–153 applicable with respect to any misappropriation of a trade secret (as defined in this section) for which any act occurs on or after May 11, 2016, see section 2(e) of Pub. L. 114–153, set out as a note under section 1833 of this title.

<sup>1</sup> *So in original. The closing quotation marks probably should follow "purposes" instead of " 'Lanham Act' ".*

## CHAPTER 90A—PROTECTION OF UNBORN CHILDREN