

ance of such officer's official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

(2) As used in this section, the term, "State correctional officer" includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

(3) The circumstance referred to in paragraph (1) is that—

(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.

(c) For the purposes of this section, the term "State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 103-322, title VI, §60015(a), Sept. 13, 1994, 108 Stat. 1974; amended Pub. L. 104-294, title VI, §607(k), Oct. 11, 1996, 110 Stat. 3512.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-294 added subsec. (c).

§ 1122. Protection against the human immunodeficiency virus

(a) IN GENERAL.—Whoever, after testing positive for the Human Immunodeficiency Virus (HIV) and receiving actual notice of that fact, knowingly donates or sells, or knowingly attempts to donate or sell, blood, semen, tissues, organs, or other bodily fluids for use by another, except as determined necessary for medical research or testing, shall be fined or imprisoned in accordance with subsection (c).

(b) TRANSMISSION NOT REQUIRED.—Transmission of the Human Immunodeficiency Virus does not have to occur for a person to be convicted of a violation of this section.

(c) PENALTY.—Any person convicted of violating the provisions of subsection (a) shall be subject to a fine under this title of not less than \$10,000, imprisoned for not less than 1 year nor more than 10 years, or both.

(Added Pub. L. 103-333, title V, §514, Sept. 30, 1994, 108 Stat. 2574, §1118; renumbered §1122 and amended Pub. L. 104-294, title VI, §601(a)(5), Oct. 11, 1996, 110 Stat. 3498.)

AMENDMENTS

1996—Pub. L. 104-294, §601(a)(5)(A), renumbered section 1118, relating to protection against human immunodeficiency virus, as this section.

Subsec. (c). Pub. L. 104-294, §601(a)(5)(B), inserted "under this title" after "fine" and struck out "nor more than \$20,000" after "\$10,000".

CHAPTER 53—INDIANS

- Sec. 1151. Indian country defined.
1152. Laws governing.
1153. Offenses committed within Indian country.
1154. Intoxicants dispensed in Indian country.
1155. Intoxicants dispensed on school site.

- Sec. 1156. Intoxicants possessed unlawfully.
[1157. Repealed.]
1158. Counterfeiting Indian Arts and Crafts Board trade mark.
1159. Misrepresentation of Indian produced goods and products.
1160. Property damaged in committing offense.
1161. Application of Indian liquor laws.
1162. State jurisdiction over offenses committed by or against Indians in the Indian country.
1163. Embezzlement and theft from Indian tribal organizations.
1164. Destroying boundary and warning signs.
1165. Hunting, trapping, or fishing on Indian land.
1166. Gambling in Indian country.
1167. Theft from gaming establishments on Indian lands.
1168. Theft by officers or employees of gaming establishments on Indian lands.
1169. Reporting of child abuse.
1170. Illegal trafficking in Native American human remains and cultural items.

AMENDMENTS

1996—Pub. L. 104-294, title VI, §604(b)(26), Oct. 11, 1996, 110 Stat. 3508, directed that item 1169 be transferred to appear after item 1168.

Pub. L. 104-294, title VI, §604(b)(25), Oct. 11, 1996, 110 Stat. 3508, amended directory language of Pub. L. 103-322, §330011(d), which amended Pub. L. 101-630, §404(a)(2). See 1990 Amendment note below.

1994—Pub. L. 103-322, title XXXIII, §330010(5), Sept. 13, 1994, 108 Stat. 2143, substituted "Illegal trafficking in Native American human remains and cultural items" for "Illegal Trafficking in Native American Human Remains and Cultural Items" in item 1170.

1990—Pub. L. 101-647, title XXXV, §3536, Nov. 29, 1990, 104 Stat. 4925, struck out item 1157 "Livestock sold or removed".

Pub. L. 101-644, title I, §104(b), Nov. 29, 1990, 104 Stat. 4663, substituted "Misrepresentation of Indian produced goods and products" for "Misrepresentation in sale of products" in item 1159.

Pub. L. 101-630, title IV, §404(a)(2), Nov. 28, 1990, 104 Stat. 4548, as amended, effective on the date section 404(a)(2) of Pub. L. 101-630 took effect, by Pub. L. 103-322, title XXXIII, §330011(d), Sept. 13, 1994, 108 Stat. 2144, as amended by Pub. L. 104-294, title VI, §604(b)(25), Oct. 11, 1996, 110 Stat. 3508, added item 1169.

Pub. L. 101-601, §4(b), Nov. 16, 1990, 104 Stat. 3052, added item 1170.

1988—Pub. L. 100-497, §24, Oct. 17, 1988, 102 Stat. 2488, added items 1166, 1167, and 1168.

1960—Pub. L. 86-634, §3, July 12, 1960, 74 Stat. 469, added items 1164 and 1165.

1956—Act Aug. 1, 1956, ch. 822, §1, 70 Stat. 792, added item 1163.

1953—Act Aug. 15, 1953, ch. 502, §1, 67 Stat. 586, added item 1161.

Act Aug. 15, 1953, ch. 505, §1, 67 Stat. 588, added item 1162.

§ 1151. Indian country defined

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian country", as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not

been extinguished, including rights-of-way running through the same.

(June 25, 1948, ch. 645, 62 Stat. 757; May 24, 1949, ch. 139, §25, 63 Stat. 94.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on sections 548 and 549 of title 18, and sections 212, 213, 215, 217, 218 of title 25, Indians, U.S. Code, 1940 ed. (R.S. §§2142, 2143, 2144, 2145, 2146; Feb. 18, 1875, ch. 80, §1, 18 Stat. 318; Mar. 4, 1909, ch. 321, §§328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

This section consolidates numerous conflicting and inconsistent provisions of law into a concise statement of the applicable law.

R.S. §§2145, 2146 (U.S.C., title 25, §§217, 218) extended to the Indian country with notable exceptions the criminal laws of the United States applicable to places within the exclusive jurisdiction of the United States. Crimes of Indians against Indians, and crimes punishable by tribal law were excluded.

The confusion was not lessened by the cases of *U.S. v. McBratney*, 104 U.S. 622 and *Draper v. U.S.*, 17 S.Ct. 107, holding that crimes in Indian country by persons not Indians are not cognizable by Federal courts in absence of reservation or cession of exclusive jurisdiction applicable to places within the exclusive jurisdiction of the United States. Because of numerous statutes applicable only to Indians and prescribing punishment for crimes committed by Indians against Indians, "Indian country" was defined but once. (See act June 30, 1834, ch. 161, §1, 4, Stat. 729, which was later repealed.)

Definition is based on latest construction of the term by the United States Supreme Court in *U.S. v. McGowan*, 58 S.Ct. 286, 302 U.S. 535, following *U.S. v. Sandoval*, 34 S.Ct. 1, 5, 231 U.S. 28, 46. (See also *Donnelly v. U.S.*, 33 S.Ct. 449, 228 U.S. 243; and *Kills Plenty v. U.S.*, 133 F.2d 292, certiorari denied, 1943, 63 S.Ct. 1172). (See reviser's note under section 1153 of this title.)

Indian allotments were included in the definition on authority of the case of *U.S. v. Pelican*, 1913, 34 S.Ct. 396, 232 U.S. 442, 58 L.Ed. 676.

##### 1949 ACT

This section [section 25], by adding to section 1151 of title 18, U.S.C., the phrase "except as otherwise provided in sections 1154 and 1156 of this title", incorporates in this section the limitations of the term "Indian country" which are added to sections 1154 and 1156 by sections 27 and 28 of this bill.

#### AMENDMENTS

1949—Act May 24, 1949, incorporated the limitations of term "Indian country" which are contained in sections 1154 and 1156 of this title.

#### SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-297, §1, May 29, 1976, 90 Stat. 585, provided: "That this Act [amending sections 113, 1153, and 3242 of this title] may be cited as the 'Indian Crimes Act of 1976'."

### § 1152. Laws governing

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe,

or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

(June 25, 1948, ch. 645, 62 Stat. 757.)

#### HISTORICAL AND REVISION NOTES

Based on sections 215, 217, 218 of title 25, U.S.C., 1940 ed., Indians (R.S. 2144, 2145, 2146; Feb. 18, 1875, ch. 80, §§1, 18 Stat. 318).

Section consolidates said sections 217 and 218 of title 25, U.S.C., 1940 ed., Indians, and omits section 215 of said title as covered by the consolidation.

See reviser's note under section 1153 of this title as to effect of consolidation of sections 548 and 549 of title 18, U.S.C., 1940 ed.

Minor changes were made in translations and phraseology.

### § 1153. Offenses committed within Indian country

(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

(b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

(June 25, 1948, ch. 645, 62 Stat. 758; May 24, 1949, ch. 139, §26, 63 Stat. 94; Pub. L. 89-707, §1, Nov. 2, 1966, 80 Stat. 1100; Pub. L. 90-284, title V, §501, Apr. 11, 1968, 82 Stat. 80; Pub. L. 94-297, §2, May 29, 1976, 90 Stat. 585; Pub. L. 98-473, title II, §1009, Oct. 12, 1984, 98 Stat. 2141; Pub. L. 99-303, May 15, 1986, 100 Stat. 438; Pub. L. 99-646, §87(c)(5), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99-654, §3(a)(5), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 100-690, title VII, §7027, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103-322, title XVII, §170201(e), title XXXIII, §330021(1), Sept. 13, 1994, 108 Stat. 2043, 2150; Pub. L. 109-248, title II, §215, July 27, 2006, 120 Stat. 617.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on title 18, U.S.C., 1940 ed., §§548, 549 (Mar. 4, 1909, ch. 321, §§328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

Section consolidates said sections 548 and 549 of title 18, U.S.C., 1940 ed. Section 548 of said title covered 10 crimes. Section 549 of said title covered the same except robbery and incest.

The 1932 amendment of section 548 of title 18, U.S.C., 1940 ed., constituting the last paragraph of the section, is omitted and section 549 of said title to which it applied likewise is omitted. The revised section therefore suffices to cover prosecution of the specific offenses committed on all reservations as intended by Congress.