EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable with respect to pleadings filed with the United States Tax Court, the District Court of the United States for the District of Columbia, or the United States Court of Claims more than 6 months after Oct. 4, 1976, but only with respect to determinations (or requests for determinations) made after Jan. 1, 1976, see section 1306(c) of Pub. L. 94–455, set out as an Effective Date note under section 7428 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–508 effective Jan. 3, 1959, on admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on sections 401 to 416 of Pub. L. 103–182, see section 3451 of Title 19, Customs Duties.

AMOUNT IN CONTROVERSY

Jurisdictional amount in diversity of citizenship cases, see section 1332 of this title.

§ 2202. Further relief

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

(June 25, 1948, ch. 646, 62 Stat. 964.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 400 (Mar. 3, 1911, ch. 231, § 274d, as added June 14, 1934, ch. 512, 48 Stat. 955; Aug. 30, 1935, ch. 829, § 405, 49 Stat. 1027).

This section is based on the second paragraph of section 400 of title 28, U.S.C., 1940 ed. Other provisions of such section are incorporated in section 2201 of this title.

Provision in said section 400 that the court shall require adverse parties whose rights are adjudicated to show cause why further relief should not be granted forthwith, were omitted as unnecessary and covered by the revised section.

Provisions relating to submission of interrogatories to a jury were omitted as covered by rule 49 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CHAPTER 153—HABEAS CORPUS

Sec.
2241. Power to grant writ.
2242. Application.
2243. Issuance of writ; return; hearing; decision.
2244. Finality of determination.
2245. Certificate of trial judge admissible in evidence.
2246. Evidence; depositions; affidavits.
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2248. Return or answer; conclusiveness.
2249. Certified copies of indictment, plea and judgment; duty of respondent.
2250. Indigent petitioner entitled to documents without cost.
2251. Stay of State court proceedings.
2252. Notice.
2253. Appeal.
2254. State custody; remedies in Federal courts.
2255. Federal custody; remedies on motion attacking sentence.
[2256. Omitted.]

SENATE REVISION AMENDMENT

Chapter catchline was changed by Senate amendment. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1978—Pub. L. 95–598, title II, § 250(b), Nov. 6, 1978, 92 Stat. 2672, directed the addition of item 2256 ''Habeas corpus from bankruptcy courts'', which amendment did not become effective pursuant to section 402(b) of Pub. L. 95–598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1966—Pub. L. 89–711, § 3, Nov. 2, 1966, 80 Stat. 1106, substituted ''Federal courts'' for ''State Courts'' in item 2254.

§ 2241. Power to grant writ

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States; or

(4) He, being a citizen of a foreign state and domiciled therein is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations; or

(5) It is necessary to bring him into court to testify or for trial.

(d) Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judi-

cial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

(June 25, 1948, ch. 646, 62 Stat. 964; May 24, 1949, ch. 139, § 112, 63 Stat. 105; Pub. L. 89–590, Sept. 19, 1966, 80 Stat. 811; Pub. L. 109–148, div. A, title X, § 1005(e)(1), Dec. 30, 2005, 119 Stat. 2741; Pub. L. 109–163, div. A, title XIV, § 1405(e)(1), Jan. 6, 2006, 119 Stat. 3477; Pub. L. 109–366, § 7(a), Oct. 17, 2006, 120 Stat. 2635; Pub. L. 110–181, div. A, title X, § 1063(f), Jan. 28, 2008, 122 Stat. 323.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§ 451, 452, 453 (R.S. §§ 751, 752, 753; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Feb. 13, 1925, ch. 229, § 6, 43 Stat. 940).

Section consolidates sections 451, 452 and 453 of title 28, U.S.C., 1940 ed., with changes in phraseology necessary to effect the consolidation.

Words ''for the purpose of an inquiry into the cause of restraint of liberty'' in section 452 of title 28, U.S.C., 1940 ed., were omitted as merely descriptive of the writ.

Subsection (b) was added to give statutory sanction to orderly and appropriate procedure. A circuit judge who unnecessarily entertains applications which should be addressed to the district court, thereby disqualifies himself to hear such matters on appeal and to that extent limits his usefulness as a judge of the court of appeals. The Supreme Court and Supreme Court Justices should not be burdened with applications for writs cognizable in the district courts.

1949 ACT

This section inserts commas in certain parts of the text of subsection (b) of section 2241 of title 28, U.S.C., for the purpose of proper punctuation.

REFERENCES IN TEXT

Section 1005(e) of the Detainee Treatment Act of 2005, referred to in subsec. (e)(2), is section 1005(e) of title X of div. A of Pub. L. 109–148, which is set out as a note under section 801 of Title 10, Armed Forces.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–181 amended directory language of Pub. L. 109–366, § 7(a). See 2006 Amendment note below.

2006—Subsec. (e). Pub. L. 109–366, § 7(a), as amended by Pub. L. 110–181, added subsec. (e) and struck out both former subsecs. (e) relating to jurisdiction to hear or consider action against United States or its agents relating to detention of alien by Department of Defense at Guantanamo Bay, Cuba.

Subsec. (e). Pub. L. 109–163 added subsec. (e), relating to section 1405 of the Detainee Treatment Act of 2005.

2005—Subsec. (e). Pub. L. 109–148 added subsec. (e), relating to section 1005 of the Detainee Treatment Act of 2005.

1966—Subsec. (d). Pub. L. 89–590 added subsec. (d).

1949—Subsec. (b). Act May 24, 1949, inserted commas after ''Supreme Court'' and ''any justice thereof''.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–366, § 7(b), Oct. 17, 2006, 120 Stat. 2636, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 17, 2006], and shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001.''

TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS

Pub. L. 109–366, § 5, Oct. 17, 2006, 120 Stat. 2631, provided that:

''(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

''(b) GENEVA CONVENTIONS DEFINED.—In this section, the term 'Geneva Conventions' means—

''(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

''(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

''(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

''(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).''

§ 2242. Application

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held.

(June 25, 1948, ch. 646, 62 Stat. 965.)