

For miscellaneous provisions dealing with adjustments of pay and limitations on use of funds to pay salaries in prior years, see notes under section 5318 of Title 5, Government Organization and Employees.

Salary of chief judge of District Court for District of Columbia increased from \$10,500 to \$15,500 a year, and salaries of all other district court judges increased from \$10,000 to \$15,000 a year by act July 31, 1946, ch. 704, §1, 60 Stat. 716.

Salary of chief judge of District Court of District of Columbia increased from \$7,500 to \$10,500 a year, and salaries of all other district court judges increased from \$7,500 to \$10,000 a year by act Dec. 13, 1926, ch. 6, §1, 44 Stat. 919.

Salaries of district court judges increased from \$6,000 to \$7,500 a year by act Feb. 25, 1919, ch. 29, §1, 40 Stat. 1156.

Salaries of chief justice and associate justices of Supreme Court of District of Columbia, forerunner of District Court for District of Columbia, were set at \$5,000 by act Mar. 3, 1901, ch. 854, §1, 30 Stat. 1199, and increased to \$7,500 a year by act Feb. 25, 1919, ch. 29, §1, 40 Stat. 1156.

Salaries of district court judges set at \$6,000 a year by Judicial Code of 1911, act Mar. 3, 1911, ch. 231, §1, 36 Stat. 1087.

§ 136. Chief judges; precedence of district judges

(a)(1) In any district having more than one district judge, the chief judge of the district shall be the district judge in regular active service who is senior in commission of those judges who—

(A) are sixty-four years of age or under;

(B) have served for one year or more as a district judge; and

(C) have not served previously as chief judge.

(2)(A) In any case in which no district judge meets the qualifications of paragraph (1), the youngest district judge in regular active service who is sixty-five years of age or over and who has served as district judge for one year or more shall act as the chief judge.

(B) In any case under subparagraph (A) in which there is no district judge in regular active service who has served as a district judge for one year or more, the district judge in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

(3)(A) Except as provided in subparagraph (C), the chief judge of the district appointed under paragraph (1) shall serve for a term of seven years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge of the district.

(B) Except as provided in subparagraph (C), a district judge acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge has been appointed who meets the qualifications under paragraph (1).

(C) No district judge may serve or act as chief judge of the district after attaining the age of seventy years unless no other district judge is qualified to serve as chief judge of the district under paragraph (1) or is qualified to act as chief judge under paragraph (2).

(b) The chief judge shall have precedence and preside at any session which he attends.

Other district judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) A judge whose commission extends over more than one district shall be junior to all district judges except in the district in which he resided at the time he entered upon the duties of his office.

(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as district judge, he may so certify to the Chief Justice of the United States, and thereafter, the chief judge of the district shall be such other district judge who is qualified to serve or act as chief judge under subsection (a).

(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the district judge in active service, present in the district and able and qualified to act, who is next in precedence.

(June 25, 1948, ch. 646, 62 Stat. 897; Oct. 31, 1951, ch. 655, §37, 65 Stat. 723; Pub. L. 85-593, §2, Aug. 6, 1958, 72 Stat. 497; Pub. L. 97-164, title II, §202, Apr. 2, 1982, 96 Stat. 52.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §375 and District of Columbia Code, 1940 ed., §11-301 (Mar. 3, 1901, ch. 854, §§60, 61, 31 Stat. 1199; Mar. 3, 1911, ch. 231, §260, 36 Stat. 1161; Mar. 3, 1911, ch. 231, §289, 32 Stat. 1167; Feb. 25, 1919, ch. 29, §6, 40 Stat. 1157; Dec. 20, 1928, ch. 41, 45 Stat. 1056; Mar. 1, 1929, ch. 419, 45 Stat. 1422; June 19, 1930, ch. 537, 46 Stat. 785; May 31, 1938, ch. 290, §5, 52 Stat. 584).

Section consolidates portions of section 375 of title 28, U.S.C., 1940 ed., and section 11-301 of the District of Columbia Code, 1940 ed. The provisions of said section 375 relating to resignation and retirement of judges, and appointment of court officers, are incorporated in sections 294, 371, and 756 of this title. Other provisions of said section 11-301 of the District of Columbia Code are incorporated in section 133 of this title.

Subsection (a), providing for a "chief judge" is new. Such term replaces the terms "senior district judge," and "Chief Justice" of the District Court in the District of Columbia. It is employed in view of the great increase of administrative duties of such judge. The use of the term "chief judge" with respect to the District of Columbia will result in uniform nomenclature for all district courts. The district judges of that court have expressed approval of such designation.

The provision in said section 11-301 of the District of Columbia Code, 1940 ed., that the "Chief Justice" shall be appointed by the President, by and with the advice and consent of the Senate, was omitted for the purpose of establishing a uniform method of creating the position of chief judge in all districts. The District of Columbia is expressly made a judicial district by section 88 of this title.

Subsection (b) is new and conforms with similar provisions respecting associate justices of the Supreme Court and circuit judges in sections 4 and 45 of this title.

Subsection (c) is from the proviso in the second paragraph of section 375 of title 28, U.S.C., 1940 ed., which applied only in cases of appointment of court officers. Here it is made applicable to all district judges.

Subsections (d) and (e) are new, and conform with section 44 of this title relating to precedence of circuit judges.

The official status of the Chief Justice of the District Court for the District of Columbia holding office at the effective date of this act is preserved by section 2 of the bill to enact revised title 28.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97-164, §202(a), designated existing first sentence of subsec. (a) as par. (1), substituted "In any district having more than one district judge, the chief judge of the district shall be the dis-

trict judge in regular active service who is senior in commission of those judges who—(A) are sixty-four years of age or under; (B) have served for one year or more as a district judge; and (C) have not served previously as chief judge” for “In each district having more than one judge the district judge in regular active service who is senior in commission and under seventy years of age shall be the chief judge of the district court” in par. (1) as so designated, designated existing second sentence of subsec. (a) as par. (2)(A), substituted “In any case in which no district judge meets the qualifications of paragraph (1), the youngest district judge in regular active service who is sixty-five years of age or over and who has served as district judge for one year or more shall act as the chief judge” for “If all the district judges in regular active service are seventy years of age or older the youngest shall act as chief judge until a judge has been appointed and qualified who is under seventy years of age, but a judge may not act as chief judge until he has served as a district judge for one year” in par. (2)(A) as so designated, and added pars. (2)(B) and (3).

Subsec. (d). Pub. L. 97-164, §202(b), substituted “and thereafter, the chief judge of the district shall be such other district judge who is qualified to serve or act as chief judge under subsection (a)” for “and thereafter the district judge in active service next in precedence and willing to serve shall be designated by the Chief Justice as the chief judge of the district court”.

1958—Subsec. (a). Pub. L. 85-593 provided that chief judges of district courts cease to serve as such upon reaching the age of seventy, that the youngest district judge act as chief judge where all district judges in regular active service are seventy years or older until a judge under seventy has been appointed and qualified, and that district judge must have served one year before acting as chief judge.

1951—Subsec. (a). Act Oct. 31, 1951, inserted “in active service who is”.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-593 effective at expiration of one year from Aug. 6, 1958, see section 3 of Pub. L. 85-593, as amended, set out as a note under section 45 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 97-164 not to apply or affect any person serving as chief judge on the effective date of Pub. L. 97-164 [Oct. 1, 1982], and the provisions of subsec. (a) of this section as in effect on the day before the effective date of part A of title II of Pub. L. 97-164 [Oct. 1, 1982] applicable to the chief judge of a district court serving on such effective date, see section 203 of Pub. L. 97-164, set out as a note under section 45 of this title.

§ 137. Division of business among district judges

The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

(June 25, 1948, ch. 646, 62 Stat. 897.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §27 (Mar. 3, 1911, ch. 231, §23, 36 Stat. 1090).

Section was rewritten and the practice simplified. It provided for division of business and assignment of cases by agreement of judges and, in case of inability to agree, that the senior circuit judge of the circuit should make necessary orders.

The revised section is consistent with section 332 of this title, that the last paragraph of which requires the judicial council to make all necessary orders for the effective and expeditious administration of the business of the courts within the circuit.

§ 138. Terms abolished

The district court shall not hold formal terms. (June 25, 1948, ch. 646, 62 Stat. 897; Pub. L. 88-139, §1, Oct. 16, 1963, 77 Stat. 248.)

HISTORICAL AND REVISION NOTES

This section was substituted for a number of special provisions fixing stated times for holding terms of court in the several districts, in order to vest in the courts wider discretion and promote greater efficiency in the administration of the business of such courts.

AMENDMENTS

1963—Pub. L. 88-139 substituted “The district court shall not hold formal terms” for “The times for holding regular terms of court at the places fixed by this chapter shall be determined by rule of the district court” in text, and “Terms abolished” for “Times for holding regular terms” in section catchline.

§ 139. Times for holding regular sessions

The times for commencing regular sessions of the district court for transacting judicial business at the places fixed by this chapter shall be determined by the rules or orders of the court. Such rules or orders may provide that at one or more of such places the court shall be in continuous session for such purposes on all business days throughout the year. At other places a session of the court shall continue for such purposes until terminated by order of final adjournment or by commencement of the next regular session at the same place.

(June 25, 1948, ch. 646, 62 Stat. 897; Pub. L. 88-139, §1, Oct. 16, 1963, 77 Stat. 248.)

HISTORICAL AND REVISION NOTES

The purpose of this section is to remove all doubt as to whether the mere beginning of a new term at one place ends a prior term begun at another place. As revised, it conforms to a uniform course of judicial decisions. See *U.S. v. Perlstein*, 39 F.Supp. 965, 968 (D.C.N.J. 1941), and cases cited.

AMENDMENTS

1963—Pub. L. 88-139 substituted provisions requiring the times for commencing regular sessions of the district court to be determined by the rules or orders of the court, authorizing such rules or orders to provide that at one or more of the places fixed by this chapter, the court shall be in continuous session on all business days throughout the year, and that at other places, a session continues until terminated by order of final adjournment or by commencement of the next regular session at the same place, for provisions that a term continues until terminated by order of final adjournment or by commencement of the next term at the same place, in the text, and “Times for holding regular sessions” for “Term continued until terminated” in section catchline.

§ 140. Adjournment

(a) Any district court may, by order made anywhere within its district, adjourn or, with the