

(iii) shall not result in any decrease in the rates of pay or benefits of any individual.

(c) AUTHORITY OF METROPOLITAN POLICE FORCE.—This section does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.

(Added Pub. L. 107–273, div. C, title I, § 11024(a), Nov. 2, 2002, 116 Stat. 1830.)

PRIOR PROVISIONS

Another section 540C, added Pub. L. 107–306, title VIII, § 824(a), Nov. 27, 2002, 116 Stat. 2428, related to annual report on activities of Federal Bureau of Investigation personnel outside the United States. Pub. L. 108–177, title III, § 361(i), (n), Dec. 13, 2003, 117 Stat. 2625, 2626, which, under the heading “Annual Report on Activities of FBI Personnel Outside the United States”, directed the repeal of section 540C of title 28, effective Dec. 31, 2003, was executed by repealing the section 540C added by Pub. L. 107–306, to reflect the probable intent of Congress.

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.

CHAPTER 35—UNITED STATES ATTORNEYS

- Sec. 541. United States attorneys.
542. Assistant United States attorneys.
543. Special attorneys.
544. Oath of office.
545. Residence.
546. Vacancies.
547. Duties.
548. Salaries.
549. Expenses.
550. Clerical assistants, messengers, and private process servers.

AMENDMENTS

1990—Pub. L. 101–647, title XXXVI, § 3626(b), Nov. 29, 1990, 104 Stat. 4965, substituted “Clerical assistants, messengers, and private process servers” for “Clerical assistants and messengers” in item 550.

1966—Pub. L. 89–554, § 4(c), Sept. 6, 1966, 80 Stat. 617, added chapter 35 and items 541 to 550.

§ 541. United States attorneys

(a) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

(b) Each United States attorney shall be appointed for a term of four years. On the expiration of his term, a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.

(c) Each United States attorney is subject to removal by the President.

(Added Pub. L. 89–554, § 4(c), Sept. 6, 1966, 80 Stat. 617.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row (a) shows 28 U.S.C. 501 and [None].

HISTORICAL AND REVISION NOTES—CONTINUED
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Rows (b) and (c) show 28 U.S.C. 504(a) and (b) and [None].

In subsection (c), the word “is” is substituted for “shall be”.

1948 ACT

Prior section 501.—Based on title 28, U.S.C., 1940 ed., § 481, sections 643 and 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and section 11–1001, District of Columbia Code, 1940 ed. (R.S., § 767; June 26, 1876, ch. 147, §§ 1, 4, 19 Stat. 61, 62; Feb. 24, 1879, ch. 97, § 8, 20 Stat. 320; Mar. 3, 1881, ch. 144, § 7, 21 Stat. 507; Apr. 25, 1882, ch. 87, §§ 1, 3, 22 Stat. 47; July 20, 1882, ch. 312, § 3, 22 Stat. 172; Aug. 5, 1886, ch. 928, § 7, 24 Stat. 309; Feb. 22, 1889, ch. 180, § 21, 25 Stat. 682; July 3, 1890, ch. 656, § 16, 26 Stat. 217; July 10, 1890, ch. 664, § 16, 26 Stat. 225; Mar. 3, 1893, ch. 220, 27 Stat. 745; July 16, 1894, ch. 138, §§ 14, 16, 28 Stat. 110, 111; June 24, 1898, ch. 495, § 1, 30 Stat. 487; Apr. 12, 1900, ch. 191, § 34, 31 Stat. 85; Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; May 12, 1900, ch. 391, § 9, 31 Stat. 176; Jan. 22, 1901, ch. 105, §§ 4, 7, 31 Stat. 736, 737; Feb. 12, 1901, ch. 355, §§ 5, 7, 31 Stat. 782; Mar. 2, 1901, ch. 801, §§ 3, 5, 31 Stat. 881; Mar. 3, 1901, ch. 854, § 183, 31 Stat. 1220; Mar. 11, 1902, ch. 183, §§ 5, 6, 32 Stat. 66; June 30, 1902, ch. 1329, 32 Stat. 527; Mar. 2, 1905, ch. 1305, §§ 4, 6, 33 Stat. 824; Mar. 3, 1905, ch. 1427, §§ 13, 15, 19, 33 Stat. 995, 996; June 16, 1906, ch. 3335, § 13, 34 Stat. 275; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 3, 1915, ch. 100, §§ 3, 4, 38 Stat. 961; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; May 28, 1926, ch. 414, § 2(b), 44 Stat. 672; Apr. 21, 1928, ch. 393, 45 Stat. 437; Mar. 26, 1928, ch. 51, § 2, 52 Stat. 118).

Section consolidates section 481 of title 28, U.S.C., 1940 ed., and section 11–1001 of the District of Columbia Code, 1940 ed., with parts of sections 643 and 863 of title 48, U.S.C., 1940 ed., relating to appointment of United States attorneys.

The term “United States attorney” was adopted in this section for “attorney for the United States.” Since the decision of the Supreme Court of the United States in In re Neagle, 1890 (10 S. Ct. 658, 135 U.S. 1, 34, L. Ed. 55) where the terms “attorneys of the United States” and “district attorneys” were used interchangeably, Congress has also designated such officers as either “United States attorneys” or as “district attorneys.” See Acts of Feb. 22, 1886, ch. 928, § 7, 24 Stat. 309; July 3, 1890, ch. 656, § 16, 26 Stat. 217; July 10, 1890, ch. 664, § 16, 26 Stat. 225, and Acts of July 20, 1882, ch. 312, § 3, 22 Stat. 172; Mar. 3, 1915, ch. 100, § 3, 38 Stat. 961; May 28, 1926, ch. 414, § 2(b), 44 Stat. 672.

At present, such officers are invariably designated as “United States attorneys” by Federal courts and the Department of Justice.

Words “The President may appoint, by and with the advice and consent of the Senate,” were inserted to conform section with the Constitution. See article II, section 2, clause 2.

Words “including the District of Columbia” were omitted, because the District is made a judicial district by section 88 of this title. District of Columbia Code, 1940 ed., § 11–1001, provided for appointment of an “attorney of the United States for the District” by the President, subject to Senate confirmation.

Words “learned in the law” were omitted as unnecessary. Such requirement is not made of United States judges and no reason appears to make a distinction respecting United States attorneys.

Parts of section 863 of title 48, U.S.C., 1940 ed., remain in said title 48. For remainder thereof, see Distribution Table. Other provisions of section 643 of such title are incorporated in sections 133, 504 [now 541 and 544], and 541 [see 561] of this title.

Changes were made in phraseology. [The Historical and Revision Notes for former section 504, from which this section is partially derived, is set out under section 544 of this title.]

PRIOR PROVISIONS

A prior section 541, acts June 25, 1948, ch. 646, 62 Stat. 910; Mar. 18, 1959, Pub. L. 86-3, §11(c), (d), 73 Stat. 9, related to appointment, residence and tenure of marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 561 of this title by section 4(c) of Pub. L. 89-554.

§ 542. Assistant United States attorneys

(a) The Attorney General may appoint one or more assistant United States attorneys in any district when the public interest so requires.

(b) Each assistant United States attorney is subject to removal by the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES 1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row (a) shows 28 U.S.C. 502 with [None]. Row (b) shows 28 U.S.C. 504(b) with [None].

In subsection (b), the word "is" is substituted for "shall be".

1948 ACT

Prior section 502.—Based on title 28, U.S.C., 1940 ed., §§ 483, 594 (May 28, 1896, ch. 252, §8, 29 Stat. 181; July 19, 1919, ch. 24, §1, 41 Stat. 209; Mar. 4, 1923, ch. 295, 42 Stat. 1560; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates sections 483 and 594 of title 28, U.S.C., 1940 ed., relating to appointment of assistant United States attorneys.

Words "United States attorneys" were substituted for "district attorneys." (See reviser's note under section 501 [now 541] of this title.)

The exception of Alaska from the operation of such section 483 was omitted as covered by section 109 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, authorizing appointment of assistant United States attorneys in Alaska.

Reference in such section 483 to "District of Columbia" was omitted. (See reviser's note under section 501 [now 541] of this title.)

The provisions of sections 483 and 594 of title 28, U.S.C., 1940 ed., requiring the judges and United States attorneys to certify or evidence in writing the necessity for assistant United States attorneys in their respective districts, and specifying that such opinion of the judge shall state to the Attorney General the facts as distinguished from conclusions, showing the necessity therefor, were omitted. The Attorney General, as chief law enforcement officer, is in a better position to determine such necessity.

The salary provisions of such section 594 were omitted as covered by section 508 [now 548] of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 542, act June 25, 1948, ch. 646, 62 Stat. 911, related to appointment and tenure of deputies and assistants for United States marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 562 of this title by section 4(c) of Pub. L. 89-554.

§ 543. Special attorneys

(a) The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires.

(b) Each attorney appointed under this section is subject to removal by the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES 1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row (a) shows 28 U.S.C. 503, 5 U.S.C. 298 with [None]. Row (b) shows 28 U.S.C. 504(b) with [None].

The text of former section 298 of title 5 is omitted as unnecessary. The position so authorized has not been filled in recent years, and the authority is preserved by this section and revised section 3101 of title 5, United States Code.

In subsection (b), the word "is" is substituted for "shall be".

1948 ACT

Prior section 503.—Based on section 312 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees (R.S. §363).

Other provisions of section 312 of title 5, U.S.C., 1940 ed., are incorporated in sections 507 [now 509 and 547] and 508 [now 548] of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 543, act June 25, 1948, ch. 646, 62 Stat. 911, related to oath of office for United States Marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 563 of this title by section 4(c) of Pub. L. 89-554.

§ 544. Oath of office

Each United States attorney, assistant United States attorney, and attorney appointed under section 543 of this title, before taking office, shall take an oath to execute faithfully his duties.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES 1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row shows 28 U.S.C. 504(c) with [None].

1948 ACT

Prior section 504.—Based on section 315 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees, title 28, U.S.C., 1940 ed., §482, and sections 643 and 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (R.S. §§ 366, 769; June 24, 1898, ch. 495, §1, 30 Stat. 487; Apr. 12, 1900, ch. 191, §34, 31 Stat. 85; Apr. 30, 1900, ch. 339, §86, 31 Stat. 158; Mar. 3, 1909, ch. 269, §1, 35 Stat. 838; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 2, 1917, ch. 145, §41, 39 Stat. 965; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1412; July 9, 1921, ch. 42, §313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Apr. 17,