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.

PILOT PROGRAM IN CERTAIN DISTRICT COURTS

Pub. L. 111–349, Jan. 4, 2011, § 1, 124 Stat. 3674, provided that:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established a program, in each of the United States district courts designated under subsection (b), under which—

''(A) those district judges of that district court who request to hear cases under which 1 or more issues arising under any Act of Congress relating to patents or plant variety protection are required to be decided, are designated by the chief judge of the court to hear those cases;

''(B) cases described in subparagraph (A) are randomly assigned to the judges of the district court, regardless of whether the judges are designated under subparagraph (A);

''(C) a judge not designated under subparagraph (A) to whom a case is assigned under subparagraph (B) may decline to accept the case; and

''(D) a case declined under subparagraph (C) is randomly reassigned to 1 of those judges of the court designated under subparagraph (A).

''(2) SENIOR JUDGES.—Senior judges of a district court may be designated under paragraph (1)(A) if at least 1 judge of the court in regular active service is also so designated.

''(3) RIGHT TO TRANSFER CASES PRESERVED.—This section shall not be construed to limit the ability of a judge to request the reassignment of or otherwise transfer a case to which the judge is assigned under this section, in accordance with otherwise applicable rules of the court.

''(b) DESIGNATION.—

''(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act [Jan. 4, 2011], the Director of the Administrative Office of the United States Courts shall designate not less than 6 United States district courts, in at least 3 different judicial circuits, in which the program established under subsection (a) will be carried out.

''(2) CRITERIA FOR DESIGNATIONS.—

''(A) IN GENERAL.—The Director shall make designations under paragraph (1) from—

''(i) the 15 district courts in which the largest number of patent and plant variety protection cases were filed in the most recent calendar year that has ended; or

''(ii) the district courts that have adopted, or certified to the Director the intention to adopt, local rules for patent and plant variety protection cases.

''(B) SELECTION OF COURTS.—From amongst the district courts that satisfy the criteria for designation under this subsection, the Director shall select—

''(i) 3 district courts that each have at least 10 district judges authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under any other provision of law, and at least 3 judges of the court have made the request under subsection (a)(1)(A); and

''(ii) 3 district courts that each have fewer than 10 district judges authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under any other provision of law, and at least 2 judges of the court have made the request under subsection (a)(1)(A).

''(c) DURATION.—The program established under subsection (a) shall terminate 10 years after the end of the 6-month period described in subsection (b).

''(d) APPLICABILITY.—The program established under subsection (a) shall apply in a district court designated under subsection (b) only to cases commenced on or after the date of such designation.

''(e) REPORTS TO CONGRESS.—

''(1) IN GENERAL.—At the times specified in paragraph (2), the Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the pilot program established under subsection (a). The report shall include—

''(A) an analysis of the extent to which the program has succeeded in developing expertise in pat-

ent and plant variety protection cases among the district judges of the district courts so designated;

''(B) an analysis of the extent to which the program has improved the efficiency of the courts involved by reason of such expertise;

''(C) with respect to patent cases handled by the judges designated pursuant to subsection (a)(1)(A) and judges not so designated, a comparison between the 2 groups of judges with respect to—

''(i) the rate of reversal by the Court of Appeals for the Federal Circuit, of such cases on the issues of claim construction and substantive patent law; and

''(ii) the period of time elapsed from the date on which a case is filed to the date on which trial begins or summary judgment is entered;

''(D) a discussion of any evidence indicating that litigants select certain of the judicial districts designated under subsection (b) in an attempt to ensure a given outcome; and

''(E) an analysis of whether the pilot program should be extended to other district courts, or should be made permanent and apply to all district courts.

''(2) TIMETABLE FOR REPORTS.—The times referred to in paragraph (1) are—

''(A) not later than the date that is 5 years and 3 months after the end of the 6-month period described in subsection (b); and

''(B) not later than 5 years after the date described in subparagraph (A).

''(3) PERIODIC REPORTS.—The Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall keep the committees referred to in paragraph (1) informed, on a periodic basis while the pilot program is in effect, with respect to the matters referred to in subparagraphs (A) through (E) of paragraph (1).''

§ 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 consent of the judicial council of the circuit, pretermit any regular session of court for insufficient business or other good cause.

(b) If the judge of a district court is unable to attend and unable to make an order of adjournment, the clerk may adjourn the court to the next regular session or to any earlier day which he may determine.

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

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 16, 146, 182 (Mar. 3, 1911, ch. 231, §§ 12, 73, 101, 36 Stat. 1088, 1108, 1122; June 12, 1916, ch. 143, 39 Stat. 225; Feb. 20, 1917, ch. 102, 39 Stat. 927; June 13, 1918, ch. 98, 40 Stat. 604; Feb. 26, 1919, ch. 54, 40 Stat. 1184; May 29, 1924, ch. 209, 43 Stat. 243; June 5, 1924, ch. 259, 43 Stat. 387; Jan. 10, 1925, chs. 68, 69, 43 Stat. 730, 731; Feb. 16, 1925, ch. 233, § 1, 43 Stat. 945; May 7, 1926, ch. 255, 44 Stat. 408; Apr. 21, 1928, ch. 395, 45 Stat. 440; Mar. 2, 1929, ch. 539, 45 Stat. 1518; June 28, 1930, ch. 714, 46 Stat. 829; May 13, 1936, ch. 386, 49 Stat. 1271; Aug. 12, 1937, ch. 595, 50 Stat. 625).

Section consolidates section 16 with the third sentence of section 146, and the final proviso in the third paragraph of section 182, all of title 28, U.S.C., 1940 ed.

Said section 16 of title 28 provided for adjournment by the marshal, or clerk, on written order of the judge, in case of inability of the district judge to attend at the commencement of any regular, adjourned or special term, or any time during such term. Said sections 146 and 182 thereof, related to the district courts of Colorado and Oklahoma, only, and contained special provisions for adjournment. Subsection (b) omits the requirement of written order where the judge is unable to make such order.

The revised section broadens these provisions, and vests discretionary power in the court, by order made anywhere within the district, to adjourn any term of court ''for insufficient business or other good cause.'' To establish uniformity, the special provisions relating to Colorado and Oklahoma were omitted.

Other provisions of said sections 146 and 182 of title 28, U.S.C., 1940 ed., are incorporated in sections 85 and 116 of this title.

The provision of subsection (a) authorizing the district court, with the consent of the judicial council of the circuit, to pretermit any term of court for insuffi-